

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO  
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
(800) 684-6560

 @pa\_oca  
 /pennoca  
FAX (717) 783-7152  
consumer@paoca.org  
www.oca.pa.gov

January 11, 2023

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission  
v.  
Aqua Pennsylvania Wastewater, Inc.  
(Supp. No. 3 to Tariff Sewer-Pa. P.U.C. No. 3)  
Docket No. R-2022-3037141

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon  
Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
EGannon@paoca.org

Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (**email only:** [crainey@pa.gov](mailto:crainey@pa.gov))  
Paul Diskin, TUS (**email only:** [pdiskin@pa.gov](mailto:pdiskin@pa.gov))  
Office of Special Assistants (**email only:** [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service

\*339492

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2022-3037141  
Aqua Pennsylvania Wastewater, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Formal Complaint and Public Statement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11<sup>th</sup> day of January 2023.

**SERVICE BY E-MAIL ONLY**

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)  
*Counsel for I&E*

NazAarah Sabree, Small Business Advocate  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
[ra-sba@pa.gov](mailto:ra-sba@pa.gov)  
[tereswagne@pa.gov](mailto:tereswagne@pa.gov)  
*Counsel for OSBA*

Erin M. Feeney, Manager, Rates  
Aqua Pennsylvania, Inc.  
762 W. Lancaster Ave.  
Bryn Mawr, PA 19010  
[EFDomzalski@AquaAmerica.com](mailto:EFDomzalski@AquaAmerica.com)  
*Counsel for Aqua PA, Inc.*

/s/ Erin L. Gannon

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
[EGannon@paoca.org](mailto:EGannon@paoca.org)

Christopher M. Andreoli  
Assistant Consumer Advocate  
PA Attorney I.D. # 85676  
[CAndreoli@paoca.org](mailto:CAndreoli@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: 717-783-5048  
Fax: 717-783-7152  
Dated: January 11, 2023  
\*339494

**FORMAL COMPLAINT**  
**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**1. COMPLAINANT**

Patrick M. Cicero, Consumer Advocate

555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Dauphin County

Phone: 717-783-5048

Fax: 717-783-7152

**2. UTILITY NAME**

Aqua Pennsylvania Wastewater, Inc. – Docket No. R-2022-3037141

**3. TYPE OF UTILITY**

Wastewater

**4. COMPLAINT**

A. On December 7, 2022, Aqua Pennsylvania Wastewater, Inc. (Aqua or the Company) filed Supplement No. 3 to Tariff Sewer-PA P.U.C. No. 3 (Supplement No. 3), which proposes to establish a contract rate for large industrial wastewater customers via a rider. Its effective date was February 5, 2023.

B. On December 13, 2022, the Commission's Bureau of Technical Utility Services issued data requests due on or about December 27, 2022. On December 22, 2022, Aqua filed Supplement No. 5 to Tariff Sewer-PA P.U.C. No. 3, which voluntarily postponed Supplement No. 3 to become effective February 10, 2023. On January 5, 2023, Aqua filed responses to the TUS data requests.

C. Aqua Pennsylvania Wastewater, Inc. provides wastewater service to approximately 61,000 customers. Aqua Pennsylvania, Inc. provides water service to approximately 450,000 customers. Those customers are located in 32 counties across Pennsylvania.

D. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the Pennsylvania General Assembly, 71 P. S. §§ 309-1 *et seq.*, as enacted July 9, 1976.

E. The proposed new rider would allow large industrial wastewater customers to negotiate rates that are lower than Aqua's tariffed rates for service. If the revenues generated by these contract rates are less than the cost to serve those customers, Aqua's other wastewater or water customers will be at risk to pay the revenue deficiency in future rates.

F. Aqua states that it has a "small number" of large industrial wastewater customers but cannot quantify how many bills or how Aqua's revenues would be impacted.

G. The proposal to allow large industrial customers "with a viable competitive alternative to service from the Company" to pay contract rates for wastewater service has, to the OCA's knowledge, not previously been reviewed or approved by the Commission.

H. A preliminary examination of Aqua's request to establish a contract rate for large industrial wastewater customers indicates that the proposed rider may be contrary to sound ratemaking principles and public policy.

I. The Consumer Advocate files this Formal Complaint to ensure that the Company's proposed rider does not result in rates and charges that are not just and reasonable or otherwise non-compliant with applicable statutes, Commission regulations or policy.

**5. RELIEF**

The Consumer Advocate respectfully requests that the Public Utility Commission:

- A. Suspend and investigate the operation of the proposed tariff, pursuant to Section 1308(b) of the Public Utility Code, 66 Pa. C.S. § 1308(b);
- B. Consolidate all complaints filed against Tariff Supplement No. 3;
- C. Hold full evidentiary hearings examining the reasonableness of the Company's proposed new rider;
- D. Hold public input hearings in the Company's service territory, by telephone, or virtually, to provide its customers with an opportunity to be heard on the record, if consumer interest arises;
- E. Modify or reject the proposed rate and tariff which cannot be fully justified by the Company and shown to be just and reasonable and in the public interest, or which are otherwise contrary to the Public Utility Code, sound ratemaking principles, and public policy; and
- F. Grant any other relief deemed necessary.

**6. VERIFICATION AND SIGNATURE**

*Verification:*

*I, Patrick M. Cicero, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).*

/s/ Patrick M. Cicero  
**(Signature)**

January 11, 2023  
**(Date)**

**7. LEGAL REPRESENTATION**

Erin L. Gannon  
Senior Assistant Consumer Advocate  
Pa. Attorney I.D. # 83487  
EGannon@paoca.org

Christopher M. Andreoli  
Assistant Consumer Advocate  
Pa. Attorney I.D. # 85676  
CAndreoli@paoca.org

Counsel for:

Patrick M. Cicero  
Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
717-783-5048

PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the proposal to establish a contract rate for large industrial wastewater customers via a rider by Aqua Pennsylvania Wastewater, Inc. (Aqua or the Company) at Docket No. R-2022-3037141.

The objective of the Interim Acting Consumer Advocate is to protect the interests of Aqua customers. The proposed new rider would allow large industrial wastewater customers to negotiate rates that are lower than Aqua's tariffed rates for service. The Consumer Advocate has filed this Complaint with the Commission to ensure that each aspect of Aqua's proposed rider and tariff are scrutinized and not approved unless shown to be fully justified in law, and consistent with the Public Utility Code and sound public policy.

Aqua provides wastewater service to approximately 61,000 customers and approximately 450,000 water customers in portions of 32 Pennsylvania Counties.