**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of  Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service. | )  )  ) | Case No. 16-907-WW-AIR |

**OBJECTIONS TO THE PUCO STAFF’S REPORT**

**OF INVESTIGATION**

**AND**

**SUMMARY OF MAJOR ISSUES**

**BY**

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**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of  Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service. | )  )  ) | Case No. 13-2124-WW-AIR |

**OBJECTIONS TO THE PUCO STAFF’S REPORT**

**OF INVESTIGATION**

**AND**

**SUMMARY OF MAJOR ISSUES**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

This case involves the request of Aqua Ohio, Inc. (“Aqua” or “Utility”) to increase its rates for water and sewer service charged to some of its customers. The Office of the Ohio Consumers’ Counsel (“OCC”)[[1]](#footnote-2) submits to the Public Utilities Commission of Ohio (“PUCO”) these objections.[[2]](#footnote-3) OCC requests that the PUCO adopt these objections to the PUCO Staff’s Report of Investigation[[3]](#footnote-4) (“Staff Report”) when deciding how much Aqua’s customers should pay for their water and sewer service. These Objections identify elements of the PUCO Staff Report that are not just and reasonable and are supported with OCC’s testimony that will be filed on December 19, 2016.

Additionally, per the December 1, 2016 Entry,[[4]](#footnote-5) OCC submits a “Summary of Major Issues” that outlines the major issues to be determined in this proceeding.

OCC respectfully requests that these issues be included in the notices of the local public hearings.

**OBJECTIONS TO THE PUCO STAFF REPORT**

# I. REVENUE REQUIREMENTS

**OBJECTION 1:** OCC objects to the PUCO Staff-recommended revenue requirement and resulting revenue and rate increase recommended for Aqua in Staff Report Schedule A-1. The PUCO Staff’s recommendations are unreasonable and unlawful, and the recommended revenue requirement for Aqua is excessive, for a number of reasons. First, the recommendations are based on an overstated valuation of Aqua’s property that is used and useful in rendering public utility service. Second, the recommendations are based upon costs which are not correctly attributed to the cost to Aqua of rendering service for the test period. Third, the recommendations utilize a rate of return that is not just and reasonable. The specific objections from which these overall conclusions are drawn are detailed below in OCC’s objections to the PUCO Staff’s recommendations regarding these matters.

Additionally, OCC objects to each component of the PUCO Staff Report’s Schedule A-1 recommended revenue requirement and rate increase recommended for Aqua to the extent that other OCC objections have an impact on the calculation of the recommended revenue requirement (e.g., rate base, operating income, rate of return).

# II. OPERATING INCOME AND RATE BASE

## 1. Operating Income - Special Contracts

**OBJECTION 2:** OCC objects to the PUCO Staff‘s failure to adjust test year revenues to treat special contract customer Whirlpool Corporation (“Mercantile Customer 1”) as a tariff customer, recognizing that its 62% discount is an unreasonable subsidy to the detriment of the remaining customers of Aqua Ohio.

**OBJECTION 3:** OCC objects to the PUCO Staff’s failure to adjust test year revenues to recognize special contract customer POET Biorefining (“Mercantile Customer 2”) as a tariff customer, recognizing that its 78% discount is an unreasonable subsidy to the detriment of the remaining customers of Aqua Ohio.

**OBJECTION 4:** OCC objects to the PUCO Staff’s failure to adjust the test year for any changes that are reasonably expected to occur during the test period or the twelve-month period immediately following the test period. Specifically, PUCO Staff failed to recognize the expiring special contracts for Mercantile Customer 1 and Mercantile Customer 2 in the twelve-month period immediately following the test year.

## 2. Operating Income - Tank Painting

**OBJECTION 5:** PUCOStaff errored in judgement when it failed to recommend that all future tank paintings should not be capitalized.

**OBJECTION 6:** OCC objects to the PUCO Staff’s failure to recognize that lead-based painted tanks that have been re-painted with an epoxy are significantly more expensive to re-paint as a result of the Environmental Protection Agency (“EPA”) regulatory requirements for the disposal of lead. So including the trended costs in rates would result in setting rates for customers that are unreasonable and not likely to reflect the actual costs expected to be incurred when rates are in effect.

**OBJECTION 7:** OCC objects to the PUCO Staff’s failure to recommend that the customer supplied source of funds (for future tank painting) being held by Aqua Ohio as a deferred credit balance should be returned to consumers over a three year period.

**OBJECTION 8:** OCC objects to PUCO Staff’s proposal to capitalize future re-painting of lead-based tanks with epoxy, and to allow the utility to collect repainting costs from customers as an operating expense. This is unlawful and contrary to prior PUCO precedent.

## 3. Rate Base

**OBJECTION 9:** PUCO Staff erred in removing the deferred credit balance on Schedule B-6 Other Rate Base Items. Other Rate Base Items are a reduction to rate base. By removing the deferred tank painting credit balance, PUCO Staff is allowing Aqua Ohio to earn a return on customer supplied funds.

**OBJECTION 10:** OCC objects to the PUCO Staff’s failure to treat the additional 55.654 acres of farm land purchased at Mohawk Utilities as land for future use. The land is not used and useful in providing service to Aqua Ohio customers and as such, should not be included in rate base.

## 4. Operating Income – Flow-through income tax effect

**OBJECTION 11:** OCC objects to the PUCO Staff’s determination of Taxes Other than Income, Federal Income tax, and uncollectible accounts expense adjustments as a result of the OCC’s objections above as a result of flow-through.

**OBJECTION 12:** OCC objects to PUCO Staff’s Schedules that contain errors such that Schedule C-1 calculates a higher revenue increase return than a set rate of return on Schedule A-1.

# III. RATE OF RETURN

## 1. Risk Free Return

**OBJECTION 13:** OCC objects to the PUCO Staff’s inappropriate increase to the cost of common equity from using an inflated and unreasonable “risk free return” in its Capital Asset Pricing Model (“CAPM”). The proposed “risk free return” of 6.1% was unreasonable and not supported by current financial market conditions and long-standing regulatory principles. For example, this proposed 6.1% “risk free return” is much higher than the PUCO Staff’s own calculation of the average yields of long-term U.S. Treasury Bonds at 2.205%. It is also much higher than the “risk-free return” of 3.53% proposed by Aqua Ohio. The PUCO Staff’s recommended rate of return and cost of common equity are unfair and unreasonable as a result of using this inflated and unreasonable “risk free return”.

## 2. Flotation Costs

**OBJECTION 14:** OCC objects to the PUCO Staff’s inappropriate increase to the cost of common equity by including an adjustment factor to account for unproven and unneeded equity issuance and other costs. In its Application, Aqua Ohio did not ask for an adjustment to its proposed cost of common equity for equity issuance and other costs. Aqua Ohio did not demonstrate or substantiate that it is reasonable to increase the cost of common equity for these costs. As a result of adding an unreasonable adjustment factor, the PUCO Staff’s recommended rate of return and cost of common equity are unfair and unreasonable.

# IV. RATES AND TARIFFS

## 1. Trip Charge

**OBJECTION 15:** OCC objects to the PUCO Staff’s recommended elimination of a Trip Charge. Under cost causation principles, costs should be collected from customers who cause these costs rather than from all customers. If the Trip Charge is eliminated, then these costs would be collected from all customers, contrary to cost causation principles. And the tariff should reflect that the Trip Charge is assessed when the trip results in collection of a payment that results in avoidance of disconnection.

## 2. Cost of Service/Cost Allocations

**OBJECTION 16:** OCC objects to PUCO Staff’s recommendation that there more revenue be allocated to residential and resale customers when compared to the Commercial and Private Fire classes. PUCO Staff claims this will result in movement towards the Cost of Service Study (“COSS”). However, PUCO Staff has failed to identify the basis for their conclusions, or provide a remedy to achieve their recommendation. OCC recommends an across-the-board revenue increase to move the classes closer to the cost of service.

## 3. Residential Rate Design

**OBJECTION 17:** OCC objects to PUCO Staff’s recommended increase in the customer charge to $10.00 a month. The deterioration in the volume of water sold is minimal and so it is not necessary to increase the customer charge to recover more fixed costs. Furthermore, PUCO Staff has failed to explain how the increased customer charge is a better reflection of cost causation. Additionally, increasing the customer charge in the past has not lead to less frequent rate cases as PUCO Staff contends. OCC recommends a customer charge of no more than $9.30.

## 4. System Improvement Charge

**OBJECTION 18:** OCC objects to the manner in which PUCO Staff shows the impacts on customers’ typical bills resulting from the recommended rate increase. By not including the System Improvement Charges, PUCO Staff understates the amounts customers are actually paying in their bills. For example, instead of the $26.56 (Lake Erie), $32.63 (Lake Erie East, Masury and Norlick), $33.44 (Mohawk) and $49.65 PUCO Staff has shown for the current typical bills for a residential customer using 3,000 gallons, those customers actually pay $27.69, $34.01, $33.96 and $51.78 respectively. PUCO Staff also shows the current Unmetered Flat Rates without the SIC charge. Current flat rates for Aqua (OA), Auburn and Seneca are shown as $52.36, $41.93 and $41.93 respectively. The corresponding charges including the SIC are $54.59, $43.71 and $43.71.

## 5. Unmetered Rates

**OBJECTION 19:** OCC objects to PUCO Staff’s recommendation regarding Aqua’s proposal on unmetered rates. PUCO Staff should have recommended that the PUCO deny this proposal in this case and direct the Applicant to pursue the proposal in a future proceeding only after the meters have been installed.

# V. MANAGEMENT AND OPERATION REVIEW

## 1. Information Technology (“IT”)

**OBJECTION 20:** OCC objects to the PUCO Staff’s failure to recommend that the PUCO disallow all costs associated with IT projects where Aqua Ohio is unable to provide sufficient documentation to demonstrate that costs were prudently incurred.

**OBJECTION 21:** OCC objects to the PUCO Staff’s failure to recommend that the findings and recommendations from the external audit of the control processes used by Aqua America in managing its IT programs be publicly filed within six months of the Opinion and Order in this case.

# VI. SERVICE MONITORING AND ENFORCEMENT

## 1. Low-income Bill Payment Assistance Program

**OBJECTION 22:** OCC objects to the PUCO Staff’s failure to recommend that Aqua Ohio initiate a shareholder-funded bill payment assistance program to help low-income customers avoid disconnection of service for non-payment. There were approximately 15,300 Aqua Ohio customers disconnected for non-payment between 2013 and 2016. Poverty levels in many of the Ohio counties served by Aqua Ohio are well above the state and national poverty levels. The high number of disconnections for non-payment coupled with local economic conditions and the bill impacts associated with the Aqua Ohio rate increase should have prompted PUCO Staff to recommend initiatives to help customers avoid disconnection. This includes more consumer friendly payment plans and an Aqua funded bill payment assistance fund to help low-income customers pay their water bills.

## 2. Unaccounted -for-Water

**OBJECTION 23:** OCC objects to the PUCO Staff’s failure to recommend that Aqua Ohio adequately address the high percentage of unaccounted-for-water (“UFW”) in Blacklick Estates and Huber Ridge. A high percentage of UFW can result in unnecessary expenses for energy and water treatment. The PUCO standards require remedial actions to be taken if the UFW exceeds fifteen percent of gross production on a rolling twelve-month basis. PUCO Staff recommended no adjustments for chemical and power costs even though the UFW in the Blacklick Estates and Huber Ridge service areas have exceeded fifteen percent for the last several years. PUCO Staff should have recommended that Aqua Ohio identify options to reduce the UFW in a cost effective manner in both the Blacklick Estates and the Huber Ridge service areas before the next Aqua Ohio base rate case.

# VII. SUMMARY OF MAJOR ISSUES

The PUCO should arrange for a local-hearing process that is initiated with a notice that is understandable to consumers and that includes at least the following:

1. Should the PUCO allow Aqua to increase its rates for water and, if so, how much of a rate increase should be allowed?

2. What amount of profit should the PUCO allow Aqua an opportunity to earn for providing water service to customers in Ohio service territories?

3. What amount of utility investment in property should the PUCO allow Aqua to make to provide water service to customers?

4. Are there ways to lessen the impact of a rate increase on Aqua’s customers, especially considering the continued economic difficulties in the state?

4. What is the amount of the monthly customer charge (a charge that is independent of how much water is used or treated) that residential consumers will have to pay?

5. For any revenue increase or decrease the PUCO grants to Aqua, what amount of increase or decrease is fair and equitable for residential customers to pay?

6. How should rates be designed for Aqua customers, in order to promote principles of fairness and equity?

Respectfully submitted,

BRUCE WESTON (0016973)

OHIO CONSUMERS’ COUNSEL

*/s/ Kevin F. Moore*

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**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing *Objections* was served by electronic transmission upon the parties below this 19th day of December, 2016.

*/s/ Kevin Moore*

Kevin Moore

Assistant Consumers’ Counsel

**SERVICE LIST**

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1. OCC was granted intervention on December 1, 2016. See Attorney Examiner Entry (Dec. 1, 2016). [↑](#footnote-ref-2)
2. These objections are filed pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B). [↑](#footnote-ref-3)
3. The PUCO Staff Report was filed on November 17, 2016. [↑](#footnote-ref-4)
4. See Attorney Examiner Entry at 2 (Dec. 1, 2016). [↑](#footnote-ref-5)