

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Aqua )  
Ohio, Inc. for Authority to Assess a ) Case No. 08-1239-WW-SIC  
System Improvement Charge in the Lake )  
Erie Division. )

FINDING AND ORDER

The Commission finds:

- (1) On September 17, 2003, the Ohio General Assembly enacted Section 4909.172, Revised Code, authorizing waterworks and sewage disposal companies to file an application with the Commission for approval to collect a system infrastructure improvement surcharge (SIC). The surcharge mechanism is designed to recover, and provide a return on, specified costs associated with certain plant investments.
- (2) Guidelines to be followed by companies filing SIC applications are appended to Rule 4901:1-15-35, Ohio Administrative Code, (O.A.C.) and became effective on August 22, 2008.
- (3) On November 21, 2008, Aqua Ohio, Inc. (Aqua, applicant) filed an application (Application) for authority to collect a proposed SIC in its Lake Erie Division.
- (4) By attorney examiner entry, a schedule was established, requiring that any interested party wishing to comment on the Application must file those comments with the Commission by no later than January 15, 2009.
- (5) On January 15, 2009, staff of the Commission (staff) submitted comments (Comments) describing the process followed by staff in investigating the substance of the application, and the results of that investigation. The review of the application included interviews of applicant's key management personnel; review of internal and published financial reports; testing of the original cost of property for reasonableness through examination of continuing property records; verification of the existence and the used and useful nature of assets through physical inspections; and performance of any other independent analysis considered necessary by staff under the circumstances.

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Technician \_\_\_\_\_ Date Processed APR 29 2009

Staff examined 15 specific projects, representing approximately 71 percent of the total dollar value of the additions covered by the Application. The applicant's distribution system infrastructure improvements reviewed by staff amount to \$2,535,305 out of the total proposed by the applicant for recovery of \$3,548,237. (Comments at 3.)

- (6) Section 4909.172, Revised Code, includes several requirements that must be met before the Commission may approve a proposed SIC:

- (a) The costs of infrastructure plant upon which a proposed SIC may be based may only include the costs of certain capital improvements. For a waterworks company like the applicant, those allowable capital improvements are:

- (i) service lines for, and hydrants, mains, and valves installed as a part of, a replacement project for an existing facility; main extensions that eliminate dead ends to resolve documented water supply problems presenting significant health or safety issues to then existing customers, and main cleaning or relining;
- (ii) unreimbursed capital expenditures for waterworks facility relocation required by a governmental entity due to a street or highway project; and
- (iii) minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility previously described.

- (b) The Commission must determine that the covered capital improvements are used and useful in rendering public utility service.

- (c) The cost of those capital improvements may include depreciation expenses.
  - (d) The cost of those capital improvements may not include the cost of any improvement which provides any more than minimal additional revenue associated with elimination of a dead end.
  - (e) The proposed SIC must be just and reasonable, and must be sufficient to meet, but not to exceed, the revenue requirement necessary to both:
    - (i) cover such infrastructure plant costs as are described in the statute, incurred after March 1, 2003, and before the date of filing, and not already reflected in schedules filed under Section 4905.31, Revised Code; and
    - (ii) provide a fair and reasonable rate of return on the valuation (as of the date of filing of the application) of that infrastructure plant.
  - (f) The SIC may not exceed three percent of the rates and charges applicable to any affected customer class and, as to the allowed percentage increase, must be uniform for each such class.
  - (g) No more than three SICs under this section may be in effect at any given time.
  - (h) The Commission is prohibited from authorizing a SIC under this section if it would cause the applicant to earn an excessive rate of return on its rate base.
- (7) As a result of its investigation, staff reached the following conclusions:
- (a) All projects requested in the application consisted of mains and valves, service lines, and hydrants

installed as part of replacement projects for existing facilities or to address documented service quality issues, in accordance with Section 4909.172(C)(1), Revised Code. (Comments at 3.)

- (b) All projects included in the filing have been completed and are used and useful in rendering public utility service to the applicant's customers. (Comments at 4.)
- (c) The depreciation accrual rates used by applicant were previously found by the Commission to be proper and adequate. (Comments at 4.)
- (d) The proposed surcharge will recover only those costs specifically related to the applicant's infrastructure improvements. (Comments at 4.)
- (e) The proposed surcharge will provide a fair and reasonable rate of return on the applicant's November 21, 2008, valuation of relevant infrastructure plant. (Comments at 5.)
- (f) The proposed surcharge does not exceed three percent and is distributed uniformly to all classes. (Comments at 5.)
- (g) No more than three surcharges will be in effect. (Comments at 6.)
- (h) The applicant's pre-tax rate of return is correct and consistent with the guidelines. (Comments at 5.)
- (i) The proposed SIC of three percent would be charged in addition to the charges provided for in the applicant's tariff for all metered and private fire service in the Aqua Lake Erie Division and, for customers in the Norlick Place and Lake Seneca Subdivisions, the surcharge will be in addition to all flat-rate unmetered charges. The surcharges would apply to all bills issued after approval of the new tariff. (Comments at 5.)

- (j) The Commission should approve the Application.  
(Comments at 6.)
- (8) Based on the applicant's books of record and staff's identification of those accounts, the Commission finds that the improvements upon which the proposed SIC is based are replacements of service lines, hydrants, and mains. (Application at schedule 2 of exhibit C; Comments at 3.) These improvements are ones upon which a SIC may be based.
- (9) Based on staff's findings, the Commission determines that the infrastructure improvements upon which the proposed SIC is based are used and useful in rendering public utility service to the customers of the applicant. (Comments at 4.)
- (10) As allowed by the authorizing statute, the costs of the capital improvements underlying the proposed SIC do include depreciation expenses. The Commission finds that those depreciation expenses were based on rates approved in the applicant's last rate case and are, therefore, proper and adequate. *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Increase its Rates in the Lake Erie Division*, Case No. 07-564-WW-AIR, Opinion and Order (May 14, 2008). (Comments at 4-5.) The annualized depreciation expense on the underlying capital improvements is \$79,192. (Application at schedule 5.) The depreciation expense on the items being replaced is \$7,741. (Application at schedule 6.)
- (11) All of the underlying infrastructure improvement costs were incurred by the applicant after March 1, 2003, and before the date of filing of the application. (Application at schedule 2.) The following summarizes the costs of the infrastructure improvements underlying the proposed SIC, and the fair and reasonable return on the valuation of that infrastructure (Application at schedule 1):

<b>RETURN ON ADDITION TO RATE BASE</b>			
Change to plant-in-service			
Cost of improvements	\$3,548,237		
Less: Cost of retired items	<u>276,717</u>		
Net addition to plant-in-service		\$3,271,520	
Change to accumulation provision for depreciation			
Depreciation on improvements	\$ 44,212		
Less: Original cost retired	<u>276,717</u>		
Less: Net provision for depreciation		(232,505)	
Change to return on rate base			
Net addition to rate base		\$3,504,025	
Pre-tax rate of return on rate base		12.10%	
Annual rate of return on new rate base			\$423,987
<b>DEPRECIATION ON CHANGES TO RATE BASE</b>			
Annualized depreciation on improvements	79,192		
Less: Annualized depreciation on retired items	<u>7,741</u>		
Net annualized depreciation change			<u>71,451</u>
<b>ANNUALIZED REVENUE REQUIREMENT FOR IMPROVEMENTS</b>			<b>\$495,438</b>

Thus, the Commission finds that the annual revenue requirement associated with the underlying infrastructure improvements is \$495,438.

The application also sets forth the anticipated annual revenues resulting from the proposed SIC. (Application at schedule 10.) The Commission finds that the proposed SIC of three percent, applied to annual revenues of \$14,516,076, will yield additional revenues of approximately \$435,482. Although this annual revenue yield is less than the annualized revenue requirement, the amount of the SIC is limited by Section 4909.172(B)(2), Revised Code, to three percent. In addition, the proposed SIC will apply uniformly to all classes. (Comments at 5.)

Staff reports that utilization of the pretax rate of return contained in the applicant's last rate case is consistent with the guidelines, as the date certain in this proceeding is not later than three years from the date when the applicant's existing rates and tariffs went into effect. According to staff's investigation, the applicant's calculation of the pretax rate of return is correct. (Comments at 5.) The Commission agrees.

Finally, the Commission is required by Section 4909.172, Revised Code, to ensure that any authorized SIC will not cause a company to earn an excessive rate of return on its rate base.

As calculated by both staff and the applicant, the proposed SIC will result in the applicant earning a return of 2.79 percent on its rate base as of October 31, 2008, which rate base includes the infrastructure improvements upon which the SIC is based. (Comments at 3; Application at schedule 8.) The Commission finds that this return is not excessive.

The guidelines state that "[i]f a surcharge is granted by the Commission, the company's actual and pro forma profitability will be reviewed on an annual basis to determine whether a reduction or elimination of such surcharge or subsequent surcharges is required by this restriction." (Guidelines at 3.) In order to make the required annual review, the applicant will be ordered to file its SIC schedule 8 on an annual basis concurrent with the applicant's filing of its annual report to the Commission, using the most recent calendar year.

- (12) The Commission therefore finds that the proposed SIC is just and reasonable, and is sufficient to meet (subject to the statutory maximum SIC percentage), but not to exceed, the statutorily mandated revenue requirement associated with the cost of, and the fair and reasonable return on, the underlying infrastructure improvements.
- (13) The applicant proposed a form of the customer notices. (Schedule 11 of exhibit C to the Application.) The applicant submitted a revised, corrected version of the proposed customer notices in this case on January 6, 2009. The Commission has reviewed the form of customer notices and finds that the notices docketed on January 6, 2009, are adequate. The customer notice should be forwarded to all customers affected by the SIC surcharge approved in this proceeding, on or with the first bill that contains the surcharge.
- (14) The Commission has reviewed the proposed revised tariff pages that were filed as a part of the application. (Schedule 9 of exhibit C of the Application.) The Commission finds that the proposed revised tariff pages are approved conditioned upon the addition of the date on which the revised tariff pages are filed in final form.

- (15) On January 13, 2009, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this proceeding. OCC's motion to intervene is granted.

It is, therefore,

ORDERED, That the system infrastructure improvement charge proposed by the applicant in this proceeding be approved. It is, further,

ORDERED, That Aqua be authorized to file, in final form, four complete, printed copies of tariffs consistent with this finding and order. Aqua shall file one copy in its TRF Docket No. 89-7028-WW-TRF (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the proposed tariff sheets be effective upon filing in final form, on a services rendered basis. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

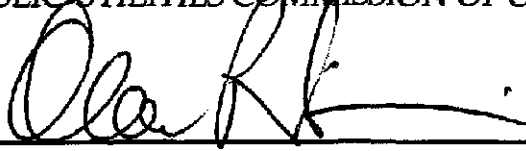
ORDERED, That the applicant shall file, on an annual basis until such time as the surcharge is eliminated, an updated schedule 8, as attached as part of exhibit C of the application. The schedule 8 shall be filed under this docket, concurrently with the applicant's filing of its annual report to the Commission, using information for the most recent calendar year. It is, further,

ORDERED, That the customer notice filed with the Commission on January 6, 2009, be delivered to each customer affected by the surcharge approved in this finding and order, with or on each customer's first bill containing the surcharge. It is, further,

ORDERED, That OCC's motion to intervene be granted. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

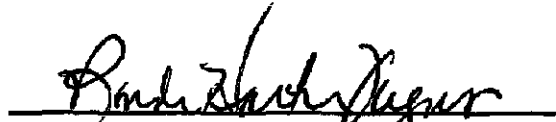
THE PUBLIC UTILITIES COMMISSION OF OHIO



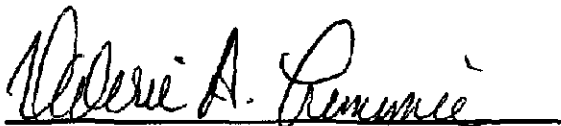
Alan R. Schriber, Chairman



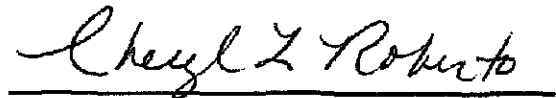
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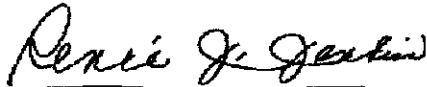


Cheryl L. Roberto

JRJ/vrm

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APR 29 2009



Renee J. Jenkins  
Secretary