

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Aqua                    )  
Ohio, Inc. for Authority to Increase its Rates        )   Case No. 09-560-WW-AIR  
and Charges in the Masury Division.                    )

ENTRY

The attorney examiner finds:

- (1) On August 7, 2009, Aqua Ohio, Inc., Masury Division (Aqua or applicant) filed a motion for approval of a waiver in the timing for the filing of expert testimony on a rate-of-return. Specifically, Aqua seeks a waiver of the requirement (Rule 4901-7-01, Ohio Administrative Code [O.A.C.], Appendix A, Chapter II, Paragraph [A][6]), to file expert consultant testimony regarding rate-of-return issues within fourteen days of the filing of the application. In support of its request, the applicant believes that its application will be resolved pursuant to stipulation and that the granting of the requested waiver will result in the avoiding of additional cost in the preparation of the rate case. To the extent that the case is not resolved pursuant to stipulation, Aqua seeks the ability to file expert consultant testimony at a later time in the proceeding.

By proceeding in this manner, Aqua submits that the applicant will likely save its ratepayers the expense of a consultant. Additionally, Aqua explains that, in lieu of the testimony of an expert consultant, it will initially provide testimony from one of its officers, Robert A. Kopas, which will set forth the rationale and background for the proposed rate-of-return. Therefore, the applicant believes that the Commission staff will still have the necessary information to effectively and efficiently review the rate-of-return issue.

- (2) On August 21, 2009, the office of the Ohio Consumers' Counsel (OCC) filed a memorandum in response to Aqua's motion. OCC states that, while it does not oppose Aqua's request for a waiver regarding the filing of expert testimony, such waiver should not be permitted to hinder its advocacy on behalf of Aqua's customers. Specifically, OCC indicates that, to the extent that Aqua's motion is granted in order to provide the applicant with the opportunity to file its expert testimony after

the deadline set forth in the Commission's rules, OCC should then be granted adequate time to conduct discovery related to Aqua's subsequent rate-of-return testimony and adequate time to prepare its own expert testimony in response. Finally, OCC represents that both the Commission staff and Aqua have indicated that they have no objection to OCC's proposal.

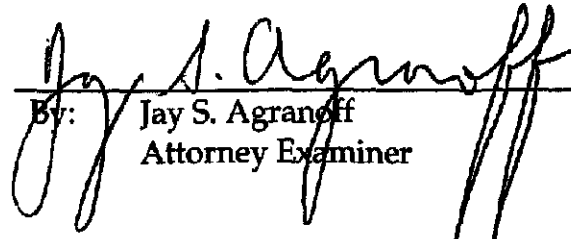
- (3) Aqua's motion for approval of a waiver is reasonable and should be granted subject to the conditions proposed by OCC. In reaching this conclusion, the attorney examiner notes that such an approach will provide the potential of cost savings to the company and its ratepayers, while at the same time provide the adequate due process protection to both OCC and the company. Additionally, the Commission staff shall have enough information at its disposal for the purpose of engaging in settlement discussions. Therefore, Aqua is granted a waiver of the requirement to file expert consultant testimony regarding rate-of-return issues within fourteen days of the filing of the application. Instead, to the extent that this matter is not resolved pursuant to stipulation, Aqua shall have the opportunity to file expert testimony at a subsequently determined date. Additionally, if and when such expert consultant testimony is filed, OCC will be provided with the opportunity to engage in discovery, as well as to file its own expert testimony in response.

It is, therefore,

ORDERED, That Aqua's motion for a waiver is granted in accordance with Finding (3). It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: Jay S. Agranoff  
Attorney Examiner

;dah

Entered in the Journal  
**AUG 26 2009**



Renee J. Jenkins  
Secretary