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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**OBJECTIONS TO THE PUCO STAFF'S REPORT
OF INVESTIGATION
AND SUMMARY OF MAJOR ISSUES
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in this case, hereby submits to the Public Utilities Commission of Ohio ("Commission" or "PUCO") these objections¹ to the PUCO Staff's Report of Investigation ("Staff Report"). The Staff Report was filed on January 21, 2010, in this docket concerning the Aqua Ohio, Inc. ("Aqua") Application to increase its rates and charges for the sale of water to its customers in its Masury Division. OCC is the state representative of the approximately 1,400 residential utility consumers of the Masury Division of Aqua.

OCC submits that these objections meet the specificity requirement of Ohio Adm. Code 4901-1-28. Additionally, OCC's objections are supported with OCC's testimony that will be filed on February 22, 2010, pursuant to the PUCO's January 22, 2010 Entry.

OCC reserves the right to amend and/or supplement its objections in the event that the PUCO Staff changes, modifies, or withdraws its position, at any time prior to the closing of the record, on any issue contained in the Staff Report. OCC also reserves the

¹ These objections are filed pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B).

right to file additional expert testimony, produce fact witnesses and introduce additional evidence. Moreover, the OCC reserves its rights to amend and/or supplement its testimony in the event that the PUCO Staff changes, modifies, or withdraws its position on any issue contained in the Staff Report. OCC also submits that the lack of an objection in this pleading to any aspect of the Staff Report does not preclude OCC from cross-examination or introduction of evidence or argument in regard to issues on which the PUCO Staff changes, modifies, or withdraws its position on any issue contained in the Staff Report.

Pursuant to R.C. 4903.083, 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 in accordance with R.C. 4903.083.

OBJECTIONS TO THE STAFF REPORT

I. OPERATING INCOME AND RATE BASE

A. Rate Base

1. Capitalized Legal Costs

1. OCC objects to the Staff Reports' failure to reclassify to expense capitalized legal expenses of \$2,580 for work performed back in 2002. This item should not have been capitalized but expensed in the year it was incurred. Staff should have reclassified this item to expense and subsequently removed it from the test year as it was incurred many years ago. OCC witness Hines' testimony addresses this objection.

2. Customer Deposits

2. OCC objects to the Staff's Report's failure to offset rate base by customer deposits of \$604 as these are a non-investor supplied source of funds. This amount represents the difference between the beginning and ending balances of customer deposits for Aqua Ohio for the Year 2008 with the plant factor of 1.79% applied to the difference to arrive at an allocated amount for Masury. This amount should be deducted from rate base and shown as an "Other Rate Base Item" on Schedule B-6. OCC witness Hines' testimony addresses this objection.

3. Customer Information System Maintenance

3. OCC objects to the Staff's Report's failure to exclude \$1,177 in capital costs related to Aqua fixing the Banner Customer Information System to comply with the Stipulation in Case No. 08-1125-WW-UNC. Case No. 08-1125-WW-UNC is the case in which the Commission ordered the Company to pay \$132,000 in forfeitures for not complying with the Stipulation in that case. The subject of Case No. 08-1125-WW-UNC was to ensure that Aqua was resolving the billing and billing backlog issues that stemmed from the implementation of the new billing system and centralized call center in May 2007. The non-compliance was still occurring after the date certain in this case, which is June 30, 2008. Hence, customers should not have to pay for the capital costs to rectify this situation. OCC witness Hines' testimony addresses this objection.

B. Operating Expenses

1. Shareholder Expense

4. OCC objects to the Staff Report's failure to recommend adjustments to Service Company Expenses to exclude \$1,165 related to Shareholder Expenses. These expenses are related to services provided only to shareholders and, as such, do not provide a direct and primary benefit to Ohio customers. The above expense should not be included in the rates that will be collected from customers. OCC witness Hines' testimony addresses this objection.

2. Miscellaneous Service Company Expenses

5. OCC objects to the Staff Report's failure to reduce Service Company expenses by \$136 in order to remove expenses related to trade show and marketing, restaurants, flowers, resorts, sporting events, Bar Association dues and amounts related to colleges and universities. These costs do not provide a direct and primary benefit to Masury's customers nor are they related to the provision of utility service. Staff did not make any adjustments to Service Company Expenses in this regard. OCC witness Hines' testimony addresses this objection.

3. Employee Stock and Incentive Plan Expense

6. OCC objects to the Staff Report's failure to exclude a total of \$1,898 of expenses related to Employee Stock and Incentive Plan Expenses. Such expenses should be excluded because they relate to the profitability of the Company and are

thus focused on benefiting investors and not customers. OCC witness Hines' testimony addresses this objection.

4. Property Tax

7. OCC objects to the Staff Report's failure to reduce Property Taxes by \$56 that is associated with the capital costs related to Aqua fixing the Banner Customer Information System to comply with the Stipulation in Case No. 08-1125-WW-UNC. OCC witness Hines' testimony addresses this objection.

5. Depreciation Expense

8. OCC objects to the Staff Report's failure to reduce Depreciation Expense by \$100 that is associated with the capital costs related to Aqua fixing the Banner Customer Information System to comply with the Stipulation in Case No. 08-1125-WW-UNC. OCC witness Hines' testimony addresses this objection.

6. Rate Case Expense

9. Although OCC does not take issue with the Staff's five-year amortization of rate case expense, OCC objects to the \$96,000 level of Rate Case Expense Staff has included for collection from customers on Schedule C-3.7. OCC objects because the Staff failed to eliminate half of the estimated \$96,000 rate case expense from this case as customers should not have to pay for the entire cost of a rate case that would benefit the Company and its shareholders as much as or even

more so than the customers themselves. OCC's total incremental adjustment to Staff's \$19,200 annual amortization of Rate Case Expense would be a reduction of \$9,600. OCC witness Hines' testimony addresses this objection.

C. Revenue Requirements

10. OCC objects to the Staff's recommended revenue requirement and resulting revenue increase on Schedule A-1 as excessive due to the use of inappropriate and incorrect calculations of rate base, operating income, and rate of return (as detailed in the OCC's objections to the Staff's determination of incorrect rate base, operating income, and rate of return). OCC witness Hines' testimony addresses this objection.

11. OCC objects to the Staff Report's calculations that do not reflect the flow-through consequences of OCC's other objections regarding revenue requirements. Specifically, OCC objects to the following:

- a. OCC objects to the Staff's calculation of rate base on Schedule B-1, to the extent that other OCC objections have an impact on this calculation.
- b. OCC objects to the Staff's calculation of working capital allowance on Schedule B-5, to the extent that other OCC objections have an impact on this calculation.
- c. OCC objects to the Staff's calculation of operating revenues and operating expenses on Schedule C-2, to the extent that other OCC objections have an impact on this calculation.
- d. OCC objects to the Staff's calculation of taxes other than income on Schedule C-3.10, to the extent that other OCC objections have an impact on this calculation.
- e. OCC objects to the Staff's calculation of federal income taxes on Schedule C-4, to the extent that other OCC objections have an impact on this calculation.

OCC witness Hines' testimony addresses this objection.

II. RATE OF RETURN

12. OCC objects to the PUCO Staff's inappropriate increase of the cost of equity by allowing an adjustment for equity issuance and other unspecified costs even though (1) Aqua Ohio provided no proof that the Company incurred any equity issuance costs that have not been recovered from customers, and (2) Aqua Ohio did not provide proof of the magnitude of issuance and other unspecified costs the Company will incur in the reasonably near future. Customers should not have to pay for such issuance costs and other unspecified costs that Aqua Ohio has recovered or will not incur. OCC witness Daniel Duann will address this objection in his testimony.

13. OCC objects to the PUCO Staff's utilization in its Capital Asset Pricing Model of a market equity risk premium based exclusively on the spread of arithmetic mean total returns between large company stocks and long-term government bonds. The Staff's methodology artificially increases the common equity cost of Aqua Ohio that all consumers will pay. Geometric mean total return is, by definition, a more accurate measurement than arithmetic mean total return of the equity and government bond returns experienced and expected by the average investor. The spread of geometric mean total returns between large company stocks and long-term government bonds should be incorporated into the

estimation of the market equity risk premium. OCC witness Daniel Duann will address this objection in his testimony.

14. OCC objects to the PUCO Staff's incorporation, in its DCF analysis, of a growth rate based on the average annual change in Gross National Product ("GNP") for the years 1929 to 2008. This growth rate does not reflect the average annual change in GNP of the more recent period or investors' current expectations of the long-term dividend growth in the future, thereby artificially increasing the common equity cost that consumers would have to pay. OCC witness Daniel Duann will address this objection in his testimony.

III. RATES AND TARIFFS

1. Rate Design

15. OCC objects to the PUCO Staff's failure to recalculate the impact of their recommended Revenue Requirement (\$795.2 thousand as a lower bound, and \$813.5 thousand as an upper bound versus the filed \$872.4 thousand) on the proposed rates for the different classes.² On average the increase in rates would be between 64.81% and 68.60% rather than the filed 80.83%. Without taking into consideration their reduced revenue requirement on customers' bills (including residential), it will be difficult to gauge the reasonableness of their level. This is especially the case if other rate design objectives such as avoiding rate shock are also considered.

² Staff Report at p. 33.

16. OCC objects to the PUCO Staff's failure to recommend that there be a process among the Parties where alternative rate design mechanisms, such as a phase-in, are considered for avoiding or lessening the rate shock to residential customers that would result from the rate increases proposed by the Company or others. OCC witness Ibrahim's testimony addresses this objection.

2. Miscellaneous Charges

17. OCC objects to the Staff Report's recommendation that the tariff be updated to reflect the current policy concerning waiving the late payment charge if payment is made within six days of the due date on the bill. The Staff should have also recommended that the first late payment charge in any 12-month period be waived. OCC witness James Williams will address this objection in his testimony.

18. OCC objects to the Staff Report's recommendation to increase the amount of the dishonored check charge. OCC objects to the Staff Report recommendation concerning changing the dishonored check charge to a dishonored payment charge because neither the need for the change or the costs are justified by the Staff or Company. OCC witness James Williams will address this objection in his testimony.

19. OCC objects to the Staff Report's recommendation to increase the amount of the reconnection charge from \$29.00 to \$43.00, on the basis that the Staff has not required the Company to provide an adequate justification for the additional

costs. OCC further objects that disconnection costs are embedded in the Reconnection Charge, thereby causing customers to pay to be disconnected. OCC also objects that the Staff Report recommendation for approving the increase in the reconnection charge does not recommend ways to help customers pay the additional charge. OCC witness James Williams will address this objection in his testimony.

20. OCC objects to the Staff Report's recommendation for the Commission to approve the Company's proposed account activation charge of \$21.00 because the Staff has failed to require the Company to adequately justify the need for the additional staffing costs and other costs. OCC further objects that the Staff Report recommendation failed to specifically prescribe the terms and conditions that apply to the charge. OCC also objects that the Staff Report failed to include a recommendation that customers be billed the account activation charge over at least two months instead of over one month. OCC witness James Williams will address this objection in his testimony.

3. Bills and Payment for Services

21. OCC objects to the Staff Report's recommendation to merely delete provisions in the tariff that enabled the Company to assess collection charges on final bills. The Staff Report should also have recommended that customers who have paid non court-ordered collection charges should be entitled to a refund.

22. OCC objects to the Staff Report's failure to find the Company in violation of its tariff regarding the rendering of bills on a monthly basis. OCC witness James Williams will address this objection in his testimony.

4. Bill Format

23. OCC objects to the Staff Report recommendation concerning bill formatting issues because the Staff intends to communicate changes directly to the Company. Staff should ensure that changes in the bill format are communicated to customers.

5. Customer Service Assessment

24. OCC objects that the Staff Report failed to provide an analysis of the PUCO Aqua Ohio hotline calls and failed to provide conclusions regarding ways in which Aqua's customer service can be improved, such as including more payment plans and options for customers. OCC witness James Williams will address this objection in his testimony.

6. Water Survey Analysis

25. OCC objects that the Staff Report failed to consider the results of the July 2009 survey that the Staff conducted and make recommendations for improvement based on those results. The customer survey can provide invaluable information about overall customer perceptions of the quality of service being provided by the Company. OCC witness James Williams will address this objection in his testimony.

7. Division Consolidation

26. OCC objects that the Staff Report failed to analyze and consider the benefits of merging the Company's Masury Division with the Lake Erie Division to create greater economies of scale. Masury's revenue has been affected by the loss of a large customer since the last rate case in 2000. The Staff Report failed to determine whether or not the Masury Division could also benefit, at the very least, from savings in the area of administrative expenses, as was the case with the merging of the Lake Erie East Division with the Lake Erie Division pursuant to Case Nos. 05-1377-WW-AAC and 05-1378-WW-UNC. OCC witness Hines' testimony addresses this objection.

IV. CONSERVATION

27. OCC objects to the Staff Report to the extent that the Staff failed to review the Company's water efficiency and conservation programs and failed to provide recommendations for ways that conservation initiatives can be improved. OCC witness James Williams will address this objection in his testimony.

V. FAILURE TO PROVIDE PROPER NOTICE

28. OCC objects to the Staff Report to the extent that Staff failed to address the notice deficiencies regarding the Company's correction of the Date Certain that is used for valuing rate base and for the setting of rates.

SUMMARY OF MAJOR ISSUES

The General Assembly intended, in R.C. 4903.083, that the PUCO use a summary of the major issues in rate cases to inform utility customers about matters of interest for their participation in local public hearings:

Notice of such hearing shall be published by the public utilities commission once each week for two consecutive weeks in a newspaper of general circulation in the service area. Said notice shall state prominently the total amount of the revenue increase requested in the application for the increase and **shall list a brief summary of the then known major issues in contention** as set forth in the respective parties' and intervenor's objections to the staff report filed pursuant to section 4909.19 of the Revised Code. (Emphasis added.)

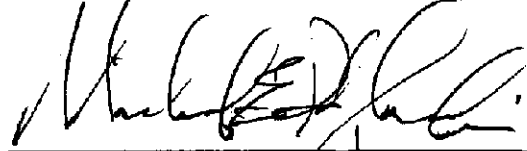
The PUCO should fulfill the statutory requirement by arranging for a local-hearing process that is initiated with a notice that is understandable to consumers and that includes at least the following:

1. Are there any improvements the PUCO should order Aqua Ohio to make with regard to the quality of water and service that Aqua Ohio provides to customers?
2. Should the PUCO allow Aqua Ohio to increase its rates for water and, if so, how much of a rate increase should be allowed?
3. What amount of profit should the PUCO allow Aqua Ohio an opportunity to earn for providing water service to customers in Ohio?
4. Which expenses should the PUCO allow Aqua Ohio to collect from customers in the Masury District?

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

Respectfully submitted,

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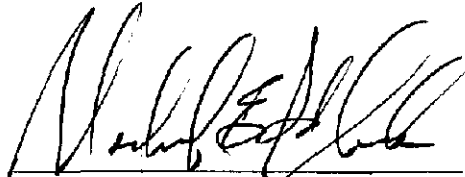
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CERTIFICATE OF SERVICE

I hereby certify that a copy of *Objections to the PUCO Staff's Report of Investigation and Summary of Major Issues* by the Office of the Ohio Consumers' Counsel was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 22nd day of February, 2010.


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