

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Aqua Ohio, :
Inc. for Authority to :Case No. 09-1044-WW-AIR
Increase its Rates and :
Charges in the Lake Erie :
Division. :

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PROCEEDINGS

before Mr. James M. Lynn and Mr. L. Douglas Jennings,
Hearing Examiners, at the Public Utilities Commission
of Ohio, 180 East Broad Street, Room 11-D, Columbus,
Ohio, called at 9:30 a.m. on Thursday, July 29, 2010.

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APPEARANCES:

Chester, Willcox & Saxbe, LLP
By Mr. Mark S. Yurick
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On behalf of the Company.

Janine L. Migden-Ostrander
Ohio Consumers' Counsel
By Mr. Gregory J. Poulos
Ms. Kyle Lynn Verrett
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Ten West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

On behalf of the OCC.

Richard Cordray
Ohio Attorney General
By Mr. John Jones
Ms. Sarah J. Parrot
Public Utilities Section
180 East Broad Street

On behalf of the Staff.

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2
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6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

- - -

WITNESSES

PAGE

LOUIS S. KREIDER

Direct examination by Mr. Yurick

7

Examination by Examiner Jennings

9

- - -

COMPANY EXHIBITS

ID'D

REC'D

1 - Application

10

12

2 - Direct Testimony of L. Kreider

10

12

3 - Direct Testimony of R. Hideg

11

12

4 - Direct Testimony of R. Kopas

11

12

5 - Direct Testimony of R. Liptak

11

12

6 - Direct Testimony of T. Russell

11

12

7 - Direct Testimony of D. Monie

11

12

8 - Direct Testimony of J. Spanos

11

12

9 - Direct Testimony of L. Kreider
In Support of Stipulation

7

12

- - -

OCC EXHIBITS

ID'D

REC'D

1 - Direct Testimony of A. Ibrahim

15

16

2 - Direct Testimony of D. Duann

15

16

3 - Direct Testimony of J. Williams

15

16

4 - Direct Testimony of S. Hines

15

16

- - -

INDEX (Continued)

- - -

STAFF EXHIBITS

ID'D REC'D

1 - Staff Report

14 15

2 - Prepared Testimony of S. Chaney

14 15

3 - Prepared Testimony of W. Willis

14 15

4 - Prepared Testimony of M. Vance

14 15

5 - Prepared Testimony of P. Baker

14 15

6 - Prepared Testimony of C. Evans

14 15

7 - Prepared Testimony of C. Goins

14 15

8 - Prepared Testimony of
M. Rutherford

14 15

- - -

JOINT EXHIBITS

ID'D REC'D

1 - Stipulation and Recommendation

13 13

- - -

1 Thursday Morning Session,
2 July 29, 2010.

3 - - -

4 EXAMINER LYNN: We will go on the record
5 at this time. Thank you.

6 Public Utilities Commission of Ohio is
7 assigned for hearing at this time and place in Case
8 No. 09-1044-WW-AIR, being In the Matter of the
9 Application of Aqua Ohio, Inc. for Authority to
10 Increase its Rates and Charges in its Lake Erie
11 Division.

12 I'm Jim Lynn, the Attorney Examiner
13 assigned to hear this case, and with me is another
14 Attorney Examiner, Mr. Doug Jennings.

15 At this time we'll have the appearances
16 of the parties, and we'll begin with Aqua Ohio.

17 MR. YURICK: Thank you, your Honor.

18 On behalf of Aqua Ohio, Chester, Wilcox
19 and Saxbe, 65 East State Street, Suite 1000,
20 Columbus, Ohio 43215, Mark S. Yurick, Y-u-r-i-c-k.

21 EXAMINER LYNN: Thank you, Mr. Yurick.
22 Representing the State of Ohio,
23 Mr. Jones?

24 MR. JONES: Yes, thank you, your Honor.
25 On behalf of the staff of the Public

1 Utilities Commission of Ohio, Ohio Attorney General
2 Richard Cordray, Assistant Attorneys General Sarah
3 Parrot, John Jones, 180 East Broad Street, Columbus,
4 Ohio.

5 EXAMINER LYNN: Thank you, Mr. Jones.

6 And for the Office of Consumers' Counsel.

7 MR. POULOS: Gregory J. Poulos, on behalf
8 of the Ohio Consumers' Counsel, Janine
9 Migden-Ostrander, the Consumers' Counsel, and Aqua's
10 residential consumers. Also have with me Kyle
11 Verrett, and Michael Idzkowski who is not present.

12 EXAMINER LYNN: As I understand it, based
13 on the efforts of all the parties, and I appreciate
14 this, there's been a stipulation agreed to and also
15 in addition there's a witness on behalf of Aqua Ohio.

16 Mr. Yurick, I'll let you proceed here.

17 MR. YURICK: Thank you, your Honor.

18 There has been stipulation testimony,
19 prefiled testimony in support of the stipulation was
20 filed yesterday by the company. At this time we, the
21 company would call in support of the stipulation Mr.
22 Lou Kreider.

23 EXAMINER LYNN: Mr. Kreider, if you'd
24 like to take the witness stand please.

25 (Witness sworn.)

1 EXAMINER LYNN: Mr. Yurick, please go
2 ahead.

3 - - -

4 LOUIS S. KREIDER
5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Yurick:

9 Q. Sir, could you please state your name and
10 spell your last name for the record?

11 A. Yes; it's Louis S. Kreider,
12 K-r-e-i-d-e-r.

13 Q. How are you employed, sir?

14 A. I am the vice president/division manager
15 of Aqua Ohio's Lake Erie Division.

16 Q. As a part of those duties did you file
17 testimony in support of the stipulation in this case,
18 Case No. 09-1044-WW-AIR?

19 A. Yes, I did.

20 Q. And handing you what's been marked Aqua
21 Exhibit No. 9, is that your prefiled testimony filed
22 in this proceeding?

23 A. Yes, it is.

24 Q. And was that testimony prepared by you or
25 at your direction?

1 A. Yes.

2 Q. If I were to ask you the questions that
3 are set forth within Aqua Exhibit 9, would your
4 answers to those questions be the same as you sit
5 here today?

6 A. Yes, they would.

7 MR. YURICK: I would at this point like
8 the prefiled testimony of Louis S. Kreider to be
9 identified in the record as Aqua Exhibit 9, and I
10 would move for the admission of the testimony of
11 Mr. Kreider in Aqua Exhibit 9, and at this point I
12 would make the witness available for
13 cross-examination.

14 EXAMINER LYNN: Thank you.

15 Questions by the State of Ohio,
16 Mr. Jones? Would there be any questions of Mr.
17 Kreider?

18 MR. JONES: No questions, your Honor.

19 EXAMINER LYNN: Thank you.

20 On behalf of the Office of the Ohio
21 Consumers' Counsel, Mr. Poulos, any questions?

22 MR. POULOS: No questions, your Honor,
23 thank you.

24 EXAMINER LYNN: Thank you.

25 Then we will mark that testimony of

1 Mr. Kreider as Aqua Exhibit 9.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 EXAMINER LYNN: Excuse me, Mr. Jennings
4 has a couple questions.

5 - - -

6 EXAMINATION

7 By Examiner Jennings:

8 Q. Were you at the local public hearing at
9 Lake Seneca.

10 A. No, I was not.

11 Q. Are you aware of complaints of customers
12 in that area about discoloration of clothing when
13 using the washing machine?

14 A. I understand there were I believe two
15 customers that complained about discolored water that
16 we have investigated.

17 Q. Okay.

18 A. And we'll follow up on.

19 Q. That was my question, whether there is a
20 follow-up on those.

21 A. Yes, there is.

22 Q. Another question I had is concerning
23 customer billings. What would a typical customer see
24 as a change in their billing as a result of the rate
25 increase?

1 A. With our current rates, the majority of
2 our customers which are located in Lake County use
3 5,500 gallons of water per month. And they receive a
4 bill of \$30.94. With this increase their bill would
5 go to \$34.19. So it's about \$3.25 per month increase
6 for our average residential customer.

7 EXAMINER JENNINGS: Thank you. I have no
8 further questions.

9 EXAMINER LYNN: Thank you.

10 And, Mr. Yurick, having read the --
11 excuse me, actually Mr. Kreider, I have no questions,
12 you may resume taking your seat. Thank you.

13 Mr. Yurick, as I understand it, having
14 read the stipulation, Aqua Ohio has some other
15 exhibits as well to be introduced as evidence today?

16 MR. YURICK: Yes, your Honor. The
17 company would also like identified as Aqua Exhibit 1
18 the application of supplements and modifications to
19 the application itself, which the company will
20 provide a marked copy, as it's been identified, to
21 the court reporter at a later date.

22 EXAMINER LYNN: Okay.

23 MR. YURICK: The testimony of Lou Kreider
24 in the case in chief, which we would like marked and
25 identified as Aqua Exhibit 2; the testimony of

1 Richard Hideg filed in the case in chief we would
2 like identified and marked as Aqua Exhibit 3.

3 The testimony of Robert Kopas we would
4 like marked and identified as Aqua Exhibit 4; Robert
5 Liptak's testimony we would like marked as Aqua
6 Exhibit 5; the testimony of Theodore C. Russell we
7 would like marked and identified Aqua Exhibit 6.

8 And the testimony of David Monie as Aqua
9 Exhibit 7; we would also like the testimony of John
10 J. Spanos in the case in chief marked and identified
11 as Aqua Exhibit 8.

12 And we would move for the admission of
13 Aqua Exhibits 1 through 9 at this point. Thank you.

14 EXAMINER LYNN: Thank you, Mr. Yurick.

15 Any objections to admitting those
16 exhibits into evidence?

17 MR. JONES: No objections, your Honor.

18 MR. POULOS: No objections, your Honor.

19 HEARING EXAMINER: Thank you. And we
20 will mark those exhibits as indicated by counsel for
21 Aqua.

22 (EXHIBITS MARKED FOR IDENTIFICATION.)

23 MR. YURICK: I apologize, your Honor. I
24 have been provided by the heroic efforts of the Ohio
25 Attorney General and their assistants a copy of the

1 application, for which the company is extremely
2 grateful. And we would provide -- we would like to
3 provide these to the court reporter to be marked as
4 Aqua Exhibit 1 and would move Aqua exhibits into
5 evidence as well at this time.

6 EXAMINER LYNN: And no objections on the
7 part of anyone, I'm sure.

8 MR. JONES: No objections, your Honor.

9 MR. POULOS: No objections.

10 EXAMINER LYNN: As I said, we all pool
11 our resources. Thank you in the efforts of providing
12 that.

13 MR. JONES: Your Honor, there's
14 additional exhibits that OCC and the staff would like
15 to have marked for identification.

16 EXAMINER LYNN: Well, thank you for
17 mentioning that. First I'll indicate that we will
18 admit all exhibits, Aqua Exhibits 1 through 8 into
19 evidence.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 EXAMINER LYNN: Before we proceed
22 further, Mr. Yurick, I understand at some point
23 you'll be introducing the stipulation exhibits and so
24 forth.

25 MR. YURICK: Yes. And I can do that now.

1 I think the stipulation itself can be marked as a
2 joint exhibit. The stipulation exhibits are attached
3 which can be identified for the record as set forth
4 in the stipulation itself at paragraph 15 -- I'm
5 sorry, 14, excuse me.

6 Stipulation Exhibit 1 are the stipulation
7 schedules, Stipulation Exhibit 2 are the proposed
8 tariff sheets with the proposed customer rights and
9 bill forms, the customer letters are attached as
10 Stipulation Exhibit 3.

11 So we would like those entered into the
12 record also and admitted. The stipulation as a whole
13 is a joint exhibit and I think that would just be
14 Joint Exhibit 1 and the stipulation exhibits as well.

15 EXAMINER LYNN: Thank you for mentioning
16 that. Then I'm sure there are no objections on
17 anyone's behalf.

18 MR. JONES: No objection, your Honor.

19 MR. POULOS: No objection from OCC.

20 EXAMINER LYNN: In that case we will
21 admit into evidence as Joint Exhibit 1 the
22 stipulation and the attachments that are associated
23 with it.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER LYNN: And as I believe I
2 mentioned earlier, we'll also admit into evidence for
3 Aqua Ohio Exhibits 1 through 9 as has been marked and
4 requested by Mr. Yurick.

5 We'll move on to the exhibits for the
6 State of Ohio and, Mr. Jones?

7 MR. JONES: Thank you, your Honor.

8 On behalf of the staff, your Honor, I
9 would like to have marked and identified for the
10 record Staff Exhibit 1, which is the Staff Report of
11 investigation, and would like to have marked as Staff
12 Exhibit 2 the testimony of Steven R. Chaney.

13 Staff Exhibit 3 being the testimony of
14 William Ross Willis; Staff Exhibit 4 being the
15 testimony of Mary Vance; Staff Exhibit 5 being the
16 testimony of Peter Baker.

17 Staff Exhibit 6 being the testimony of
18 Clifford T. Evans; Staff Exhibit 7 being the
19 testimony of Chuck Goins; and Staff Exhibit 8 being
20 the testimony of Marchia Rutherford.

21 We'd like to move to have those exhibits
22 admitted into evidence, your Honor.

23 EXAMINER LYNN: Thank, Mr. Jones. And as
24 I understand it, you have copies of each of those.

25 MR. JONES: Yes, your Honor. I provided

1 to the court reporter.

2 EXAMINER LYNN: Any objections to
3 admitting Staff Exhibits 1 through 8 into evidence?

4 MR. YURICK: No objection on behalf of
5 the Company.

6 MR. POULOS: No objection on behalf of
7 OCC.

8 EXAMINER LYNN: Thank you.

9 We will admit Staff Exhibits 1 through 8
10 into evidence and they will be marked as requested by
11 Mr. Jones.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 EXAMINER LYNN: Finally, on behalf of
15 OCC, exhibits.

16 MR. POULOS: Thank you, your Honor.

17 We are identifying four exhibits that
18 we'd like to offer into evidence. All four of these
19 exhibits are pieces of testimony that were filed on
20 June 21.

21 The first one is OCC Exhibit 1 we ask to
22 be marked Dr. Amr Ibrahim's testimony; OCC Exhibit 2
23 would be Daniel Duann's testimony; OCC Exhibit 3
24 we're asking to be marked James D. Williams'
25 testimony; and OCC Exhibit 4 will be marked as Steven

1 B. Hines' testimony. And this testimony has been
2 already given to the court reporter.

3 EXAMINER LYNN: Thank you very much,
4 Mr. Poulos.

5 Objections to admitting OCC Exhibits 1
6 through 4 into evidence?

7 MR. YURICK: No objections on behalf of
8 the company, your Honor.

9 EXAMINER LYNN: Thank you, Mr. Yurick.

10 MR. JONES: No objections by staff, your
11 Honor.

12 EXAMINER LYNN: Thank you, Mr. Jones.

13 Having heard those comments, we will
14 admit OCC Exhibits 1 through 4 into evidence and they
15 will be marked as indicated for the court reporter on
16 the copies that were given by Mr. Poulos.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER LYNN: That will be the extent
20 of all the exhibits here today. Thank you all for
21 providing copies to the court reporter.

22 I believe we do have one other item to
23 come up and that's Mr. Poulos had mentioned -- just a
24 minute please.

25 I don't believe there will be any

1 late-filed exhibits, correct?

2 MR. YURICK: Thank you, your Honor.

3 EXAMINER LYNN: In that case, Mr. Poulos,
4 you had made a request about filing a brief?

5 MR. POULOS: Yes, your Honor.

6 EXAMINER LYNN: Please go ahead.

7 MR. POULOS: I appreciate the opportunity
8 to ask for this. The OCC would like to also file a
9 brief in support of the stipulation to present our
10 support for it and our reasons for supporting it.

11 I talked to parties about this and I
12 would ask for a reasonable time, next Wednesday I
13 believe is August 3, if I may have till -- August 4.
14 If I may have till August 4 to file a brief on behalf
15 of OCC and if the companies choose to reply, they may
16 do so at any date they see fit.

17 EXAMINER LYNN: So you would file no
18 later than August 3.

19 MR. POULOS: Wednesday, August 4.

20 EXAMINER LYNN: Mr. Jennings, any
21 questions on that matter?

22 EXAMINER JENNINGS: Let's go off the
23 record for a moment.

24 (Off the record.)

25 EXAMINER LYNN: We'll go back on the

1 record please.

2 Mr. Poulos, then, yes, I'll grant your
3 request to file briefs no later than August 4 on
4 behalf of OCC.

5 And then having gone off the record
6 briefly and heard comments by staff and Aqua Ohio's
7 counsel, any opportunity for reply briefs will be
8 through August 11, no later than that date.

9 MR. JONES: Your Honor, it's the
10 understanding of the parties that OCC's brief would
11 be limited to the three-prong test supporting the
12 stipulation and I think that would contradict the
13 terms of the stipulation.

14 EXAMINER LYNN: That's already been
15 understood given there have been discussions
16 previously.

17 MR. POULOS: Yes, your Honor, that is
18 accurate.

19 EXAMINER JENNINGS: I would just like to
20 note for the record there are no public witnesses in
21 attendance at this morning's hearing.

22 EXAMINER LYNN: Thank you, Mr. Jennings.

23 Just want to mention to everyone again,
24 thank you for all your efforts to resolve the matter.
25 We appreciate how much time has been put in this

1 matter and all those of you who have traveled on the
2 road.

3 With that then we'll be adjourned.

4 MR. JONES: Thank you, your Honor.

5 MR. POULOS: Thank you, your Honor.

6 (Hearing adjourned at 10:05 a.m.)

7 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, July 29, 2010, and carefully compared with my original stenographic notes.

Julieanna Hennebert, Registered Professional Reporter and RMR and Notary Public in and for the State of Ohio.

My commission expires February 19, 2013.

(JUL-1593)

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Summary: Transcript Transcript of Aqua Ohio, Inc. hearing held on 07/29/10. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Hennebert, Julieanna Mrs.