

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Aqua Ohio, )  
Inc. to Amend Tariff Pages to its Stark Division ) Case No. 11-681-WW-ATA  
Tariff. )

In the Matter of the Application of Aqua Ohio, )  
Inc. to Amend Tariff Pages to its Struthers ) Case No. 11-682-WW-ATA  
Division Tariff. )

In the Matter of the Application of Aqua Ohio, )  
Inc. to Amend Tariff Pages to its Lake Erie ) Case No. 11-683-WW-ATA  
Division Tariff. )

ENTRY ON REHEARING

The Commission finds:

- (1) The Applicant, Aqua Ohio, Inc. (Aqua, the Company), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On February 7, 2011, Aqua filed applications to amend the Company's Stark Division Tariff No. 1, Struthers Division Master Tariff No. 2, and Lake Erie Division Tariff No. 1 (tariff cases) to address multiple meters on a single service line.
- (3) On March 7, 2011, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and comments urging the Commission to reject the tariff amendments filed by Aqua in this matter.
- (4) In a finding and order issued on March 16, 2011, the Commission approved the applications filed by Aqua seeking to amend the Company's tariffs in order to address multiple meters on a single service line.
- (5) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in the proceeding by filing an application within 30 days after the entry of the order upon the journal of the Commission.

- (6) On April 15, 2011, OCC filed an application for rehearing of the Commission's March 16, 2011, finding and order. Aqua filed a memorandum contra OCC's application for rehearing on April 25, 2011.
- (7) In its first assignment of error, OCC maintains that the tariff unlawfully shifts the responsibilities of a non-paying customer onto other parties in violation of Ohio law. OCC cites two statutory provisions, Sections 4909.18 and 4905.22, Revised Code, in support of this assignment of error.

The Commission fully addressed OCC's arguments concerning Section 4909.18, Revised Code, in the March 16, 2011, finding and order. Specifically, the Commission found that, although the Company's tariff applications did not include a completed C-1 exhibit, this omission should not result in a rejection of the tariff applications as it was clearly discernable from the information provided how the amended tariff language differed from regulations presently in effect thus satisfying Section 4909.18, Revised Code. OCC has raised nothing new for our consideration concerning the alleged violation of Section 4909.18, Revised Code.

OCC also argues that the revised tariff provisions violate Section 4905.22, Revised Code, as those provisions permit Aqua to disconnect customers who are current on their bills. We disagree. The approved tariff revisions do not enhance or expand the Company's authority to disconnect customers or shift the payment obligation onto other paying customers in a multi-tenant property setting as OCC argues. Rather, the revised tariff provisions offer the property owner in such situations alternatives to maintain water service to the paying tenants in order to avoid disconnection of water service to the entire premise. OCC's first assignment of error is, therefore, denied.

- (8) OCC's second assignment of error asserts that the Commission erred by approving a tariff that explicitly violates the disconnection provisions set forth in Rule 4901:1-15-27(A), Ohio Administrative Code (O.A.C.).

Contrary to OCC's position, the Commission was fully aware of the provisions of Rule 4901:1-15-27(A), O.A.C., when

approving the proposed tariff modifications. In fact, the Commission explicitly noted in the March 16, 2011, finding and order that Aqua must comply with the provisions of Rule 4901:1-15-27, O.A.C., in order to disconnect a water customer. This determination would include disconnection of a water customer in a multi-tenant dwelling situation. OCC's second assignment of error is denied.

- (9) OCC's final assignment of error asserts that the approved tariff provisions violate the reconnection of service provisions in Rule 4901:1-15-28, O.A.C., and in Aqua's tariffs. Specifically, OCC maintains that the amendment to Aqua's tariffs result in the inability of a customer to seek reconnection of service, even if such customer is current on his or her water bill.


OCC's assignment of error misses the point. The purpose behind the revised tariff provision is to afford property owners multiple options to ensure that water service remains connected to the property and to the property owners' paying tenants while providing the Company the opportunity to disconnect water service to non-paying customers. If the tenant is a customer of the water company, then the provisions of Rule 4901:1-15-27, O.A.C., would apply to protect the tenant from wrongful disconnection of service. In other situations, the property owner may pay the delinquent tenant's water bill and then seek recovery from the tenant or the other tenants may demand that the property owner pay in order to ensure continuation of water service consistent with landlord-tenant law, Section 5321.04(A)(6), Revised Code. OCC's third assignment of error is, therefore, denied.

It is, therefore,

ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

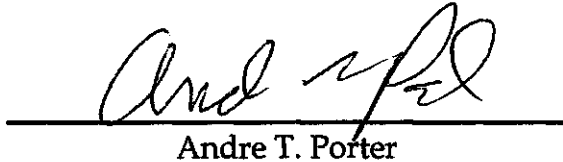
ORDERED, That a copy of this entry on rehearing be served upon all interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Paul A. Centolella

  
Steven D. Lesser

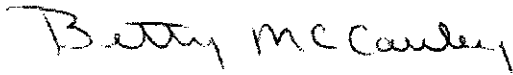
  
Andre T. Porter

  
Cheryl L. Roberto

JRJ/vrm

Entered in the Journal

MAY 04 2011

  
Betty McCauley  
Secretary