

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio American Water Company)	
To Increase Its Rates for Water and Sewer)	Case No. 11-4161-WS-AIR
Service Provided to Its Entire Service)	
Area.)	

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

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The Office of the Ohio Consumers' Counsel ("OCC") and the City of Marion, Ohio ("Marion"), intervenors¹ in this case, respectively submit to the Public Utilities Commission of Ohio ("Commission" or "PUCO") these objections² to the PUCO Staff's Report of Investigation ("Staff Report") and summary of major issues.³ The Staff Report was filed on January 31, 2012, in this docket concerning the Application of Ohio American Water Company ("OAW" or "Company") to increase its rates for water and sewer service by 19 to 27 percent for residential customers depending upon the service provided and the territory served. OCC is the state representative of approximately 53,000 residential customers of OAW.

¹ OCC and Marion were granted intervention on February 13, 2012. *See* February 13, 2012 Entry at pages 1 and 5.

² These objections are filed pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B).

³ The February 1, 2012 Entry mandates that "Each party filing objections shall also file a brief summary of the issues it designates as major issues, in order of their importance, for purposes of the notice requirement by Section 4903.083, Revised Code." February 1, 2012 Entry at page 1. The February 1, 2012 Entry also requires that the summary of the issues be filed by March 1, 2012. *See id.*, at page 2.

OCC and Marion's objections identify elements of the Staff Report that are not just and reasonable. OCC and Marion's objections are supported with OCC's testimony that will be filed on March 1, 2012, pursuant to the Commission's February 1, 2012 Entry.

OCC and Marion reserve the right to amend and/or supplement these 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 and Marion also reserve the right to file additional expert testimony, produce fact witnesses and introduce additional evidence. Moreover, OCC reserves the right 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 and Marion also submit that the lack of an objection in this pleading to any aspect of the Staff Report does not preclude OCC and Marion 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 the February 1, 2012 Entry,⁴ OCC and Marion submit a "Summary of Major Issues" that outlines the major issues to be determined in this proceeding. OCC and Marion respectfully request that these issues be included in the notices of the local public hearings in accordance with R.C. 4903.083.

⁴ *See id.*

OBJECTIONS TO THE STAFF REPORT

I. OPERATING INCOME AND RATE BASE

A. Rate Base

1. OCC and Marion object to the PUCO Staff's determination of rate base to the extent that other OCC and Marion objections may have an effect upon the rate base and the various components of rate base as set forth in Schedules B-1 through B-6 of the Staff Report.

B. Operating Income

2. OCC and Marion object to the PUCO Staff's calculation of the test year federal income taxes on Schedule C-3.6 to the extent that the PUCO Staff used an incorrect amount for the unadjusted test year federal income taxes. OCC witness Soliman's testimony addresses this objection.

C. Revenue Requirement

3. OCC and Marion object to the PUCO Staff's recommended revenue requirement and resulting revenue increase on Schedule A-1 as excessive for customers due to the use of inappropriate and incorrect calculations of rate base, operating income, and rate of return (as detailed in OCC's and Marion's objections to the PUCO Staff's determination of incorrect rate base, operating income, and rate of return).

D. Flow-Through Objections

4. OCC and Marion object to the PUCO Staff's calculations that do not reflect the flow-through consequences of OCC and Marion's other objections regarding revenue requirements. Specifically, OCC and Marion object to the following:

- a. OCC and Marion object to the PUCO Staff's calculation of rate base on Schedule B-1, to the extent that other OCC and Marion objections have an impact on this calculation.
- b. OCC and Marion object to the PUCO Staff's calculation of operating revenues and operating expenses on Schedule C-2, to the extent that other OCC and Marion objections have an impact on this calculation.
- c. OCC and Marion object to the PUCO Staff's calculation of taxes other than income taxes on Schedule C-3.5, to the extent that other OCC and Marion objections have an impact on this calculation.
- d. OCC and Marion object to the PUCO Staff's calculation of depreciation and amortization expense on Schedule C-3.4, to the extent that other OCC and Marion objections have an impact on this calculation.
- e. OCC and Marion object to the PUCO Staff's calculation of federal income taxes on Schedule C-4, to the extent that other OCC and Marion objections have an impact on this calculation.

II. RATE OF RETURN

5. OCC and Marion object to the PUCO Staff's inappropriate increase of the cost of equity, that customers will be asked to pay, by allowing an adjustment for flotation or equity issuance costs even though (1) OAW provided no proof that the Company incurred any flotation costs; and (2) OAW did not provide proof of the magnitude of flotation costs the Company will incur in the reasonably near future. Consumers should not have to pay for such costs that OAW will not necessarily incur. OCC witness Duann's testimony addresses this objection.

6. OCC and Marion object to the PUCO Staff's utilization in its Capital Asset Pricing Model of a risk premium inappropriately based on the spread of arithmetic mean total returns between large companies stocks and long-term government bonds, thereby artificially increasing the common equity cost that consumers will pay. The use of the arithmetic mean of annual returns inflated the estimated cost of equity because it unrealistically assumed that the relevant horizon was only one year, even though investors were expected to hold their stocks for longer term horizons. OCC witness Duann's testimony addresses this objection.

III. RATES AND TARIFFS

A. Increase in Reconnection Charges

7. OCC and Marion object to the PUCO Staff's recommendation to increase the reconnection charge by 16 percent (from \$61.00 to \$70.83) especially since the Company did not propose an increase in the reconnection charge in its

Application. Furthermore, the increases in labor rates and overhead expenses in the calculation of the reconnection charge are inappropriate given the Stipulation and Recommendation that was agreed to between the Company, Aqua Ohio, OCC, and the PUCO Staff.⁵ OCC witness Williams' testimony addresses this objection.

B. Proposed increase in Account Activation Charges

8. OCC and Marion object to the PUCO Staff's recommendation to increase the account activation charge by more than 12 percent (from \$23.10 to \$25.91) especially since the Company did not propose an increase in the account activation charge in its Application. Furthermore, the increases in labor rates and overhead expenses in the calculation of the account activation charge are inappropriate given the Stipulation and Recommendation that was agreed to between the Company, Aqua Ohio, OCC, and the PUCO Staff.⁶ OCC witness Williams' testimony addresses this objection.

C. Proposed Increase in Dishonored Payment Charges

9. OCC and Marion object to the PUCO Staff's recommendation to increase the amount of the dishonored payment charge (from \$17.25 to \$18.73) especially since the Company did not propose an increase in the dishonored payment charge in its Application. Furthermore, the increases in labor rates and overhead expenses are inappropriate given the Stipulation and Recommendation that was

⁵ *In the Matter of the Joint Application of American Water Works Company, Inc., Ohio American water Company and Aqua Ohio, Inc. for Approval of the Purchase of Common Stock of Ohio American Water Company by Aqua, Ohio, Inc.* Case 11-5102-WS-ATR.

⁶ *Id.*

agreed to between the Company, Aqua Ohio, OCC, and the PUCO Staff.⁷ OCC witness Williams' testimony addresses this objection.

D. Calculation of the Customer Charge

10. OCC and Marion object to the PUCO Staff's calculation of the Service (Customer) Charge to the extent that OCC's recommended rate of return of 7.77% results in a lower customer charge.

E. Calculation for the Softening Surcharges in Areas A and C

11. OCC and Marion object to the PUCO Staff's calculation for the Surcharges (Softening) in both Areas A and C to the extent that the PUCO Staff used the incorrect amounts of unadjusted test year federal income taxes to calculate its Federal Income Tax Expense Adjustment. This adjustment will decrease the PUCO Staff's total softening capital related costs calculations which will lower the softening surcharges recommended by the PUCO Staff.

F. Calculation of the Reverse Osmosis Surcharge

12. OCC objects to the PUCO Staff's calculation of the Reverse Osmosis surcharge for customers in Huber Ridge to the extent that the PUCO Staff used the incorrect amounts of unadjusted test year federal income taxes to calculate its Federal Income Tax Expense Adjustment. This adjustment will decrease the PUCO Staff's total reverse osmosis capital related costs calculations which will lower the Huber Ridge Reverse Osmosis surcharge recommended by the PUCO Staff.

⁷ *Id.*

IV. SERVICE MONITORING AND ENFORCEMENT

A. Water Service Quality

13. OCC objects that the Staff Report lacks any substantive recommendations for addressing overall water quality issues even though the results of a 2010 PUCO customer survey indicate exceptionally high dissatisfaction ratings with overall water quality in Blacklick, Huber Ridge, Lake Darby, Lake White, Timberbrook, and Worthington Hills. In addition, the Staff Report states that the PUCO Staff is “generally pleased with the Company’s overall water service,”⁸ which appears to contradict the results of the 2010 customer survey. Furthermore, letters have been filed in this case from several residential consumers who are continuing to express concern with their water quality.⁹ OCC witness Williams’ testimony addresses this objection.

B. Stipulation Commitment Review

1. Unaccounted-for-Water Reduction and Reporting Commitment

14. OCC and Marion object to the PUCO Staff’s recommendation on Unaccounted-for-Water (UFW) Reduction and Reporting. Using a very simplistic definition, Unaccounted-For-Water (“UFW”) is water that is treated but lost¹⁰ through the Company’s system before reaching the customer’s meter. And unfortunately for customers, it is water that customers end up paying for in their

⁸ Staff Report at 52.

⁹ See communications from Ms. Root on July 14, 2011, Mr. Miller on October 24, 2011, Mr. Stump on October 25, 2011, Ms. Coakley on November 8, 2011, Mr. Conley on December 19, 2011, Ms. Brown on December 23, 2011, Ms. Clegg on January 4, 2012, Mr. Neff on January 5, 2012, and Ms. Ricker on January 24, 2012.

¹⁰ Many factors can contribute to water loss.

bills. The PUCO Staff's recommendation does not deter OAW's further non-compliance with the 15% UFW standard in the current Commission rules - - particularly with regard to the Ashtabula, Marion, Huber Ridge and Madison systems. These systems have been out of compliance for the past several years. OCC witness Hines' testimony addresses this objection.

C. Marion Service Commitment

15. OCC and Marion object to the PUCO Staff's failure to recommend that sanctions be imposed against the Company for failure to comply with the commitment that it made concerning having monthly face-to-face meetings with the Marion City Engineer and/or City Service Director to coordinate common issues between the Company and Marion.¹¹ As a result of the Company not complying with this commitment, at least seven incidents were recorded where the Company failed to apply for excavation permits until after work had already began.¹² Failure to follow procedures in applying for permits can jeopardize the health and safety of Marion residents and can also result in the city incurring additional unplanned expenses.

D. Ashtabula District

16. OCC objects to the PUCO Staff's failure to recommend that sanctions be imposed against the Company for failure to comply with Ohio Adm. Code 4901:1-15-20(C)(1) concerning providing safe and satisfactory quality water that

¹¹ *In the Matter of the Application of Ohio-American Water Company to Increase its Rates for Water and Sewer Services Provided to its Entire Service Area.*, Case 07-1112-WS-AIR, Stipulation and Recommendation, September 4, 2008 at 14.

¹² Staff Report at 45.

complies with all federal and state mandates for drinking water.¹³ The Company was in violation of Ohio EPA chlorine contact time (CT) standards and finished water turbidity standards on at least three occasions in 2010.¹⁴ Failure to comply with state and federal water standards can directly jeopardize the health and safety of the public. OCC and Marion also object to the PUCO Staff's failure to recommend that the Commission order the Company to notify customers and public officials when significant events occur that can place the health and safety of the public in jeopardy. OCC witness Williams' testimony addresses this objection.

E. Tiffin

17. OCC objects to the PUCO Staff's failure to recommend that the Company develop and coordinate an action plan for eliminating lead service lines. The PUCO Staff recommended that the Company expand its lead services elimination practices.¹⁵ However, the potential public health and safety risks associated with lead exposure necessitates that more aggressive planning is needed to ensure that lead service lines are replaced before further degradation in water quality occurs. The PUCO Staff should have recommended the filing of a lead service line replacement plan within 90 days of the Opinion and Order in this case. OCC witness Williams' testimony addresses this objection.

¹³ Staff Report at 47.

¹⁴ *Id.*

¹⁵ Staff Report at 50.

F. Low-income Assistance Program

18. OCC and Marion object to the PUCO Staff's failure to review the adequacy of the funds that are being made available through the Help to Others (H2O) financial assistance program. H2O is a low-income assistance program where the Company matches contributions made by customers and employees for bill payment assistance to residential customers.¹⁶ Most recently, the Company had committed to contribute up to \$500 per month on a matching basis.¹⁷ The PUCO Staff should have reviewed or made a recommendation about the adequacy of funding and provided recommendations for ways the program can be improved. OCC witness Williams' testimony addresses this objection.

G. Customer Contacts

19. OCC and Marion object to the PUCO Staff's failure to provide any recommendations to address any issues concerning the 695 contacts that were registered with the Commission's "hotline" between July 1, 2010 and October 31, 2011.¹⁸ Additionally, the OCC and Marion object to the PUCO Staff's failure to provide an analysis of the customer-contact data to identify possible improvements that can be made in the Company's customer service practices. OCC witness Williams' testimony addresses this objection.

¹⁶See <http://awrusa.com/corporate-responsibility/corporate-responsibility-reporting/our-priority-your-water/access-and-affordability/assisting-low-income-customers.html>.

¹⁷ *In the Matter of the Application of Ohio-American Water Company to Increase its Rates for Water and Sewer Services Provided to its Entire Service Area*, Case 09-391-WS-AIR, Company Response to OCC Interrogatory 182, December 11, 2009.

¹⁸ See Staff Report at 51.

V. MANAGEMENT AND OPERATIONS REVIEW

A. Management Audit

20. OCC and Marion object to the Staff Report as the PUCO Staff did not include in its “Management and Operations Review” section of the Staff Report a narrative addressing the status or results of an audit of OAW as ordered by the Commission on page 61 of the Opinion and Order in Case No. 09-391-WS-AIR. Specifically, the audit ordered by the Commission was to address affiliate transactions and capital project spending. OCC witness Hines’ testimony addresses this objection.

SUMMARY OF MAJOR ISSUES

Pursuant to Ohio R.C. 4903.083, the Commission should include the following as major issues in this proceeding:

1. Is the quality of service provided by OAW to customers adequate?
2. What actions should the Commission order OAW to take to ensure that the water and service quality are reasonable for OAW customers?
3. How much of a rate increase will OAW’s customers have to pay for water and sewer services?
4. What amount of profit should OAW have an opportunity to earn for providing water and sewer services to residents in Ohio?
5. Are there ways to mitigate the effects of a rate increase on OAW customers?

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Melissa R. Yost

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***Electronic signature per email authorization on 2/28/12.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Objections to the PUCO Staff's Report of Investigation and Summary of Major Issues* was provided to the persons listed below via U.S. mail this 1st day of March, 2012.

/s/ Melissa R. Yost

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Assistant Consumers' Counsel

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Summary: Objection Objections to the PUCO Staff's Report of Investigation and Summary of Major Issues by the Office of the Ohio Consumers' Counsel and the City of Marion, Ohio electronically filed by Ms. Deb J. Bingham on behalf of Yost, Melissa R. Ms.