

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE JOINT  
APPLICATION OF AQUA OHIO INC. AND  
AQUA OHIO WASTEWATER, INC. FOR  
ISSUANCE OF A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY.

CASE No. 18-1330-WS-ACE

IN THE MATTER OF THE JOINT  
APPLICATION OF AQUA OHIO, INC. AND  
AQUA OHIO WASTEWATER, INC. FOR  
APPROVAL TO AMEND TARIFF PAGES.

CASE No. 18-1331-WS-ATA

### FINDING AND ORDER

Entered in the Journal December 12, 2018

#### I. SUMMARY

{¶ 1} The Commission approves the issuance of certificates of public convenience and necessity for the provision of water service and sewage disposal service and approves the submitted tariff pages.

#### II. APPLICABLE LAW

{¶ 2} R.C. 4933.25 requires waterworks companies and sewage disposal service companies to obtain a certificate from this Commission before constructing, installing, or operating a waterworks or sewage disposal service company.

{¶ 3} Ohio Adm.Code 4901:1-15-05 specifies the proper format and information required in an application to receive a certificate of public convenience and necessity to operate a waterworks and/or sewage disposal service system.

{¶ 4} Aqua Ohio, Inc. (Aqua Ohio) is a public utility as defined in R.C. 4905.02 and a waterworks company as defined in R.C. 4905.03(G). Therefore, Aqua Ohio is subject to the jurisdiction of the Commission under authority of R.C. 4905.04 and 4905.05.

{¶ 5} Aqua Ohio Wastewater, Inc. (AWI), a wholly-owned subsidiary of Aqua Ohio, is a public utility as defined in R.C. 4905.02 and a sewage disposal system company as

defined in R.C. 4905.03(M). Therefore, AWI is subject to the jurisdiction of the Commission under authority of R.C. 4905.04 and 4905.05.

### **III. PROCEDURAL BACKGROUND**

{¶ 6} In Case No. 18-1330-WS-ACE, Aqua Ohio and AWI (jointly, Aqua) filed an application on August 24, 2018, as amended on November 13, 2018, seeking the issuance of certificates of public convenience and necessity to authorize the provision of water service by Aqua Ohio and sewage disposal system service by AWI to the Southwoods Estates service area located in Montgomery Township, Ashland County, Ohio.

{¶ 7} Aqua explains that it is in the process of completing the acquisition of the water and sewage disposal system assets currently owned by Sutton Bank (the Bank) and used to provide service to the Southwoods Estates (Southwoods Estates or Development) service area. Aqua and the Bank have entered into an Asset Transfer Agreement (Agreement) to effectuate this transaction. Pursuant to the Agreement, the assets used to provide water service to the Development will be transferred to Aqua Ohio and the assets used to provide wastewater service to the Development will be transferred to AWI. These transfers will occur within 35 days of the final approval by the Commission and any regulatory agency with jurisdiction over the Agreement and the related facilities. After closing, Aqua Ohio and AWI will provide service to the Development's homeowners pursuant to the terms and conditions of Aqua's existing tariffs subject to the revisions set forth in the applications filed in these cases.

{¶ 8} In support of the application, Aqua states that the proposed transaction will ensure the provision of just and reasonable service to customers residing in the Development. Specifically, Aqua represents that it has the financial, managerial, and technical capability to provide safe, adequate, and reliable waterworks and wastewater services in the Development. Additionally, Aqua submits that it will provide for an orderly transfer of management with no interruption of service during the transition process.

{¶ 9} Aqua states that there is a present and continuing need by the public for reliable and efficient facilities and services in the area encompassed by the application and that there is no other existing agency that would or could economically and efficiently provide these facilities and services.

{¶ 10} In Case No. 18-1331-WS-ATA, Aqua filed proposed tariff amendments on August 24, 2018, as amended on November 13, 2018, to reflect provision of service to Southwoods Estates. These revisions include adding Southwoods Estates to the Aqua tariff cover sheets, adding rate schedules applicable to Southwoods Estates, adding a map of the Southwoods Estates service area, and updating the subject indexes.

{¶ 11} Aqua Ohio and AWI will provide service to the Development's customers at the same combined flat rate currently being charged to the residents of Southwoods Estates. According to Aqua, Commission approval is not necessary and an application for an increase in rates is not required due to the fact that the rates constitute "first-filed" rates.

{¶ 12} In accordance with R.C. 4909.18, Aqua requests that the Commission permit the filing of the schedules proposed in the application and fix the time when such schedules shall take effect. According to Aqua, the filed water and sewage disposal rates will remain in effect until such time as new rates are approved that incorporate the assets and costs related to the provision of service to Southwoods Estates.

{¶ 13} The application includes a verification from an officer of Aqua attesting to information contained in the filings.

{¶ 14} In conjunction with the application for a certificate of public convenience and necessity, Aqua seeks a waiver of the exhibits required by Ohio Adm.Code 4901:1-15-05(D)(1)-(4) and (7)-(17). In support of the waiver request, Aqua states that good cause exists inasmuch as it is already providing waterworks and sewage disposal system service to tens of thousands of Ohio customers under existing certificates. Aqua also points out that its

management practices, operations, financial condition, and tariffs were subject to a thorough review in *In re the Application of Aqua Ohio Inc. to Increase its Rates for Water Service*, Case No. 16-907-WW-AIR, Opinion and Order (Mar. 22, 2017). Aqua also notes that the proposed expansion of service is proportionally small, resulting in an increase in its customer base of less than one percent.

{¶ 15} Additionally, Aqua opines that the requisite information either does not apply to the circumstances of these cases or is already known to or in the possession of the Commission. Further, Aqua submits that the waiver will minimize the cost and expense to the company and its customers for the preparation and processing of the application. Further, Aqua commits to providing on request any documentation that the Commission or its staff requires to evaluate this application. Aqua notes that similar waiver requests have been approved in *In re the Application of Aqua Ohio, Inc. for Issuance of a Certificate of Public Convenience and Necessity*, Case No. 17-1717-WS-ACE, Finding and Order (Feb. 21, 2018); *In re the Joint Application of Aqua Ohio, Inc., Mohawk Utilities, Inc., and Tomahawk Utilities, Inc. for Approval of the Transfer of Assets and Substitution of Service*, Case No. 14-1840-WW-ATR, Entry (Nov. 12, 2014); and *In re the Application of Aqua Ohio, Inc., to Amend its Certificate of Public Convenience and Necessity to Expand the Territory in which Aqua Ohio, Inc. Provides Water Service in the Stark Regional Division*, Case No. 11-4674-WW-AAC, Entry (Aug. 24, 2011).

{¶ 16} Aqua also requests that the Commission approve the application without requiring the provision of public notice pursuant to Ohio Adm.Code 4901:1-15-05(D)(21) and without requiring any hearing that may be authorized under any applicable statute or Commission rule. In support of this waiver request, Aqua submits that only a small number of customers will be directly affected by the application and that these affected customers reside within Southwoods Estates. Aqua is willing to provide notice of this application to the affected customers in Southwoods Estates if deemed necessary by the Commission.

{¶ 17} In support of the requested waiver, Aqua references the Commission's approved waiver of the publication of similar notice in *In re 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 No. 11-5102-WS-ATR, Finding and Order (Feb. 14, 2012) and the approved waiver of the requirement of holding a hearing in *In re the Joint Application of Aqua Ohio, Inc., and Seneca Utilities, Inc., for Approval of the Acquisition of Seneca Utilities, Inc., by Aqua Ohio, Inc.*, Case No. 05-347-WW-UNC, Finding and Order (Apr. 27, 2005). In lieu of the publication of legal notice, Aqua proposes that it provide written notice to the newly acquired Southwoods Estates customers following the closing of the transaction.

{¶ 18} Lastly, Aqua requests that the Commission accept the appended verifications in lieu of the affidavits required by Ohio Adm.Code 4901:1-15-05(D)(22).

{¶ 19} On October 30, 2018, the Commission Staff (Staff) filed its "Review and Recommendation" relative to the applications filed in these cases. Specific to the requested waivers, Staff submits that the waivers do not prejudice its review of the applications and, therefore, they should be granted.

{¶ 20} Specific to the proposals in the application, Staff believes that they are not unjust or unreasonable. Therefore, Staff recommends that the Commission permit the filing of the schedules proposed and establish the time when such schedules should take effect. Further, Staff notes that a plant and depreciation investigation will be conducted in the next rate case that incorporates the water and sewer assets used in providing service to the Development.

#### IV. DISCUSSION

{¶ 21} After reviewing the applications in these matters, the Commission concludes that, pursuant to R.C. 4933.25 and Ohio Adm.Code 4901:1-15-05, the application for Aqua Ohio and AWI to be certified to provide water and sewage disposal service, respectively, to

the area currently known as Southwoods Estates is reasonable and should be approved in accordance with the conditions set forth in this Finding and Order.

{¶ 22} As reflected in the Agreement, water and wastewater service will be provisioned to Southwoods Estates by Aqua Ohio and AWI, respectively. Consistent with this determination, Aqua Ohio will be issued a new certificate for the provision of water service to the Development and AWI will be issued a new certificate for the provision of wastewater service to the Development.

{¶ 23} Consistent with the approval of the certification application filed in Case No. 18-1330-WS-ACE, the Commission finds that the proposed respective tariff amendments for Aqua Ohio and AWI filed in Case No. 18-1331-WS-ATA, including those specific to the proposed rates, are reasonable and should be approved. In reaching this decision, the Commission recognizes that a plant and depreciation investigation will be conducted in the next respective rate case for Aqua Ohio and AWI that incorporates the water and sewer assets used in providing service to the Development.

{¶ 24} In regard to the requested waiver of exhibits required by Ohio Adm.Code 4901:1-15-05(D)(1)-(4) and (7)-(17), the Commission finds that the requested waivers are supported with a showing of good cause and, therefore, should be granted as requested. In reaching this decision, the Commission agrees with Aqua that the information is either already known or is in the possession of the Commission. The granting of these waiver requests does not relieve Aqua Ohio or AWI of the responsibility to provide such additional information as requested by Staff.

{¶ 25} The Commission similarly determines that Aqua's request to accept an officer's verification in lieu of an affidavit required by Ohio Adm.Code 4901:1-15-05(D)(22) should be granted. In this instance, the verification was made under oath by an officer of Aqua before a notary public affirming that the statements set forth in the application were

true and accurate to the best of his knowledge and belief. Thus, the verification serves the same purpose as an affidavit discussed in the rule.

{¶ 26} With respect to the requested waiver of any legal notice and/or hearing requirement, the Commission finds that the request should be granted. In reaching this determination, the Commission notes that only a small number of customers within a defined geographic community (i.e., Southwoods Estates) are impacted by these applications. Moreover, there will be no change or increase in any rate to the existing customers upon approval of these applications. We find, therefore, that in lieu of publishing legal notice, a more effective means of notifying affected customers of the change in service provider is through a separate written notice to each of the newly acquired Southwoods Estates customers. Aqua is instructed to file an illustrative copy of the customer notice in the docket upon completion of such notice.

## V. ORDER

{¶ 27} It is, therefore,

{¶ 28} ORDERED, That the application for a certificate to provide water and sewage disposal system service to the service area described in the application as Southwoods Estates be granted in accordance with the provisions set forth in this Finding and Order. It is, further,

{¶ 29} ORDERED, That the applicable certificates of public convenience and necessity be issued to Aqua Ohio and AWI, respectively. It is, further,

{¶ 30} ORDERED, That the proposed tariff amendments be approved. It is, further,

{¶ 31} ORDERED, That Aqua Ohio and AWI each file four printed copies of its respective approved final tariff amendments. The effective date of such tariffs shall be no earlier than the date of filing. It is, further,

{¶ 32} ORDERED, That the requested waivers be granted in accordance with the provisions set forth in this Finding and Order. It is, further,

{¶ 33} ORDERED, That upon the closing of the proposed transaction, Aqua must file a notice in this docket reflecting such occurrence. It is, further,

{¶ 34} ORDERED, That Aqua Ohio and AWI provide written notice to the Southwoods Estates customers of the approval of the applications and file a copy of the customer notification upon its completion. It is, further,

{¶ 35} ORDERED, That nothing contained in this Finding and Order shall be deemed binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

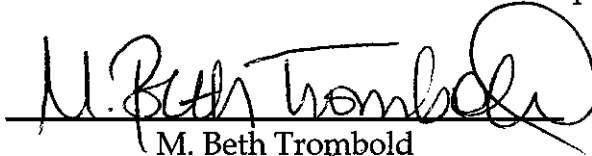


{¶ 36} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

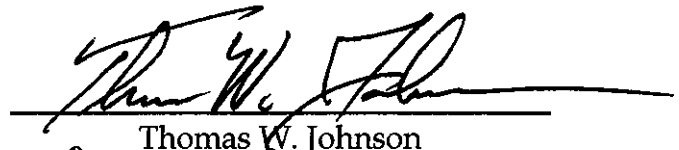
THE PUBLIC UTILITIES COMMISSION OF OHIO



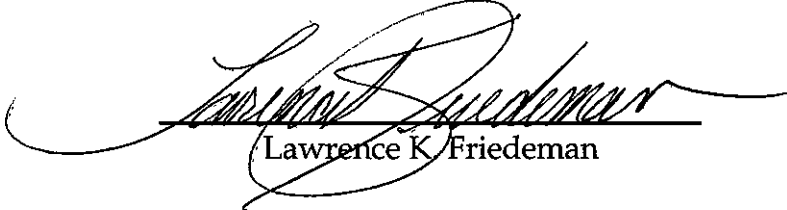
Asim Z. Haque, Chairman



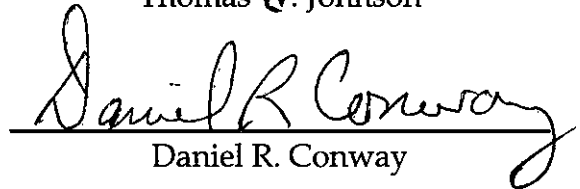
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Barcy F. McNeal  
Secretary