***OCC EXHIBIT NO. \_\_\_\_\_\_***

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Aqua Ohio, Inc. to Increase Its Rates and Charges for Its Waterworks Service.  | ))) | Case No. 13-2124-WW-AIR |

**DIRECT TESTIMONY**

**OF**

**MICHAEL J. MAJOROS**

**On Behalf of**

**The Office of the Ohio Consumers’ Counsel**

*10 West Broad Street, Suite 1800*

*Columbus, Ohio 43215-3485*

***June 24, 2014***

# I. INTRODUCTION

***Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.***

***A1.*** My name is Michael J. Majoros, Jr. and my business address is4351 Garden City Drive, Suite 350C, Landover, MD 20785.

***Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?***

***A2.*** I am President and CEO of Snavely King Majoros & Associates, Inc. (Snavely King Majoros or “SKM”).

***Q3. PLEASE DESCRIBE SKM.***

***A3.*** SKM is an economic consulting firm founded in 1970 to conduct research on a consulting basis into the rates, revenues, costs, and the economic performance of regulated firms and industries. Our clients include government agencies, businesses and individuals that pay for telecom, public utility, and transportation services. The firm has a professional staff of eight economists, accountants, engineers, and cost analysts. Most of our work involves the development, preparation, and presentation of expert witness testimony before Federal and state regulatory agencies. Over the course of our 44-year history, members of the firm have participated in more than 1,000 proceedings before almost all of the U.S. state and Federal commissions that regulate utilities or transportation prices.

***Q4.* *WHAT ARE YOUR QUALIFICATIONS TO PRESENT THIS TESTIMONY?***

***A4.*** I have over thirty years’ experience in the public utility field. During those years, I have addressed almost every regulatory accounting issue of which I am aware. My Appendices A and B summarize that experience.

# II. Scope and Purpose of Testimony

***Q5. FOR WHOM ARE YOU APPEARING IN THIS PROCEEDING?***

***A5.*** I am appearing on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”).

***Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

***A6.*** I am focusing on a very narrow aspect of this proceeding. I am addressing the federal income tax expense that Aqua Ohio, Inc. (“Aqua” or “Utility”) proposes to charge to its customers.

***Q7.*** ***HAVE YOU EVER TESTIFIED ON THE SUBJECT OF PUBLIC UTILITY INCOME TAXES?***

***A7.*** Yes, I began my public utility consulting career with testimony at the Federal Energy Regulatory Commission on the tax consequences of intangible drilling costs. I have addressed consolidated taxes, normalization etc., in several proceedings. As noted on Appendix A, I have written articles published in the Public Utilities Fortnightly regarding the income tax consequences of the AT&T breakup, as well as other subjects. I have substantial experience in the field of public utility taxation.

***Q8. HOW MUCH FEDERAL INCOME TAX DOES AQUA PROPOSE TO CHARGE TO ITS CUSTOMERS?***

***A8.*** Aqua Ohio proposes to include federal income tax of $4,351,044 in the rates that it seeks to annually charge customers during the time period that the rates from this case are in effect.[[1]](#footnote-1)

***Q9. DOES THE PUCO STAFF AGREE WITH AQUA OHIO’S PROPOSAL?***

***A9.*** No, the Staff of the Public Utilities Commission of Ohio (“PUCO Staff”) proposes to include federal income tax of $5,109,637 in the rates that it seeks to annually charge customers during the time period that the rates from this case are in effect.[[2]](#footnote-2)

***Q10.*** ***WHY IS THE PUCO STAFF’S NUMBER GREATER THAN AQUA OHIO’S NUMBER?***

***A10.*** The PUCO Staff’s number appears to be greater due to the fact that it is proposing higher net income before federal income taxes.[[3]](#footnote-3)

***Q11. WHAT WILL AQUA OHIO DO WITH THE FEDERAL INCOME TAXES IT CHARGES TO ITS CUSTOMERS?***

***A11.*** Aqua Ohio will send to its corporate parent, Aqua America, Inc., the amounts that it annually collects from its customers for federal income taxes.

***Q12. WHAT WILL AQUA AMERICA DO WITH THE MONEY IT RECEIVES FROM AQUA OHIO TO PAY FEDERAL INCOME TAXES?***

***A12.*** Aqua America, Inc. will keep this money from Ohio customers and use it for whatever reason it chooses; for example it could pay it out as dividends to its investors.

***Q13. DO YOU MEAN THAT AQUA AMERICA WILL NOT PAY TO THE FEDERAL GOVERNMENT THE FEDERAL INCOME TAX MONEY THAT AQUA OHIO COLLECTS FROM ITS CUSTOMERS?***

***A13.*** Yes, that is what I mean. Aqua America will not pay the federal tax money, which Aqua Ohio collects from its customers, to the federal government. Aqua America will keep the money.

***Q14. CAN YOU EXPLAIN YOUR PRECEDING ANSWER?***

***A14.*** Yes. In its calculation of the Federal Tax Liability at 35% for Federal Income Taxes on Schedule C-4, both the Utility and the PUCO Staff failed to consider the current net operating losses of the parent company, Aqua America, Inc.[[4]](#footnote-4) As of the end of 2013, Aqua America had a negative current federal tax provision of $9,891,000.[[5]](#footnote-5) That means Aqua America does not owe current federal income taxes. Aqua America offsets the negative current amount with $30.2 million of positive deferred federal income taxes, thus resulting in a net positive amount. But the simple fact is that the federal government owes income taxes to Aqua America rather than the other way around.

***Q15. WHAT DO YOU PROPOSE FOR THE RATEMAKING PURPOSES THAT DETERMINE WHAT AQUA OHIO WILL CHARGE TO ITS CUSTOMERS?***

***A15.*** I propose zero (0) Federal income tax for ratemaking purposes, to protect Ohio customers from paying for non-existent income taxes.

***Q16 ARE YOU PROPOSING A CONSOLIDATED TAX ADJUSTMENT?***

***A16.*** I am proposing elimination of all federal income taxes, for purposes of setting rates, on the grounds that this Utility’s parent has not paid in the recent past (and will not pay in the foreseeable future) any federal income taxes as a result of millions of dollars of net operating loss carryovers. One might call that a consolidated tax adjustment (“CTA”), but it is different than most CTA’s. Most CTA’s result from the allocation of losses among otherwise profitable members of an affiliated group. The result of a CTA is to reflect the lower effective tax rate in a rate case. My adjustment is different in that, overall, the corporation is not going to pay any federal income taxes due to prior losses. Consequently, in my opinion, this answer here is obvious; the PUCO should not make Aqua Ohio’s customers pay taxes that will never be paid to the federal government.

# III. CONCLUSION

***Q17. DOES THIS CONCLUDE YOUR TESTIMONY?***

***A17.*** Yes. However, I reserve the right to incorporate new information that may subsequently become available through outstanding discovery or otherwise. I also reserve the right to supplement my testimony in the event that the PUCO Staff fails to support the recommendations made in the Staff Report and/or changes any of its positions made in the Staff Report.

**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of *Testimony of Michael J. Majoros on Behalf of the Office of the Ohio Consumers’ Counsel* was provided to the persons listed below via electronic transmission this 24th day of June, 2014.

 */s/ Melissa R. Yost*\_\_\_\_\_\_\_\_\_\_\_

 Melissa R. Yost

 Deputy Consumers’ Counsel

**SERVICE LIST**

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| --- | --- |
| Devin.parram@puc.state.oh.usRyan.orourke@puc.state.oh.ussam@mwncmh.comfdarr@mwncmh.commpritchard@mwncmh.comAttorney Examiners:Jay.agranoff@puc.state.oh.usJames.lynn@puc.state.oh.us | whitt@whitt-sturtevant.comcampbell@whitt-sturtevant.comwilliams@whitt-sturtevant.combrent@supancehoward.comlaw@marionohio.org |

1. Aqua Ohio, Inc. Case No.13-2124-WW-AIR Application-Schedule C-4 page 2 of 2 line 22, Column (F). [↑](#footnote-ref-1)
2. PUCO Staff Schedule C-4page 2 of 2 line 22, Column (F). [↑](#footnote-ref-2)
3. See both Company and Staff Schedule C-4, page 1, line 1, column (F). [↑](#footnote-ref-3)
4. See Aqua America, Inc. and Subsidiaries, 2013 Consolidated Financial Statements, Note 7, (p.51). “At December 31, 2013, the Company has a cumulative Federal net operating loss (“NOL”) of $258,094[000]. The Company believes the Federal NOLs are more likely than not to be recovered and require no valuation allowance. The Company’s Federal NOLs do not begin to expire until 2013. … At December 31, 2013 the Company has a cumulative state NOL of $531,160[000], a portion of which is offset by a valuation allowance because the Company does not believe the NOLs are more likely than not to be realized. The state NOLs do not begin to expire until 2023.” [↑](#footnote-ref-4)
5. Id., page 48. [↑](#footnote-ref-5)