

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Aqua)
Ohio Inc. for Authority to Change the) Case No. 12-720-WS-ACN
Name of Ohio American Water Company)
to Aqua Ohio Water Company.)

In the Matter of the Application of Aqua)
Ohio, Inc. for Approval of the Transfer of) Case No. 12-721-WS-ATC
Certificates of Public Convenience and)
Necessity.)

In the Matter of the Application of Aqua)
Ohio Water Company Inc. for Approval to) Case No. 12-722-WS-ATA
Change its Bill Format.)

FINDING AND ORDER

The Commission finds:

- (1) Pursuant to its February 14, 2012, Finding and Order in Case No. 11-5102-WS-ATR (11-5102), *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.*, the Commission approved the stock purchase agreement whereby 100 percent of Ohio American Water Company's (Ohio American) outstanding stock held by American Water Works Company, Inc. was purchased by Aqua Ohio Inc. (Aqua Ohio, company, or applicant). Ownership of all of the assets held by Ohio American remained under the control of Ohio American and Ohio American continued to provide service under its existing Certificates of Public Convenience and Necessity.
- (2) On February 21, 2012, as amended on March 6, 2012, Aqua Ohio filed an application in Case No. 12-720-WS-ACN (12-720) seeking to change the name of Ohio American to Aqua Ohio Water Company, Inc. Also on February 21, 2012, Aqua Ohio filed an application in Case No. 12-721-WS-ATC (12-721) seeking to transfer Ohio American's Certificate of Public Convenience and Necessity No. 12 for the purpose of provisioning water service. In particular, Aqua Ohio requests that the reissued certificate reflect the change in name of Ohio American to Aqua Ohio Water Company, Inc.

Further, Aqua Ohio seeks the transfer of Ohio American's Certificates of Public Convenience and Necessity to provide sewer service. Specifically, Aqua Ohio requests that Amended Certificate No. 1, Amended Certificate No. 10, and Amended Certificate No. 17 be transferred to Aqua Ohio Water Company, Inc. and consolidated into an Amended Certificate No. 1.

As part of its application in 12-721, Aqua Ohio requests that Ohio American be removed from the Commission's rolls subsequent to the closing of the transaction in 11-5102, inasmuch as Ohio American will no longer be a water-works company or a sewage disposal company as defined under Sections 4905.03(A)(7) and 4905.03(A)(13), Revised Code, or a public utility as defined under Section 4905.02, Revised Code.

- (3) Further, Aqua Ohio Water Company, Inc. seeks the adoption of Ohio American's tariff, including its existing rate structure. Aqua Ohio notes that following the closing of the transaction approved by the Commission in 11-5102, it will provide service to Ohio American customers under the rates, rules, and terms and conditions set forth in Ohio American's existing tariff. Aqua Ohio notes that following any rate change for customers pursuant to Ohio American's pending rate application in Case No. 11-4161-WS-AIR, *In the Matter of the Application of Ohio American Water Company to Increase its Rates for Water and Sewer Services*, Aqua Ohio Water Company, Inc. will charge the rates ordered by the Commission.

Pursuant to its request in Case No. 12-722-WS-ATA (12-722), Aqua Ohio submitted revised tariff sheets with an effective date as of the closing date of the transaction in 11-5102 reflecting the change in name of the service provider from Ohio American to Aqua Ohio Water Company, Inc. Additionally, Aqua Ohio seeks the authority to change the bill format of Aqua Ohio Water Company, Inc. to be consistent with the bill formats of the other divisions of Aqua Ohio, Inc.

Aqua Ohio requests that the Commission approve the change in the Notification of Customer Rights to reflect the change in name and contact information from Ohio American to Aqua Ohio Water Company, Inc. and to reflect the Commission's Amended Rules, which became effective on February 16, 2012, pursuant to the Commission's Order of November 24, 2011, Case No. 11-4910-AU-

ORD, *In the Matter of the Amendment of Certain Rules of the Ohio Administrative Code to Implement Section 4911.021, Revised Code.*

Finally, Aqua Ohio amended the Notification of Customer Rights to reflect that customers will receive fifteen days notice prior to a disconnection of service rather than the currently stated time period of fourteen days. This change is necessary in order to be consistent with the fifteen-day notice period stated in the applicable tariff.

- (4) In support of its applications, Aqua Ohio states that, upon the closing of the transaction approved by the Commission in 11-5102, Aqua Ohio will own all of Ohio American's stock, will operate Ohio American's water and sewer systems, and will be responsible for providing high quality and reliable water and sewer service to customers of Ohio American. Additionally, Ohio American's customers will become customers of Aqua Ohio Water Company, Inc.
- (5) Aqua Ohio requests that the Commission approve the submitted applications without a hearing. In support of its request, Aqua Ohio states that, other than the modification to the Notification of Customer Rights to be consistent with the tariff, no term or condition of service shall be altered.
- (6) Rule 4901:1-15-04, Ohio Administrative Code, provides that following the filing of an application to transfer a certificate, if the Commission determines that the application is in compliance with the Commission's rules, and otherwise appears to be complete, an entry shall be issued which accepts the application and directs the manner in which public notice of the application is to be accomplished.
- (7) By the Commission Entry issued on March 14, 2012, Aqua Ohio was directed to publish notice of the applications, one time, on or before, March 18, 2012, in the affected counties and provide proof of publication to the Commission. The entry provided that any interested entity who can show good cause why the applications in this case should not be granted shall file with the Commission on or before March 26, 2012, a written statement detailing the reasons. The applicant filed proof of publication on March 26, 2012. No objections to the applications were filed.

- (8) On March 21, 2012, Aqua Ohio filed a motion seeking partial waivers of the legal notice publication requirements. Specifically, Aqua Ohio states that prior to the issuance of the Commission's Entry of March 14, 2012, the company caused to be published in newspapers of general circulation, the proposed legal notice submitted as an exhibit to the application. Aqua Ohio represents that it commenced legal notice prior to the issuance of the Commission's Entry due to the fact that the company was under considerable time constraints relative to receiving approval of its February 21, 2012, applications and closing the stock purchase transaction that was approved by the Commission in 11-5102.

First, Aqua Ohio requests a waiver from the requirement set forth in the Entry of March 14, 2012, that legal notice be published in a section of the newspaper other than the legal notice section. In support of this waiver request, Aqua Ohio represents that the legal notice that it published meets all of the requirements for publication of a legal notice following the acceptance of an application for approval to transfer certificates of public convenience and necessity. Aqua Ohio submits that the notice was published in newspapers of general circulation in the affected counties and, therefore, all customers were afforded "substantively ample legal notice and were provided with an opportunity to comment." Further, Aqua Ohio notes that the Commission's rules do not specifically require that legal notice be published in a section other than the legal notice section of the newspaper. As further support for the company's waiver request, Aqua Ohio points out that upon approval of its applications, Aqua Ohio will provide notification directly to its customers and that such notification will include the same material terms as the legal notice published in the newspapers.

Second, Aqua Ohio requests a waiver of the use of the precise language set forth in the legal notice provided in the Entry of March 14, 2012. Aqua Ohio represents that the legal notice published prior to the issuance of the Commission's Entry contains certain minor, non-material and non-substantive differences that do not change any material term of the legal notice.

- (9) The Commission notes that to the extent that there were time constraints associated with the approval of these applications, the filings should have been either docketed at an earlier date or been accompanied by a request for expedited treatment along with an

explanation setting forth the specific reason for the request. Absent such actions, there is an expectation that publication of legal notice shall not commence until ordered by the Commission. The purpose of awaiting a Commission entry prior to commencing publication of legal notice is to avoid the very problems that Aqua Ohio has now encountered. Notwithstanding these points, the Commission finds that the motion should be granted. In reaching this determination, the Commission highlights the fact that the primary substantive change from the customer's perspective is the name change from Ohio American to Aqua Ohio Water Company, Inc. For this purpose, the published legal notice accompanied with the customer notice to be provided by the company will provide constructive notice to the customer of this change.

- (10) In information contained in the Commission's file in this proceeding reveals the following:
- (a) Ohio American is a public utility, water-works company, and sewage disposal system company as defined in Sections 4905.02, 4905.03(A)(7), and 4905.03(A)(13), Revised Code, and is subject to the Commission's jurisdiction.
 - (b) Ohio American holds the Certificates of Public Convenience and Necessity Nos. 1, 10, and 17 for the purpose of provisioning of sewer service. It holds Certificate of Public Convenience and Necessity No. 12 for the purpose of provisioning water service.
 - (c) Upon approval, Certificates of Public Convenience and Necessity Nos. 1, 10, and 17 for the provisioning of sewer service will be consolidated into Certificate of Public Convenience and Necessity No. 1 and reissued under the name Aqua Ohio Water Company.
 - (d) Upon approval, Certificate of Public Convenience and Necessity No. 12 for the provisioning of water service will be reissued under the name of Aqua Ohio Water Company.
 - (e) Aqua Ohio Water Company will adopt the same tariff rates, charges, rules, and regulation applicable to

Ohio American with the addition of the new title page.

- (f) Upon approval, Aqua Ohio Water Company will provide written notice to its customers regarding the name change consistent with Exhibit L to its application
- (11) After reviewing the application, the Commission concludes that the applications to consolidate the Certificates of Public Convenience for the provision of sewer service and change the name of the Certificates of Public Convenience and Necessity for the provision of water and sewer service should be approved. Accordingly, Certificates of Public Convenience and Necessity No. 1 for the provisioning of sewer service should be reissued to reflect the consolidation with Certificate of Public Convenience and Necessity Nos. 10 and 17 under the new name of "Aqua Ohio Water Company" and Ohio American should be removed from the rolls of the Commission. As a result of this approval, Certificate of Public Convenience and Necessity Nos. 10 and 17 should be cancelled. Additionally, Certificate of Public Convenience and Necessity No. 12 for the provision of water service should be reissued to reflect the new name "Aqua Ohio Water Company."
- (12) Further, the amended tariff provision to amend the title page does not appear to be unjust or unreasonable and is not for an increase in any rate. Therefore, the application should be granted.
- (13) The request to change the Notification of Customer Rights in order to reflect the change in company name and contact information and to reflect the Commission's amended rules is reasonable and, therefore, should be granted.
- (14) Additionally, the request to change the Notification of Customer Rights to be consistent with the fifteen-day notice period stated in its tariff is reasonable and, therefore, should be granted.
- (15) Also, the request to change the bill format to be consistent with the bill formats of the other divisions of Aqua Ohio Inc. is reasonable and, therefore, should be granted.

- (16) Finally, the request to approve the pending applications without a hearing should be granted due to the fact that the pending applications do not result in an increase in any rate.

It is, therefore,

ORDERED, That Aqua Ohio's application for approval to consolidate Certificates of Public Convenience and Necessity Nos. 10 and 17 with Certificate of Public Convenience and Necessity No. 1 be granted in accordance with Finding (11). It is, further,

ORDERED, That Aqua Ohio's application for a name change be granted in accordance with Finding (11). It is, further,

ORDERED, That Certificates of Public Convenience and Necessity No. 1 and No. 12 be reissued in accordance with Finding (11). It is, further,

ORDERED, Ohio American be removed from the rolls of the Commission in accordance with Finding (11). It is, further,

ORDERED, That Aqua Ohio's application for a tariff amendment be granted in accordance with Finding (12). It is, further,

ORDERED, That the request to change the bill format be granted in accordance with Finding (15). It is, further,

ORDERED, That the requests to amend the Notification of Customer Rights be granted in accordance with Findings (13) and (14). It is, further,

ORDERED, That Aqua Ohio Water Company be authorized to file in final form four complete printed copies of the approved tariff pages, the Notification of Customer Rights, and bill format consistent with this Finding and Order. One copy shall be filed in its TRF Docket No. 89-7025-WS-TRF (or electronically filed as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariff, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the effective date of the new tariff pages, Notification of Customer Rights, and bill format shall be a date not earlier than the both the date of this Finding and Order and the date upon which four complete printed copies of the final tariffs are filed with the Commission. It is, further,

ORDERED, That the request to approve the applications without a hearing be granted in accordance with Finding (16). It is, further,

ORDERED, That the motion for approval of a waiver be granted in accordance with Finding (9). It is, further,

ORDERED, That Aqua Ohio Water Company provide written notice to its customers regarding the name change. It is, further,


ORDERED, That nothing in this Finding and Order shall be deemed to be 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,

ORDERED, That a copy of this Finding and Order be served upon the applicant and all interested persons of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


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Entered in the Journal

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Barcy F. McNeal
Secretary