

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO, INC. TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY NO. 35.

CASE NO. 20-393-WW-AAC

FINDING AND ORDER

Entered in the Journal on May 6, 2020

I. SUMMARY

{¶ 1} The Commission approves the application of Aqua Ohio, Inc. to amend its Certificate of Public Convenience and Necessity No. 35 in order to update the metes and bounds description of its Struthers Division.

II. DISCUSSION

{¶ 2} Aqua Ohio, Inc. (Aqua Ohio or Company) is a waterworks company and a public utility as defined in R.C. 4905.03(G) and R.C. 4905.02, respectively. As such, Aqua Ohio is subject to the jurisdiction of the Commission.

{¶ 3} Ohio Adm.Code 4901:1-15-05(D)(6) requires a metes and bounds description be filed with an application describing the area in which service is to be rendered pursuant to the authority sought. It also requires that the application include a map based upon the metes and bounds description.

{¶ 4} Ohio Adm.Code 4901:1-15-07(B) provides that an application to amend a certificate of public convenience and necessity shall be executed and filed with the Commission. Public hearing on and notice of the application to amend a certificate shall be governed by Ohio Adm.Code 4901:1-15-05. If the event requiring the certificate to be amended results in a change in the information required by Ohio Adm.Code 4901:1-15-05, this information shall be updated and filed consistent with the rule.

A. *Summary of Application*

{¶ 5} Aqua Ohio is currently authorized to provide water and sewage-disposal

service to customers in various counties in Ohio in accordance with several existing certificates of public convenience and necessity. Many of these customers are served under the terms and conditions of Aqua Ohio's P.U.C.O. Master Tariff No. 2 for its Struthers Division.

{¶ 6} Pursuant to its December 18, 2019 Finding and Order in Case Nos. 19-1610-WS-UNC, *In re the Application of Aqua Ohio, Inc. to Purchase the Assets and Properties of the City of Campbell*; Case No. 19-1611-WS-AAC, *In re the Application of Aqua Ohio, Inc., to Amend Certificate of Public Convenience and Necessity No. 35*; and Case No. 19-1612-WS-ATA, *In re the Application of Aqua Ohio, Inc. for Approval of Tariff Amendments* (collectively, *2019 Cases*), the Commission directed Aqua Ohio to file an application to amend its certificate to update the metes and bounds description of its Struthers Division within 60 days of the December 18, 2019 Finding and Order. In support of its directive, the Commission, noted its Staff's (Staff) observation that during its investigation, some discrepancies between the metes and bounds description of the Struthers Division service area and the map of the current Struthers Division provided by Aqua Ohio in response to data requests for this case were discovered.

{¶ 7} Consistent with the Commission's directive in its December 18, 2019 Finding and Order, on February 13, 2020, as amended on April 15, 2020, Aqua Ohio filed an application to amend its certificate to update its metes and bound description of its Struthers Division. Attachment A to the application is a prepared metes and bounds description for the Struthers Division. Specifically, it reflects the minor changes to reflect the discrepancies that Staff identified in the *2019 Cases*. Attachment B to the application is a revised map of the Struthers Division service area with the city of Campbell. Attachment C is the metes and bound description for the city of Campbell that was approved in the *2019 Cases*.

{¶ 8} In accordance with Ohio Adm.Code 4901:1-15-07(B)(1), Aqua Ohio states that the revisions to the metes and bounds description of the Struthers Division are not associated with any proposed expansion area for its service territory but, instead, are technical corrections to the metes and bounds description of the Struthers Division and the

associated map. Further, Aqua Ohio contends that there is no additional construction that will be necessary to initiate service in connection with the application. Therefore, Aqua Ohio submits that the event requiring Aqua Ohio to amend Public Convenience and Necessity No. 35 does not result in a change of any other information required by Ohio Adm.Code 4901:1-15-05(D).

B. Waivers of Notice, Hearing and Affidavits

{¶ 9} Aqua Ohio seeks a waiver of the public and legal notice requirements set forth in Ohio Adm.Code 4901:1-15-04(C), Ohio Adm.Code 4901:1-15-05(D)(21), and Ohio Adm.Code 4901:1-15-07(B). Aqua Ohio avers that granting of the requested waiver of public and legal notice requirements will minimize the cost and expense of preparing and processing the application and will not hinder the Commission's review. In support of its request, Aqua Ohio opines that the costs of notice by publication would provide no apparent benefit to Aqua Ohio's customers in the Struthers Division and are unwarranted.

{¶ 10} Additionally, Aqua Ohio asserts that the amendment of Certificate 35 requires no changes to its existing tariff inasmuch as the proposed amendment does not seek to change any rate, charge, requirement, or condition for the service being provided to existing customers in the Struthers Division. Therefore, Aqua Ohio submits that it is not necessary for the Commission to hold a public hearing under R.C. 4933.25

{¶ 11} Finally, Aqua Ohio requests that in lieu of the affidavits required by Ohio Adm.Code 4901:1-15-05(D)(22), the Commission accept the verification submitted with the application.

C. Staff's Review and Recommendation

{¶ 12} On April 17, 2020, Staff filed a letter (Staff letter) in this docket stating its belief that the amended metes and bounds and the associated map of the Struthers and Campbell systems complies with the Ohio Administrative Code requirements. Staff recommends that the Commission approve Aqua Ohio's application as amended on April 15, 2020.

Additionally, Staff recommends that the Commission require Aqua Ohio to continue working with Staff to address discrepancies between the metes and bounds descriptions and maps of Aqua Ohio's other service areas, including, but not limited, to those listed on Attachment A of the Staff letter. According to Staff, this review should culminate in a single case filing to amend Aqua Ohio's certificates, metes and bounds descriptions, and maps, as necessary, to reflect all technical corrections.

D. Commission Conclusion

{¶ 13} Upon a review of Aqua Ohio's application as amended and Staff's recommendation, the Commission finds that the application appears to be just and reasonable consistent with Ohio Adm.Code 4901:1-15-07(B) and should be approved subject to the adoption of Staff's recommendation that the Company continue to work with Staff to address discrepancies between the metes and bounds descriptions and maps of Aqua Ohio's other service areas, including, but not limited, to those listed in the Staff letter.

{¶ 14} We further determine that Aqua Ohio's request for approval of the application without requiring the provision of public or legal notice and without requiring a hearing should be granted inasmuch as the application is limited to technical corrections to the metes and bounds description of the Struthers Division, and do not represent an expansion of Aqua Ohio's service territory. Finally, we find that Aqua Ohio's request to accept the submitted verification in lieu of the affidavits required by Ohio Adm.Code 4901:1-15-05(D)(22) is reasonable and should be granted.

III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the application filed by Aqua Ohio seeking the issuance of Amended Certificate 35 consistent with the approved revisions to the metes and bounds description and the associated map for the Struthers Division be approved consistent with Paragraph 13. It is, further,

{¶ 17} ORDERED, That Aqua Ohio's request for a waiver of legal or public notice and hearings be granted in accordance with Paragraph 14. It is, further,

{¶ 18} ORDERED, That Aqua Ohio's request for a waiver of affidavits be granted in accordance with Paragraph 14. It is, further,

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

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

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JSA/kck

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Case No(s). 20-0393-WW-AAC

Summary: Finding & Order approving the application of Aqua Ohio, Inc. to amend its Certificate of Public Convenience and Necessity No. 35 in order to update the metes and bounds description of its Struthers Division electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio