

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO, INC. FOR AUTHORITY TO
ASSESS A SYSTEM IMPROVEMENT
CHARGE.

CASE NO. 20-532-WW-SIC

FINDING AND ORDER

Entered in the Journal on September 23, 2020

I. SUMMARY

{¶ 1} The Commission approves the system improvement charge proposed by Aqua Ohio, Inc., subject to Staff's recommendations.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} Aqua Ohio, Inc. (Aqua, Company, or Applicant) is a public utility and a waterworks company, as those terms are defined in R.C. 4905.02(A) and 4905.03(G). As such, Aqua is subject to the Commission's jurisdiction in accordance with R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} R.C. 4909.172 governs consideration of an application for authority to collect a system improvement charge (SIC). The statute includes several requirements that must be met before the Commission may approve a proposed SIC:

- (a) The costs of infrastructure plant upon which a proposed SIC may be based may only include the costs of certain capital improvements. R.C. 4909.172(C). For a waterworks company like Aqua, allowable capital improvements may include:
 - (i) Replacement of existing plant including chemical feed systems, filters, pumps, motors, plant generators, meters, service lines, hydrants, mains and valves, main extensions that eliminate dead ends to resolve documented water supply problems presenting significant health or safety issues to then existing customers, and main cleaning or relining. R.C. 4909.172(C)(1).

- (ii) Unreimbursed capital expenditures made by the waterworks company for waterworks facility relocation required by a governmental entity due to a street or highway project. R.C. 4909.172(C)(3).
 - (iii) Minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility previously described. R.C. 4909.172(C)(4).
- (b) The Commission must determine that the covered capital improvements are used and useful in rendering public utility service. R.C. 4909.172(C).
- (c) The cost of those capital improvements may include depreciation expenses. R.C. 4909.172(C).
- (d) The proposed SIC must be just and reasonable and must be sufficient to meet, but not exceed, the revenue requirement to both:
 - (i) Cover such infrastructure plant costs as are described in the statute, incurred after March 1, 2003, and before the date of filing, and not already reflected in schedules filed under R.C. 4905.32; and
 - (ii) Provide a fair and reasonable rate of return on the filing date valuation of that particular infrastructure plant. R.C. 4909.172(B)(1)-(2).
- (e) The SIC may not exceed 4.25 percent of the rates and charges applicable to any affected customer class and, as to the allowed percentage increase, must be uniform for each such class. R.C. 4909.172(B)(2).
- (f) No more than three SICs under this section may be in effect at any given time. R.C. 4909.172(B)(2).
- (g) The Commission is prohibited from authorizing a SIC under this section if it would cause the applicant to earn an excessive rate of return on its rate base. R.C. 4909.172(B)(2).

B. *Procedural History*

{¶ 4} On March 5, 2020, Aqua filed an application for authority to collect a SIC for water service in its Lake Erie Division, Masury Division, and the service areas formerly served by Ohio American Water Company (OAW), Mohawk Utilities, Inc. (Mohawk), and Tomahawk Utilities, Inc. (Tomahawk). In the application, Aqua states that it has made improvements totaling more than \$17 million since its last rate case or SIC to fund the replacement and rehabilitation of infrastructure, including aging water mains and plant that are crucial to service reliability and water quality in its service area. According to Aqua, the SIC would represent a 3.503 percent surcharge on all tariffed customers receiving metered or unmetered water service, including those receiving private fire protection.

{¶ 5} On March 9, 2020, the Governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety.

{¶ 6} As a result of the Executive Order, beginning March 13, 2020, the Commission reduced on-site staffing, and most employees began working from home to reduce exposure to COVID-19.

{¶ 7} On April 2, 2020, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in the matter.

{¶ 8} On April 9, 2020, Aqua filed a correspondence regarding its proposed legal notices. Therein, Aqua requested that the proposed legal notice filed in its March 5, 2020 application, be amended to include alternative means for a customer to receive a copy of Aqua's application in light of the COVID-19 emergency.

{¶ 9} On April 22, 2020, the attorney examiner issued an Entry instructing Aqua to publish legal notice of the pending application as amended on April 9, 2020, and set July 3, 2020, as the deadline for comments from interested parties. Additionally, the attorney examiner granted OCC's unopposed motion to intervene.

{¶ 10} On June 29, 2020, Aqua filed proof of publication of required legal notices in accordance with the attorney examiner's April 22, 2020 Entry.

{¶ 11} On July 2, 2020, Staff filed its review and recommendation. No other parties filed comments.

{¶ 12} On July 10, 2020, Aqua filed a statement indicating that the Company accepts Staff's adjustments.

C. Staff Review and Recommendation

{¶ 13} In its comments, Staff states that the purpose of its investigation was to determine if Aqua filed exhibits, schedules, and other documents that comport with the Commission's guidelines, are reasonable for ratemaking purposes, and are supported by financial records that are reasonable and reliable. Staff represents that it interviewed the Applicant's key personnel and reviewed internal reports. Further, Staff contends that the original cost of property was reviewed for reasonableness through an examination of Aqua's continuing property records and other independent analyses, which Staff states were performed by Staff as necessary.

{¶ 14} Staff asserts that Aqua requests recovery of costs for the period of January 1, 2019 to December 31, 2019, in the amount of \$16,841,618. Staff indicates that it had examined \$7,177,090.61 (or approximately 43 percent) of all plant additions. Overall, Staff recommended the removal of \$25,087 of plant additions and the accompanying retirements of \$10,000 from Aqua's SIC calculation.

{¶ 15} With respect to depreciation, Staff reviewed and analyzed Aqua's Schedule 4 (Provisions for Depreciation), Schedule 5 (Annualized Depreciation Associated with Additions), and Schedule 6 (Annualized Reduction in Depreciation for Retirements) and verified that the Applicant is using the correct depreciation accrual rates prescribed in Case No. 16-907-WW-AIR.

{¶ 16} In regard to property taxes, Staff reviewed and analyzed Aqua's Schedule 5.1 (Annualized Addition in Property Taxes for Additions) and Schedule 6.1 (Annualized Reduction in Property Taxes for Retirements). Staff confirms that these schedules are consistent with Staff's recommendations in prior SIC cases.

{¶ 17} Staff states that the pre-tax rate of return is based on information contained in the Applicant's rate filing in Case No.16-907-WW-AIR, and the rate of return authorized in the Commission's Opinion and Order dated March 22, 2017, approving the stipulated rate filing in that case. Staff determined that Aqua's pre-tax rate of return is correct and consistent with the Commission's guidelines in Ohio Adm.Code 4901:1-15-35 stating that the proposed surcharge will provide a fair and reasonable rate of return on the Applicant's valuation of costs associated with the system infrastructure improvements.

{¶ 18} In addition, Staff states that Aqua has two existing SICs of 3.66 percent and 3.733 percent that are applied to all bills issued after February 6, 2019 and October 23, 2019, respectively. Staff represents that these surcharges are listed in Section 4, Sheet No. 2 of the Applicant's tariff. Staff contends that the surcharge proposed in this case would apply to all bills issued after the approval of the tariff and would be in addition to the charges provided for in the tariff for the customers in the Lake Erie Division, Masury Division, and the service areas formerly served by OAW, Mohawk, and Tomahawk. Staff indicates that the proposed surcharge would apply to all bills issued with the exception of four contract customers: Whirlpool, Poet, Ashtabula County, and the village of Roaming Shores. The customers of the village of Roaming Shores and Ashtabula County, while included in this filing under "Sales for Resale," have been removed as they are under contracts. Staff concurs

with Aqua that the surcharge should not apply to these contract customers. Staff confirms that the proposed surcharge does not exceed the 4.25 percent statutory limit, is distributed uniformly to all classes, and does not exceed the three-surcharge maximum pursuant to R.C. 4909.172. However, Staff states that if the authorized cost recovery revenue is less than the amount requested by the Applicant, Aqua should adjust the revenue distribution so as to maintain a uniform distribution to all affected customer classes.

{¶ 19} As a final matter, Staff avers that it reviewed the proposed customer notice in Schedule 11 of the filing and recommends that the customer notice be approved with updated information on finalized rates.

{¶ 20} In conclusion, Staff believes that, subject to the above recommendations, Aqua's March 5, 2020 filing is reasonable and recommends Commission approval of the proposed surcharge. Staff asserts that its recommended adjustments, summarized in Attachment A of Staff's review and recommendation, will reduce Aqua's annualized revenue requirement reflected on Schedule 1 of the application. Additionally, Staff believes that these recommendations will impact Aqua's requested surcharge of 3.503 percent by reducing the percentage to approximately 3.499 percent. Lastly, Staff recommends that Aqua file updated schedules to reflect the adjustments in Attachment A. Staff's proposed surcharge will recover only those costs specifically related to eligible infrastructure improvements and does not provide any additional base revenue to the Applicant.

D. Aqua's Response to Staff's Comments

{¶ 21} In response to Staff's review and recommendation, Aqua filed a statement on July 10, 2020, indicating that the issues presented in Staff's comments have been resolved. Aqua states that it has accepted the adjustments in Attachment A to Staff's review and recommendations. In addition, Aqua attached Revised Schedules reflecting Staff's recommendations to its filing. The Revised Schedules indicate that the requested surcharge has been reduced to 3.498 percent. Aqua suggests that a hearing in this case is unnecessary

given that Aqua has adopted all of Staff's recommendations and no other party filed comments.

E. Commission Conclusion

{¶ 22} Upon review of Aqua's application, Staff's review and recommendation, and other relevant documents filed in this matter, the Commission finds that the projects contained in the proposed SIC are infrastructure improvements and projects upon which a SIC may be based, pursuant to R.C. 4909.172. Additionally, the Commission determines that the infrastructure improvements upon which the proposed SIC is based are used and useful in rendering public utility service to the customers of the Applicant.

{¶ 23} As allowed by R.C. 4909.172, the costs of the capital improvements underlying the proposed SIC include depreciation expenses. As adjusted in accordance with Staff's recommendations, Aqua attached revised Schedules 5 and 6 to its statement filed on July 10, 2020. Schedule 5 shows the annualized depreciation associated with additions. Schedule 6 shows the annualized reduction in depreciation for retirements. (Revised Schedules, Schedules 5 and 6.)

{¶ 24} All of the underlying infrastructure improvement costs were incurred by the Applicant during the period January 1, 2019 through December 31, 2019 (Revised Schedules, Schedule 2). The following summarizes the costs of the infrastructure improvements underlying the proposed SIC and the fair and reasonable return on the valuation of that infrastructure (Revised Schedules, Schedule 1):

1	<u>Return on Investment</u>		
2	Plant in Service		
3	Additions	\$16,816,531	Schedule 2
4	Original Cost Retired	<u>\$ 1,351,135</u>	Schedule 3
5	Net Plant in Service (3-4)	\$15,465,396	
6	Less: Accumulation Provision for Depreciation		
7	Depreciation Expense	\$ 158,099	Schedule 4
8	Original Cost Retired	<u>\$ 1,351,135</u>	Schedule 3
9	Total Accumulated Provision for Depreciation (7-8)	\$(1,193,036)	
10	Net Rate Base	\$16,658,432	
11	Pre-Tax Rate of Return	<u>9.28%</u>	Schedule 7

12	Annualized Return on Rate Base (10 x 11)	\$ 1,545,387	
13	<u>Operating Expenses</u>		
14	Annualized Provision for Depreciation for Additions	\$ 335,371	Schedule 5
15	Annualized Reduction in Depreciation for Retirements	\$ (35,630)	Schedule 6
16	Annualized Property Taxes for Additions	\$ 370,837	Schedule 5.1
16	Annualized Reduction for Property Taxes for Retirements	\$ (48,213)	Schedule 6.1
17	Annualized Revenue Requirement (12 + 13 + 14 + 15 + 16)	<u>\$ 2,167,752</u>	

{¶ 25} The Commission finds that the annual revenue requirement associated with the underlying infrastructure improvements is \$2,167,752, based on Revised Schedule 1. The Commission finds that the proposed SIC of 3.498 percent will apply to all water services rendered to customers in the Lake Erie Division, Masury Division, and the Ohio service areas formerly served by OAW, Mohawk, and Tomahawk. (Revised Schedules, Schedules 1, 10.)

{¶ 26} The Commission also finds that under R.C. 4909.172, the SIC proposed under the Revised Schedules in accordance with Staff's recommendations will not cause Aqua to earn an excessive rate of return on its rate base. As calculated by Staff and Aqua, the proposed SIC will not exceed the 4.25 percent limitation imposed by R.C. 4909.172(B)(2). In addition, pursuant to R.C. 4909.172(A), it has been at least 12 months since the filing date of its most recent SIC application. Aqua previously filed its last SIC application on March 4, 2019. The Commission approved a SIC in the amount of 3.733 percent in that case. *In re Aqua Ohio, Inc.*, Case No. 19-567-WW-SIC, Finding and Order (Oct. 23, 2019). Under R.C. 4909.172(B)(2), a company may not have more than three SICs in effect at the same time. Here, Aqua will only have three SICs in effect at the same time.

{¶ 27} The appendix to Ohio Adm.Code 4901:1-15-35 states that "[i]f a surcharge is granted by the Commission, the company's actual and pro forma profitability will be reviewed on an annual basis to determine whether a reduction or elimination of such surcharge or subsequent surcharges is required by this restriction" (Appendix at 4). In order to make the required annual review, Aqua is ordered to file its Schedule 8, Calculation of

Earned Rate of Return, on an annual basis concurrent with the Applicant's filing of its annual report to the Commission, using the most recent calendar year.

{¶ 28} The Commission finds that the application is not unjust or unreasonable and should be approved subject to Staff's recommendations. Accordingly, no hearing is required in this case.

III. ORDER

{¶ 29} It is, therefore,

{¶ 30} ORDERED, That the system improvement charge proposed by the Applicant, as amended on July 10, 2020, and subject to Staff's recommendations be approved. It is, further,

{¶ 31} ORDERED, That the tariffs identified in Aqua's application, subject to Staff's recommendations, be approved. Aqua should file a copy of these finalized tariffs in its TRF Docket, Case No. 89-7028-WW-TRF. It is, further,

{¶ 32} 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,

{¶ 33} ORDERED, That Aqua file, on an annual basis until such time as the surcharge is eliminated, an updated Schedule 8, as attached as part of Aqua's Revised Schedules. Schedule 8 shall be filed under this docket, concurrently with the Applicant's filing of its annual report to the Commission, using information for the most recent calendar year. It is, further,

{¶ 34} ORDERED, That the customer notice, subject to Staff's recommendations, be delivered to each customer affected by the surcharge approved in this Finding and Order with or on each customer's first bill containing the surcharge. It is, further,

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

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

LLA/hac

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9/23/2020 2:41:00 PM

in

Case No(s). 20-0532-WW-SIC

Summary: Finding & Order approving the system improvement charge proposed by Aqua Ohio, Inc., subject to Staff's recommendations. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio