

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO, INC. TO INCREASE ITS
RATES AND CHARGES FOR ITS
WATERWORKS SERVICE.

CASE NO. 21-595-WW-AIR

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO WASTEWATER, INC. TO
INCREASE ITS RATES AND CHARGES FOR
ITS WASTEWATER SERVICE.

CASE NO. 21-596-ST-AIR

ENTRY

Entered in the Journal on September 30, 2021

{¶ 1} Aqua Ohio, Inc. (Aqua) and Aqua Ohio Wastewater, Inc. (AWI)¹ are waterworks and sewage disposal system companies as defined by R.C. 4905.03(G) and (M), respectively, and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 2} On June 28, 2021, the Companies filed separate applications for an increase in their waterworks and wastewater service rates pursuant to R.C. 4909.18 in Case No. 21-595-WW-AIR and 21-596-ST-AIR, respectively.

{¶ 3} By Entry issued on July 14, 2021, the Commission set the test period and date certain for the applications in these proceedings and granted certain standard filing requirement waiver requests of the Companies, as more particularly outlined in the Entry.

{¶ 4} On June 29, 2021, the Office of the Ohio Consumers' Counsel (OCC) filed motions to intervene as to both cases. As explained in the supporting memoranda, OCC seeks to intervene to carry out its authorization under R.C. Chapter 4911 and to represent the interests of the Companies' residential utility customers in proceedings that could lead to an increase in rates. As an advocate for the residential customers, OCC states that it has a real and substantial interest in these cases. Further, OCC declares that its intervention will not unduly prolong or delay the proceedings and will contribute to an equitable resolution

¹ Collectively, Aqua and AWI will be referred to as "the Companies."

of the matters. In summary, OCC feels that it meets the criteria set forth in R.C. 4903.221, Ohio Adm.Code 4901-1-11, and Supreme Court precedent concerning intervention, and that its motions should be granted. No memoranda contra the motions to intervene were filed. Upon review, the attorney examiner finds that OCC's motions to intervene meet the requirements of Ohio Adm.Code 4901-1-11, are reasonable, and should be granted.

{¶ 5} On July 2, 2021, OCC filed a motion for Aqua to publicly file quarterly reports with statistics relating to its monthly disconnections of consumers (Motion). As outlined in the supporting memorandum, OCC argues that because Aqua has filed an application to increase the rates of its water service customers, this case is the appropriate forum for the Commission to order Aqua to file disconnection statistics and related information. OCC believes that under the Commission's authority to require a public utility to "supply information regarding its management policies, practices, and organization" under R.C. 4909.154, it has the power to order such filings in this proceeding. Further, OCC argues that Ohio Adm.Code 4901:1-15-27 already requires water utilities to maintain records related to disconnections and, thus, the information it seeks to be publicly filed is already maintained by Aqua. OCC contends Aqua's disconnection statistics are important not only for the Commission and OCC, but also for members of the public that do not have routine access to such statistics "through regulatory protocols." Because gas and electric utilities are required to publicly provide this type of information, OCC believes that requiring Aqua to do so in this proceeding will provide similar public transparency.

{¶ 6} On July 19, 2021, OCC filed correspondence informing the Commission that it did not object to Aqua filing its response to the Motion by August 2, 2021. OCC acknowledged that, pursuant to Commission rules, Aqua's response to the Motion was due on July 19, 2021, but that OCC and Aqua had been in discussions concerning the requests in the Motion and that OCC consented to allowing more time to respond.

{¶ 7} Aqua filed its response in opposition to the Motion on August 2, 2021. Aqua points out that, even by OCC's own admission in the Motion, reporting requirements for

disconnecting consumers are not required by law or rule for water utilities. Aqua believes that OCC is attempting to use this case as a vehicle to revise Ohio statutes and/or rules and that this is an inappropriate forum to do so. Aqua states that when OCC previously requested that the Commission order utilities to file unrequired information during a rate case, the Commission declined to do so. *See In the Matter of the Application of Ohio Am. Water Co. to Increase Its Rates for Water & Sewer Servs. Provided to its Entire Service Area*, Case No. 09-391-WS-AIR, Opinion and Order (May 5, 2010) at 52. Rather, Aqua argues that this type of request should be made in a rulemaking proceeding. Aqua points out that the Commission declined to grant a similar request from OCC in a previous review of Ohio Adm.Code Chapter 4901:1-15, because waterworks companies are already required to provide such information to the Commission on a quarterly basis. *See In the Matter of the Commission's Review of Chapter 4901:1-15, et al.*, Case No. 11-5605-WS-ORD, Finding and Order (Feb. 1, 2012) at 4-5. Aqua, therefore, believes that granting OCC's Motion would result in the company being required to make filings that are redundant, expensive, and provide little information beyond what is already provided to the Commission and is available upon request. Finally, Aqua asserts that the requirements of other, non-waterworks energy utilities are irrelevant to Aqua, its customers, or the water service it provides. Aqua also submits that its counsel spoke with OCC's counsel and agreed to provide the requested information to OCC during the pendency of this proceeding, in addition to the information it already provides the Commission, but that OCC declined to withdraw its Motion.

{¶ 8} On August 9, 2021, OCC filed a reply to Aqua's opposition to the Motion. OCC responds that regardless of Aqua's arguments against filing the information, the benefit of public access to such filings outweighs any adverse impacts. OCC argues that requiring Aqua to file the information would not be overly burdensome or expensive, as claimed by Aqua, because the company is already required to maintain disconnection information and provides it to Commission Staff on a quarterly basis. In response to Aqua's assertion that this case is not the appropriate forum for this request, OCC believes that because of the financial impacts on consumers resulting from the COVID-19 pandemic, the

issue of utility shut-offs needs to be addressed now and cannot wait for a rulemaking proceeding. OCC requests that the Commission use its authority under R.C. 4909.154 and R.C. 4909.16 to grant the Motion. In the alternative, if the Motion is not granted, OCC argues that the Commission should conspicuously post Aqua's disconnection information on its website.

{¶ 9} The attorney examiner has reviewed the Motion and related filings and finds that the Motion should be denied. Consistent with the Commission's prior consideration of this issue, as described herein, the attorney examiner affirms that Aqua is not required to file the information requested by OCC in the case docket. The attorney examiner agrees with Aqua that the appropriate forum for OCC's request for broader filing requirements by waterworks companies is a rulemaking proceeding and, therefore, declines to extend new filing requirements via an order in this case that is exclusive to Aqua. Aqua will continue to be required to maintain the information prescribed under Ohio Adm.Code Chapter 4901:1-15 and to submit the quarterly information reports to the Commission mandated by Ohio Adm.Code 4901:1-15-14(H). As both parties acknowledge, this information is already submitted to the Commission and is available to OCC and any person upon request. OCC's Motion is, therefore, denied.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That OCC's motions to intervene be granted, as stated in Paragraph 4. It is, further,

{¶ 12} ORDERED, That OCC's July 2, 2021 Motion be denied, as stated in Paragraph 9. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/David M. Hicks

By: David M. Hicks
Attorney Examiner

SJP/kck

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in

Case No(s). 21-0595-WW-AIR, 21-0596-ST-AIR

Summary: Attorney Examiner Entry granting OCC's motions to intervene, as stated in Paragraph 4 and denying OCC's July 2, 2021 Motion, as stated in Paragraph 9.
electronically filed by Kelli C. King on behalf of David Hicks, Attorney Examiner, Public Utilities Commission of Ohio