

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE JOINT APPLICATION OF AQUA OHIO, INC. AND AQUA OHIO WASTEWATER, INC. TO AMEND THEIR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY NOS. 12 AND 1, RESPECTIVELY.

CASE NO. 23-175-WS-AAC

IN THE MATTER OF THE JOINT APPLICATION OF AQUA OHIO, INC. AND AQUA OHIO WASTEWATER, INC. FOR APPROVAL OF TARIFF AMENDMENTS.

CASE NO. 23-176-WS-ATA

FINDING AND ORDER

Entered in the Journal on May 31, 2023

I. SUMMARY

{¶ 1} The Commission approves the joint application of Aqua Ohio, Inc. and Aqua Ohio Wastewater, Inc. to amend their respective Certificates of Public Convenience and Necessity Nos. 12 and 1 and to revise their respective Master Tariffs P.U.C.O. Nos. 2 and 1 for the Franklin Division in order to provide waterworks and wastewater services to the Girl Scouts of Ohio's Heartland Camp Ken Jockety.

II. DISCUSSION

{¶ 2} Aqua Ohio, Inc. (Aqua) is a public utility and a waterworks company as defined in R.C. 4905.02(A) and 4905.03(G). Aqua Ohio Wastewater, Inc. (AWI) is a public utility and a sewage disposal system company as defined in R.C. 4905.02(A) and 4905.03(M). As such, Aqua and AWI (the Companies) are subject to the jurisdiction of this Commission pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} R.C. 4933.25 provides, in relevant part, that no sewage disposal system company or water-works company expanding after October 2, 1969, shall construct, install, or operate facilities until it has been issued a certificate of public convenience and necessity. Ohio Adm.Code 4901:1-15-07 provides that prior to extending a waterworks system and/or a sewage disposal system beyond the boundaries of the area for which a certificate of public

convenience and necessity has previously been granted, the holder of the certificate shall apply to the Commission for an amendment to the certificate for the proposed expansion area.

{¶ 4} Aqua is a large waterworks company and AWI is a large sewage disposal system company pursuant to R.C. 4909.051. The Companies are currently authorized to provide water and sewage disposal service to customers in various counties in Ohio. Many of these customers are served under the terms and conditions of Aqua's P.U.C.O. Tariff No. 2 and AWI's P.U.C.O Tariff No. 1 relative to the Franklin Division (Franklin Tariffs).

{¶ 5} Girl Scouts of Ohio's Heartland (GSOH) owns a property in Lake Darby, adjacent to the Companies' service areas and seeks to secure water and wastewater service for improvement of GSOH's Camp Ken Jockey.

A. Request to Amend Certificate

{¶ 6} On March 6, 2023, the Companies, in accordance with R.C. 4933.25, 4905.30, and Ohio Adm.Code 4901:1-15-07(A) filed a joint application to amend Aqua's Certificate of Public Convenience and Necessity No. 12 and AWI's Certificate of Public Convenience and Necessity No. 1 to reflect amendments to both Companies' service territories. The Companies seek to expand the Franklin Division Lake Darby Service Area to serve GSOH's Camp Ken Jockey. The Companies state that no additional construction (excluding main extensions) will be necessary to serve the amended territory. The Companies state that they will provide water and wastewater service to GSOH in accordance with their currently approved rates and schedules in the Franklin Tariffs, subject to minor revisions attached as Exhibits C and D to the joint application as discussed below.

{¶ 7} Further, the Companies propose amending the maps in the Franklin Tariffs to reflect the service area amendment. The Companies requested waiver of any legal or public notice and hearings under Ohio Adm.Code 4901:15-04 and 4901:1-15-05.

{¶ 8} According to the Companies' joint application, they prepared a metes and bounds description of the area in which service is to be rendered in accordance with the authority sought, which is attached to the joint application as Exhibit B.

{¶ 9} Aqua and AWI explain that GSOH is seeking to secure water and wastewater service for Camp Ken Jockey. According to Aqua and AWI, there is no current service and no existing agency, publicly or privately-owned or operated, that has to date been able to economically and efficiently provide the facilities and services needed by GSOH.

B. *Tariff Amendments*

{¶ 10} In accordance with R.C. 4905.30, Aqua and AWI request that the Commission approve certain minor tariff revisions to the Franklin Tariffs to incorporate the provision of service to GSOH's Camp Ken Jockey. Specifically, the joint application states that the only revisions to the Franklin Tariffs reflected in Exhibits C and D to the joint application are to the maps depicting the boundaries of the Franklin Division, Lake Darby Service Area in order to reflect the expansion requested in these cases.

{¶ 11} The Companies state that they will provide water and wastewater service to GSOH's Camp Ken Jockey in accordance with their currently approved rates and schedules in the Franklin Tariffs.

C. *Waiver of Notice and Hearing*

{¶ 12} Aqua and AWI request that the Commission approve the application without requiring the provision of public or legal notice and without requiring any hearing that may be contemplated under any applicable statute or Commission rule. In support, the Companies submit that the joint application seeks to amend Aqua and AWI's respective certificates and tariffs to expand the existing territory in Franklin County for which they already provide service. Further, the Companies submit that the proposed amendments to their respective certificates do not seek to change any rate, charge, requirement, or condition for the service being provided to existing customers in Franklin County, Ohio. According

to Aqua and AWI, in similar circumstances the Commission has waived the requirements of publishing notice and holding a hearing. *See, In re Aqua Ohio, Inc.*, Case Nos. 19-1610-WS-UNCet al., Finding and Order (Dec. 18, 2019). Further, the Companies submit that waivers of 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) should be granted here as such waivers will minimize the cost and expense of preparing and processing the joint application. The Companies aver that the costs of notice by publication would provide no apparent benefit to their existing customers because only GSOH will be directly affected by the outcome of the joint application. Finally, Aqua and AWI request that written notice be provided only to GSOH if deemed necessary by the Commission.

D. Staff's Review and Recommendation

{¶ 13} On May 2, 2023, Staff filed its Review and Recommendation regarding Aqua and AWI's joint application. Staff recommends that the Commission approve the joint application.

{¶ 14} Staff elaborates that it has reviewed the joint application for compliance with Ohio Adm.Code 4901:1-15-07. Staff avers that it worked with the Companies to address discrepancies between the proposed map and the proposed metes and bounds description. Staff states that it confirmed that all investment needed to fund the proposed extension will be paid for by GSOH and will be recognized when turned over to the Companies as contribution-in-aid of construction. Staff recommends that the Commission approve the Companies' joint application.

E. Conclusion

{¶ 15} Upon review of Aqua and AWI's joint application and Staff's recommendation, the Commission finds that the joint application is just and reasonable in accordance with R.C. 4933.25 and Ohio Adm.Code 4901:1-15-07 and should be approved. Additionally, the Commission finds that the Companies have the financial, managerial, and

technical capability to provide safe, adequate, and reliable water and wastewater service to GSOH's Camp Ken Jockey.

{¶ 16} We further determine that Aqua and AWI's requests for approval of the application without requiring the provision of public or legal notice and without requiring a hearing should be approved. Unlike the circumstance involving two Commission-regulated public utilities proposing the approval of an asset purchase agreement, in this case Aqua and AWI are proposing to expand their existing service territories to accommodate one new customer at a single location adjacent to their existing service territories. We agree with the Companies that inasmuch as GSOH is the only entity affected by the outcome of the joint application, it is not necessary to impose a requirement to publicize notice or to participate in a hearing. Additionally, we note that the application is not contested, and no intervention has been requested. Further, we recognize that Staff has not identified any specific conditions as part of its recommended Commission approval.

III. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the joint application filed by Aqua and AWI seeking approval of the expansion of their respective service territories in Franklin County, Ohio, Lake Darby area, related to the provision of waterworks and wastewater services to GSOH's Camp Ken Jockey be granted. It is, further,

{¶ 19} ORDERED, That the request to amend Aqua's Certificate of Public Convenience and Necessity No. 12 be approved. It is, further,

{¶ 20} ORDERED, That the request to amend AWI's Certificate of Public Convenience and Necessity No. 1 be approved. It is, further,

{¶ 21} ORDERED, That Aqua's application for tariff amendments to its Master Tariff P.U.C.O. No. 2 for the Franklin Division be approved. It is, further,

{¶ 22} ORDERED, That AWI's application for tariff amendments to its Master Tariff P.U.C.O. No. 1 for the Franklin Division be approved. It is, further,

{¶ 23} ORDERED, That the Companies be authorized to file in final form complete copies of the revised tariff pages consistent with this Finding and Order and to cancel and withdraw any superseded tariff pages. It is, further,

{¶ 24} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariffs are filed with the Commission. It is, further,

{¶ 25} ORDERED, That Aqua and AWI's request for a waiver of legal or public notice and hearings be approved in accordance with Paragraph 16. It is, further,

{¶ 26} 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,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

JMD/dr