

**BEFORE THE PENNSYLVANIA
HOUSE CONSUMER AFFAIRS COMMITTEE**

Comments of

**SONNY POPOWSKY
CONSUMER ADVOCATE**

Regarding

Water and Wastewater Issues

**Harrisburg, Pennsylvania
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**Chairman Godshall, Chairman Preston
and Members of the House Consumer Affairs Committee**

My name is Sonny Popowsky. I have served as the Consumer Advocate of Pennsylvania since 1990, and I have worked at the Office of Consumer Advocate since 1979. Thank you for inviting me to submit comments to this Committee regarding the Pennsylvania water and wastewater industries.

The OCA was established by the General Assembly in 1976 to fill a gap that had long existed in the representation of consumers -- particularly residential consumers -- before the Pennsylvania Public Utility Commission (PUC) and other state and federal agencies that regulate the activities of Pennsylvania's public utilities and the courts that review those agency decisions. Traditionally, utilities have always been well-represented at the PUC by lawyers and expert witnesses who could advocate for utility stockholders in matters such as rate increase requests for utility services. Our Office was created so that the consumers who have to pay those utility bills are also represented by professional attorneys and experts at the state and federal level.

In addition to our litigation activities, the OCA helps to educate consumers on matters involving their utility services, and we also serve as a resource to members of the General Assembly by responding to constituent concerns and by providing our views on how proposed legislation would affect the interests of Pennsylvania consumers. In particular we have worked closely with Chairman Godshall, Chairman Preston, and the Members and Staff of this Committee, and we look forward to working with the new Members of this Committee as you deal with the complex and difficult utility issues that are certain to come before you.

Turning to the specific subjects of today's meeting, the Pennsylvania water and wastewater industries, it is important to note a significant difference between these utilities and

the other Pennsylvania utility industries that have been the subject of this series of informational meetings. That is, unlike other types of Pennsylvania utilities, the great majority of public water and wastewater systems in Pennsylvania are operated by municipalities or municipal authorities and are **not** regulated by the Pennsylvania Public Utility Commission. It is my understanding that there are more than 2,000 water systems and over 1,000 wastewater systems operating in Pennsylvania, but the PUC regulates just over 100 of the water systems and about 75 wastewater systems. It should be noted that the PUC does regulate some municipally-owned systems, but **only** to the extent that those systems operate outside of their municipal boundaries. That is, the PUC does not regulate the price or service of municipal utilities for customers within those municipalities, but does regulate those utilities when they serve customers outside those boundaries. In contrast, the service provided by municipal **authorities** is not regulated by the PUC regardless of where in Pennsylvania that authority provides service.

I would also note that the number of water utilities regulated by the PUC has declined substantially over the last 20 years. That is because many smaller utilities have been acquired by or merged into larger utilities such as the companies that are appearing at this hearing today. I believe that this reduction in the number of water utilities has been a positive development. That is because many of the smaller under-capitalized utilities that traditionally operated in Pennsylvania are simply no longer able to provide safe and adequate water service at reasonable and affordable prices to their customers.

When I first litigated water utility rate cases in the early 1980's, water bills were a relatively minor concern and represented a minimal part of a household budget for most customers. Indeed, many of our larger water utilities at that time did not even meter their residential water usage. Today, I believe we have a much better understanding of the true value

of our vital water resources in Pennsylvania and the need for safe and adequate water supplies for the economic well-being of the Commonwealth and the health and quality of life of our residents. At the same time, we have seen substantial increases in the rates charged by the investor-owned water utilities that are regulated by the Pennsylvania Public Utility Commission, and, in some recent years, water rates have increased at the fastest pace of all utility rates.

I do not intend that observation to be a criticism of our regulated water utilities. The fact is that the costs incurred by these companies to provide safe, clean water service has gone up, and our utilities have made significant investments in filtration treatment plants, pipes, and other infrastructure to meet state and federal environmental and health requirements and to comply with our state PUC requirement that water service must be suitable for all household purposes.

Consistent with legislative authority contained in the Public Utility Code, the PUC has encouraged the acquisition of small troubled water companies by larger healthier companies. There have been a number of cases in recent years, where small troubled water utilities have been unable to provide safe and adequate service to their customers and have been acquired by these larger companies. Some of our larger companies have stepped up and come forward to acquire these smaller utilities in order to provide the type of service that I believe all Pennsylvania consumers are entitled to receive under the Pennsylvania Public Utility Code. Our larger water utilities have also shown a renewed willingness under their current ownership and management to extend service to communities that had long sought desperately needed public water service but had been unable to obtain that service on reasonable terms pursuant to the company's prior line extension policies.

These improvements are supported, I believe, by the Pennsylvania PUC's policy of "single tariff pricing" – in which all the customers in the same rate class (e.g. all residential

customers) of a large water utility pay the same rates – without regard to where in Pennsylvania they are geographically located. This policy better enables all customers to have an opportunity to pay reasonable rates, as the costs of service are spread evenly over a larger customer base and a larger geographic area. Several of our major water companies serve a diverse collection of water systems across the Commonwealth whose actual costs to provide service may vary widely. But by moving toward single tariff pricing, the costs of needed improvements in one part of the company's service territory can be shared among a much larger group of customers. This also avoids rate shock, for example, where the addition of a new water treatment facility would impose an enormous burden on a small group of customers served by that one facility, but the costs are more affordable when spread among all the company's customers.

Another recent development in Pennsylvania is the greater participation of investor-owned water utilities in the wastewater business. Traditionally, as I noted earlier, the great majority of Pennsylvania consumers who receive public wastewater service receive that service from their municipality or a municipal authority. To the extent that larger investor-owned utilities can take advantage of greater economies of scale and scope by acquiring smaller municipal systems that can no longer be managed in an economical manner, this development can be a benefit to customers. At the same time, utility acquisitions of troubled wastewater systems is not a panacea, as those utilities are still often required to invest substantial amounts of capital in order to bring those systems into compliance with state and federal environmental requirements. And, unlike in the case of large water systems, we still do not have very large customer bases or single tariff pricing in the wastewater industry and it is therefore difficult to spread these costs over a larger base. It is essential, in my view, that the Pennsylvania Department of Environmental Protection coordinate its efforts with the PUC to ensure that

environmental mandates on wastewater service providers can be met in a manner that protects the health and well-being of all our communities in a cost-effective and affordable manner.

Finally, I would like to talk briefly about the overall infrastructure and resource needs of water and wastewater utilities in Pennsylvania, including those utilities that are operated by municipalities and authorities that do not fall within the jurisdiction of the PUC. Over the last few years, I have had the honor to serve on the Sustainable Water Infrastructure Task Force that was established by Executive Order in 2008. That task force included members of the General Assembly as well as representatives of a broad array of participants in Pennsylvania's water and wastewater industry, both investor-owned and publicly owned. The Executive Order directed the Task Force to assess the Commonwealth's water needs, to identify financing strategies to enhance the level of investment in our water infrastructure commensurate with those needs, and to make recommendations for more efficient water resource management that could gradually eliminate the gap between our needs and our financial resources. The Task Force was also asked to provide recommendations for more effective system management, asset management, and efficient operations, regionalization or consolidation of systems or management functions, and maximization of innovative solutions including conservation and other non-structural solutions. The Task Force provided a report to the Governor that included a number of recommendations that were subsequently included in bi-partisan legislation that was introduced in the Senate late in the last legislative term. Several of those recommendations go to the question of how to bring the management and financial tools that have worked successfully for our larger PUC-regulated utilities to the broader group of water and wastewater service providers that do not currently utilize those tools. Critical from my perspective is that all utilities – investor-owned and publicly owned – use our precious water resources wisely and that they are able to provide safe and

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adequate service at prices that are affordable to all consumers across Pennsylvania. I look forward to working with the General Assembly on these issues in the future.

Thank you again for the opportunity to provide these comments today. I would be happy to try to answer any questions you might have at this time.

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