

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 22, 2017

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JOINT PETITION OF

AQUA VIRGINIA, INC.;
AQUA PRESIDENTIAL, INC.;
AQUA WINTERGREEN VALLEY
UTILITY COMPANY; and
AQUA UTILITIES CAPTAIN'S COVE, INC.

CASE NO. PUR-2017-00018

For approval of change of control under
Chapter 5 of Title 56 of the Code of
Virginia

ORDER FOR NOTICE AND COMMENT

On February 2, 2017, Aqua Virginia, Inc. ("Aqua Virginia"); Aqua Presidential, Inc. ("Aqua Presidential"); Aqua Wintergreen Valley Utility Company ("Aqua Wintergreen"); and Aqua Utilities Captain's Cove, Inc. ("Aqua Captain's Cove") (collectively, "Joint Petitioners," and collectively, absent Aqua Virginia, "Virginia Subsidiaries"), filed with the State Corporation Commission ("Commission") a joint petition seeking approval for the merger of Aqua Virginia and its Virginia Subsidiaries into one corporation with Aqua Virginia as the surviving entity ("Joint Petition"). The Joint Petition requests approval pursuant to the Utility Transfers Act¹ in Title 56 of the Code of Virginia ("Code"), which provides, in part, that "[n]o person ... shall, directly or indirectly, acquire or dispose of control of ... [a] public utility within the meaning of this chapter, or all of the assets thereof, without the prior approval of the Commission."²

Aqua Virginia and the Virginia Subsidiaries represent that they are public utilities providing water and wastewater service to customers in Virginia.³ Aqua Virginia is organized as

¹ Code § 56-88 *et seq.*

² Code § 56-88.1 A 1.

³ Joint Petition at 1.

a Virginia public service company serving approximately 23,474 active water customers and approximately 6,857 active wastewater customers in Virginia. Aqua Presidential is a wholly owned subsidiary of Aqua Virginia and serves approximately 336 active water customers and 296 active wastewater customers. Aqua Wintergreen is a wholly owned subsidiary of Aqua Virginia and serves approximately 403 active water customers and 166 active wastewater customers. Aqua Captain's Cove is a wholly owned subsidiary of Aqua Virginia and serves approximately 955 active water customers and 270 wastewater customers.⁴

The Joint Petitioners propose to merge, leaving Aqua Virginia as the surviving entity. Upon termination of the corporate existence of the Virginia Subsidiaries, Aqua Virginia would serve all of the water and wastewater customers and other assets currently owned by the Virginia Subsidiaries.⁵

The Joint Petitioners state that the transaction proposed herein will not change rates for the customers of any of the Joint Petitioners at this time.⁶ The Joint Petitioners further assert that continuous service will be maintained to customers of Joint Petitioners throughout the merger process by each Joint Petitioner and thereafter by Aqua Virginia.⁷

The Joint Petitioners also assert that the merger will permit more efficient financing and administration of water and wastewater service through one legal entity and allow Aqua Virginia

⁴ *Id.* at 1-2.

⁵ *Id.* at 2.

⁶ *Id.* at 4. The Commission notes, however, that the current rates charged by Aqua Captain's Cove are the subject of an ongoing proceeding to determine the reasonableness of rates implemented pursuant to the Small Water or Sewer Public Utility Act, Code §§ 56-265.13:1 *et seq.*, which is currently docketed as Case No. PUR-2017-00017. The rates implemented by a final order in Case No. PUR-2017-00017 would be the rates applicable to the customers in the Aqua Captain's Cove portion of Aqua Virginia's service territory, should the merger proposed in this proceeding be approved.

⁷ *Id.*

to maintain rates at more reasonable levels in the long term than if each of the Virginia Subsidiaries acts as a stand-alone company.⁸

The Joint Petitioners request that the Aqua Virginia certificate of public convenience and necessity be amended to permit Aqua Virginia to serve the service territories currently served by the Virginia Subsidiaries.⁹

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Joint Petition should be docketed; that the Joint Petitioners should give notice to the public of their Joint Petition; that interested persons should have an opportunity to comment and request a hearing on the Joint Petition; and that the Commission's Staff ("Staff") should conduct an investigation of the Joint Petition and present its findings and recommendations in a report ("Staff Report").

Pursuant to § 56-88.1 of the Code, the Commission must approve or disapprove the Joint Petition within 60 days from the filing date, unless extended by the Commission for a period not to exceed an additional 120 days. We find that our review period to approve or disapprove the Joint Petition should be extended by an additional 30 days.

Accordingly, IT IS ORDERED THAT:

- (1) The Joint Petition hereby is docketed and assigned Case No. PUR-2017-00018.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), a Hearing Examiner hereby is appointed to rule on any discovery matters that may arise during this proceeding.

⁸ *Id.*

⁹ *Id.* at 5.

(3) A copy of the public version of the Joint Petition may be obtained at no charge by submitting a written request to counsel for the Joint Petitioners: John K. Byrum, Jr. Esquire, Woods Rogers, PLC, 901 East Byrd Street, Suite 1150, Richmond, Virginia 23219. If acceptable to the requesting party, the Joint Petitioners may provide the public version of the Joint Petition by electronic means. Copies of the public version of the Joint Petition, as well as a copy of this Order for Notice and Comment, also shall be available for interested persons to review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(4) On or before March 17, 2017, the Joint Petitioners shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Joint Petitioners' service areas.

NOTICE TO THE PUBLIC OF A JOINT PETITION BY AQUA VIRGINIA, INC.; AQUA PRESIDENTIAL, INC.; AQUA WINTERGREEN VALLEY UTILITY COMPANY; AND AQUA UTILITIES CAPTAIN'S COVE, INC. FOR APPROVAL OF CHANGE OF CONTROL UNDER CHAPTER 5 OF TITLE 56 OF THE CODE OF VIRGINIA
CASE NO. PUR-2017-00018

On February 2, 2017, Aqua Virginia, Inc. ("Aqua Virginia"); Aqua Presidential, Inc. ("Aqua Presidential"); Aqua Wintergreen Valley Utility Company ("Aqua Wintergreen"); and Aqua Utilities Captain's Cove, Inc. ("Aqua Captain's Cove") (collectively, "Joint Petitioners," and collectively, absent Aqua Virginia, "Virginia Subsidiaries"), filed with the State Corporation Commission ("Commission") a joint petition seeking approval for the merger of Aqua Virginia and its Virginia Subsidiaries into one corporation with Aqua Virginia as the surviving entity ("Joint Petition"). The Joint Petition requests approval pursuant to the Utility Transfers Act in Title 56 of the Code of Virginia ("Code"), which provides, in part, that "[n]o person ... shall, directly or indirectly, acquire or dispose of control of ... [a] public utility

within the meaning of this chapter, or all of the assets thereof, without the prior approval of the Commission."

Aqua Virginia and the Virginia Subsidiaries represent that they are public utilities providing water and wastewater service to customers in Virginia. Aqua Virginia is organized as a Virginia public service company serving approximately 23,474 active water customers and approximately 6,857 active wastewater customers in Virginia. Aqua Presidential is a wholly owned subsidiary of Aqua Virginia and serves approximately 336 active water customers and 296 active wastewater customers. Aqua Wintergreen is a wholly owned subsidiary of Aqua Virginia and serves approximately 403 active water customers and 166 active wastewater customers. Aqua Captain's Cove is a wholly owned subsidiary of Aqua Virginia and serves approximately 955 active water customers and 270 wastewater customers.

The Joint Petitioners propose to merge, leaving Aqua Virginia as the surviving entity. Upon termination of the corporate existence of the Virginia Subsidiaries, Aqua Virginia would serve all of the water and wastewater customers and other assets currently owned by the Virginia Subsidiaries.

The Joint Petitioners state that the proposed transaction will not change rates for the customers of any of the Joint Petitioners at this time. The Commission notes that the current rates charged by Aqua Captain's Cove are the subject of an ongoing proceeding to determine the reasonableness of rates implemented pursuant to the Small Water or Sewer Public Utility Act, Code §§ 56-265.13:1 *et seq.*, which is currently docketed as Case No. PUR-2017-00017. Should the merger proposed in Case No. PUR-2017-00018 be approved, the rates implemented by a final order in Case No. PUR-2017-00017 would be the rates applicable to the customers in the Aqua Captain's Cove portion of Aqua Virginia's service territory. The Joint Petitioners further assert that continuous service will be maintained to customers of Joint Petitioners throughout the merger process by each Joint Petitioner and thereafter by Aqua Virginia.

The Joint Petitioners also assert that the merger will permit more efficient financing and administration of water and wastewater service through one legal entity and allow Aqua Virginia to maintain rates at more reasonable levels in the long term than if each of the Virginia Subsidiaries acts as a stand-alone company.

The Joint Petitioners request that the Aqua Virginia certificate of public convenience and necessity be amended to

permit Aqua Virginia to serve the service territories currently served by the Virginia Subsidiaries.

Interested persons may obtain a copy of the public version of the Joint Petition by submitting a written request to counsel for the Joint Petitioners: John K. Byrum, Jr. Esquire, Woods Rogers, PLC, 901 East Byrd Street, Suite 1150, Richmond, Virginia 23219. Copies of the public version of all documents filed in this case also are available for interested persons to review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

As provided by 5 VAC 5-20-80 C, *Public witnesses*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any person desiring to file written comments on the Joint Petition shall file such comments on or before March 31, 2017, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Any person desiring to submit comments electronically may do so on or before March 31, 2017, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUR-2017-00018.

On or before March 31, 2017, any interested person may request that the Commission convene a hearing on the Joint Petition. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUR 2017-00018 and include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy also shall be served on counsel for the Joint Petitioners at the address set forth above.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Comment in this proceeding

may be obtained from the Clerk of the Commission at the address above.

AQUA VIRGINIA, INC.; AQUA PRESIDENTIAL, INC.; AQUA
WINTERGREEN VALLEY UTILITY COMPANY; AND AQUA
UTILITIES CAPTAIN'S COVE, INC.

(5) On or before March 17, 2017, the Joint Petitioners shall serve a copy of this Order for Notice and Comment on the chairman of the board of supervisors and county attorney of each county, and upon the mayor or manager of every city and town, or upon equivalent officials in the counties, cities, and towns in which the Joint Petitioners provide service in the Commonwealth of Virginia. Service shall be made by first class mail or delivery to the customary place of business or residence of the person served.

(6) On or before April 3, 2017, the Joint Petitioners shall file with the Clerk of the Commission proof of notice and proof of service as ordered herein.

(7) As provided by 5 VAC 5-20-80 C, *Public witnesses*, of the Rules of Practice, any person desiring to file written comments on the Joint Petition shall file such comments on or before March 31, 2017, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Any person desiring to submit comments electronically may do so on or before March 31, 2017, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUR-2017-00018.

(8) On or before March 31, 2017, any interested person may request that the Commission convene a hearing on the Joint Petition. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) above. Requests for hearing shall refer to

Case No. PUR-2017-00018 and include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy also shall be served on counsel for the Joint Petitioners at the address set forth in Ordering Paragraph (3) above.

(9) The Staff shall investigate the Joint Petition. On or before April 5, 2017, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a Staff Report containing Staff's findings and recommendations.

(10) On or before April 12, 2017, the Joint Petitioners shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report and to comments or requests for hearing filed with the Commission.

(11) The Joint Petitioners shall respond to written interrogatories or data requests within five (5) calendar days after the receipt of the same. Discovery shall otherwise be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(12) Pursuant to § 56-88.1 of the Code, the period of review for any request made in the Joint Petition pursuant to the Utility Transfers Act hereby is extended for an additional thirty (30) days, through May 3, 2017.

(13) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
John K. Byrum, Jr., Esquire, Woods Rogers, PLC, 901 East Byrd Street, Suite 1150, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. A copy also shall be delivered to the Commission's Office of General

Counsel and Divisions of Public Utility Regulation, Utility Accounting and Finance, and Public Service Taxation.

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