

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, DECEMBER 20, 2018

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JOINT PETITION OF
CITY OF CHESAPEAKE

CASE NO. PUR-2018-00184

and

AQUA VIRGINIA, INC.

For approval of a transfer
of utility assets

ORDER FOR NOTICE AND COMMENT

On November 21, 2018, the City of Chesapeake, Virginia ("City"), and Aqua Virginia, Inc. ("Aqua") (collectively, "Petitioners"), filed a joint petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act,¹ seeking approval and authority for Aqua to dispose of and for the City to acquire certain waterworks utility assets (as defined in this Joint Petition under "Assets") to provide water service to customers residing within the Indian River subdivision located within the City. The Assets constitute a waterworks system ("System"), which serves approximately 505 individual connections.

The Petition states that Aqua and the City have entered into a purchase agreement for the System. After closing and upon approval by the Commission, the City will own and operate the System.² The Petitioners assert that the City is a municipal corporation and political subdivision of the Commonwealth of Virginia, and the System's service area is located within the political

¹ Code of Virginia ("Code") § 56-88 *et seq.*

² Petition at 2.

boundaries of the City.³ The City is not subject to regulation by the Commission as a public utility.⁴

The Petitioners represent that the City will acquire the Assets for a purchase price of \$1,931,600, which will be paid in full at the time of the closing of the transaction.⁵

The City proposes to change all rates, charges, and fees in accordance with Article IV of Chapter 78 of the Chesapeake City Code.⁶ Joint Petitioners state that there will be no impairment of adequate service at just and reasonable rates and submit that the transfer of the System's Assets, on the terms proposed, will ensure that customers served by the System will continue to receive adequate service at just and reasonable rates.⁷

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Petition should be docketed; that the Commission's Staff ("Staff") should investigate the proposed transaction and present its findings in a report ("Staff Report"); that this Order for Notice and Comment should be served upon interested persons; and that interested persons should have an opportunity to comment or request a hearing on the Petition.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2018-00184.

(2) Copies of the Petition and the Commission's Order for Notice and Comment may be obtained by submitting a written request to counsel for Aqua, John K. Byrum, Jr., Woods Rogers

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.* at 4.

⁶ *Id.* (See Petition, Exhibit C; Article IV of Chapter 78 of the Chesapeake City Code).

⁷ *Id.* at 5.

PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219. If acceptable to the requesting party, the Petitioners may provide the documents by electronic means. Copies of these documents 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>.

(3) On or before January 8, 2019, the Petitioners shall cause to be published for one week in newspapers of general circulation in the service area of the System, the following:

NOTICE TO THE PUBLIC OF A JOINT PETITION BY:
CITY OF CHESAPEAKE AND AQUA VIRGINIA, INC., FOR
APPROVAL OF TRANSFER OF UTILITY ASSETS
CASE NO. PUR-2018-00184

On November 21, 2018, the City of Chesapeake, Virginia ("City") and Aqua Virginia, Inc. ("Aqua") (collectively, "Petitioners"), filed a joint petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, seeking approval and authority for Aqua to dispose of and for the City to acquire certain waterworks utility assets (as defined in this Joint Petition under "Assets") to provide water service to customers residing within the Indian River subdivision located within the City. The Assets constitute a waterworks system ("System"), which serves approximately 505 individual connections.

The Petition states that Aqua and the City have entered into a purchase agreement for the System. After closing and upon approval by the Commission, the City will own and operate the System. The Petitioners assert that the City is a municipal corporation and political subdivision of the Commonwealth of Virginia, and the System's Service Area is located within the political boundaries of the City. The City is not subject to regulation by the Commission as a public utility.

The Petitioners represent that the City will acquire the Assets for a purchase price of \$1,931,600, which will be paid in full at the time of the closing of the transaction.

The City proposes to change all rates, charges, and fees in accordance with Article IV of Chapter 78 of the Chesapeake City Code.

Joint Petitioners state that there will be no impairment of adequate service at just and reasonable rates and submit that the transfer of the System's Assets, on the terms proposed, will ensure that customers served by the System will continue to receive adequate service at just and reasonable rates.

The Commission entered an Order for Notice and Comment that, among other things, directed the Petitioners to provide notice of their Petition and provided interested persons an opportunity to comment or request a hearing on the Petition.

Copies of the Petition and the Commission's Order for Notice and Comment may be obtained by submitting a written request to counsel for Aqua, John K. Byrum, Jr., Esquire, Woods Rogers PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219. If acceptable to the requesting party, the Petitioners may provide the documents by electronic means. Copies of these documents 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>.

On or before February 8, 2019, any interested person may file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the Joint Petition. On or before February 8, 2019, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUR-2018-00184.

On or before February 8, 2019, any person or entity wishing to participate as a respondent in this proceeding may do so

by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth above. A copy of the notice of participation as a respondent also must be sent to counsel for the Joint Petitioners at the address set forth above. Pursuant to Rule 5 VAC 5-20-80, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All such filings shall refer to Case No. PUR-2018-00184. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Comment.

Any person may request a hearing on the Petition by filing such request for hearing on or before February 8, 2019. If not filed electronically, an original and fifteen (15) copies of the request for hearing must be submitted to the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUR-2018-00184 and shall include: (i) a precise statement of the interest of the filing party; (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. Persons filing a request for hearing shall send a copy of the request to the Petitioners' counsel at the address set forth above.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

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

CITY OF CHESAPEAKE AND AQUA VIRGINIA, INC.

(4) On or before January 23, 2019, the Petitioners shall file proof of service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center,

P.O. Box 2118, Richmond, Virginia 23218-2118, including the name, title, and address of each official served.

(5) On or before February 8, 2019, any interested person may file written comments on the Petition with the Clerk of the Commission at the address set forth in Ordering Paragraph (4). Any interested person desiring to submit comments electronically may do so on or before February 8, 2019, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2018-00184.

(6) On or before February 8, 2019, any person wishing to request a hearing on the Petition shall file such request for hearing with the Clerk of the Commission. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4). All requests for hearing shall refer to Case No. PUR-2018-00184 and shall include: (i) a precise statement why a hearing should be conducted in this matter; and (ii) a precise statement why such issues cannot adequately be addressed in comments. A copy also shall be served on counsel for Aqua at the address set forth in Ordering Paragraph (2) and on counsel for the City of Chesapeake, Jacob P. Stroman, Esquire, City Attorney, City of Chesapeake, 306 Cedar Road, Chesapeake, Virginia 23322.

(7) The Staff shall analyze the Petition and present its findings in a Staff Report to be filed on or before February 15, 2019.

(8) On or before March 1, 2019, the Petitioners may file with the Clerk of the Commission any response to the Staff Report, comments, and requests for hearing filed with the

Commission. If not filed electronically, an original and fifteen (15) copies of the response may be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4).

(9) The Commission's Rule of Practice and Procedure 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after the receipt of the same. In addition to the service requirements of Rule 5 VAC 5-20-260, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney if the interrogatory or request for production is directed to the Staff.⁸ Any person who requests a hearing shall provide to the Petitioners, the Staff, and any other persons who filed requests for hearing any workpapers or documents used in preparation of the request for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-240 *et seq.*

(10) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John K. Byrum, Jr., Woods Rogers PLC, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219; Jacob P. Stroman, Esquire, City Attorney, City of Chesapeake, 306 Cedar Road, Chesapeake, Virginia 23322; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th

⁸ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUR-2018-00184, in the appropriate box.

Street, 8th Floor, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.

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