

APPLICATION OF

AQUA VIRGINIA, INC.

CASE NO. PUR-2019-00209

For Approval of a Water and Wastewater
Infrastructure Service Charge Plan and for
Authority to Implement Water and Wastewater
WWISC Riders

ORDER FOR NOTICE AND HEARING

On December 6, 2019, Aqua Virginia, Inc. ("Aqua Virginia" or "Company"), pursuant to Rule 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure ("Rules of Practice")¹ and the Final Order entered in Case No. PUR-2017-00082,² filed an application for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Plan and for authority to implement water and wastewater WWISC Riders ("Application").³

Aqua Virginia asserts that the Commission authorized the Company to implement separate water and wastewater WWISCs over a three-year pilot period to enable the Company to make accelerated investments to replace mains and other aging infrastructure that have reached the end of their useful lives.⁴ Aqua Virginia further states that the Commission approved \$3,750,000 in WWISC projects over the three-year pilot period, specifically limiting same to

¹ 5 VAC 5-20-10 *et seq.*

² *Application of Aqua Virginia for an Increase in Rates*, Case No. PUR-2017-00082, 2018 S.C.C. Ann. Rept. 244, Final Order (Oct. 19, 2018) ("October 2018 Final Order").

³ With its Application, Aqua Virginia included exhibits and the pre-filed testimony of John J. Aulbach, II, Daniel M. Hingley, and Richard F. Hale, Jr.

⁴ Application at 4. *See also* October 2018 Final Order at 246-47.

\$1.765 million for accelerated water main replacement projects and \$1.99 million for inflow and infiltration ("I&I") reduction projects.⁵ As noted by the Applicant, such approval was wholly subject to the specific safeguards recommended by the Hearing Examiner and adopted in their entirety by the Commission.⁶

Aqua Virginia states that the October 2018 Final Order authorized the Company to begin deferring the costs of WWISC-eligible investment placed in service on and after March 1, 2019.⁷ In testimony accompanying the Application, Aqua Virginia describes the water main replacement projects and wastewater infrastructure replacement projects that the Company proposes to complete as part of its first WWISC Plan period beginning March 1, 2019 and ending December 31, 2020.⁸ The Company requests that the Commission approve the first roster of WWISC-eligible investments.⁹

The Company further requests approval of its proposed WWISC Tariff, including the proposed (1) Water WWISC Rider with a revenue requirement of approximately \$137,000, associated with approximately \$1,576,000 in water main replacement projects; and (2) Wastewater WWISC Rider with a revenue requirement of approximately \$150,000, associated with approximately \$1,382,000 in wastewater I&I projects.¹⁰ Aqua Virginia has proposed a rate of \$0.1317 for each 1000 gallons of water used and \$0.5778 for each 1000 gallons of wastewater

⁵ Application at 5-6. *See also* October 2018 Final Order at 246-47.

⁶ Application at 6-7. *See also* October 2018 Final Order at 246-47.

⁷ Application at 6. *See also* October 2018 Final Order at 247.

⁸ Prefiled Direct Testimony of Daniel M. Hingley at 6-14. Exhibit DMH-1.

⁹ Application at 9.

¹⁰ *Id.* at 6, 9.

billed.¹¹ If the WWISC Plan and Riders are approved, the impact on customer bills would depend on usage. The Company estimates that implementation of its proposed Riders would increase the monthly bill of a residential water customer using 4,000 gallons per month by \$0.53, and would increase the monthly bill of an average residential sewer customer by \$2.31.¹²

Aqua Virginia proposes to add the Water WWISC and Wastewater WWISC Riders to customer bills "effective for the period from 120 days after filing of this Application until the filing of the Company's next WWISC proceeding or the effective date of interim base rates in its next base rate case."¹³ Accordingly, the Company proposes a beginning date of April 6, 2020, for the first WWISC Rider Rate Year.¹⁴

In connection with the Application, the Company also filed a Motion to Modify Notice Requirement ("Motion"), requesting that the Company be permitted to provide mailed notice to customers of its Application in lieu of newspaper publication of notice. The Company states that it published notice of its request for a WWISC in the Base Rate Case "on a number of occasions at substantial expense."¹⁵ The Company further asserts that direct notice to its customers by mail is "far more effective in ensuring actual notice to customers."¹⁶ The Commission's Staff ("Staff") filed a response ("Staff Response") on December 16, 2019, noting that, while Staff is sympathetic to the cost for newspaper publication, § 56-237.1 of the Code of Virginia ("Code") appears to require both types of notice for water and sewer companies for any change to

¹¹ Prefiled Direct Testimony of Richard F. Hale, Jr. ("Hale Direct"), Exhibit RFH-1 at 1.

¹² Hale Direct at 8.

¹³ *Id.* at 5-6.

¹⁴ *Id.* at 6.

¹⁵ *See* Motion at 2-4.

¹⁶ *Id.* at 4-5.

schedules of rates and charges.¹⁷ On December 23, 2019, the Company filed a letter advising that it will not file a written reply to the Staff's Response.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter shall be docketed; Aqua Virginia should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on the Application or participate as a respondent in this proceeding; and the Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report containing the Hearing Examiner's findings and recommendations.

The Commission further finds that the Motion to Modify Notice Requirement is denied. While the Commission understands that this cost shall pass through to ratepayers and is sympathetic thereto, the Commission agrees with Staff and finds that compliance with the statutory requirement for both direct notice and by publication, of any changes to the Company's rates and charges, is mandatory absent until such time as the General Assembly shall deem it appropriate to further exclude water and sewer companies from same.

The Commission further finds that, per the Company's request and subject to true-up and the Hearing Examiner's protections adopted by the Commission in Case No. PUR-2017-00082, the Company may begin charging customers for its WWISC related expenses for billings made on or after April 6, 2020 (\$0.1317 for each 1000 gallons of water used and \$0.5778 for each

¹⁷ Staff Response at 3.

1000 gallons of wastewater billed); and does so with express notice that the Commission may lower such WWISC rates based on the final outcome of these proceedings.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2019-00209.

(2) Pursuant to Code § 12.1-31 and Rule 5 VAC 5-20-120, *Procedure before Hearing Examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, concluding with the issuance of a report containing the Hearing Examiner's findings and recommendations.

(3) Based on the Commission's finding that both direct notice and by publication are mandatory for water and sewer utility operators pursuant to Code § 56-237.1, the Company's Motion to Modify Notice Requirement is denied.

(4) Per the Company's request and subject to true-up and the Hearing Examiner's protections adopted by the Commission in Case No. PUR-2017-00082, the Company may begin charging customers for its WWISC related expenses for billings made on or after April 6, 2020 (\$0.1317 for each 1000 gallons of water used and \$0.5778 for each 1000 gallons of wastewater billed); and does so with express notice that the Commission may lower such WWISC rates based on the final outcome of these proceedings.

(5) A public hearing shall be convened on April 14, 2020, at 10 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and the evidence of the Company, any respondents, and Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's Courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(6) The Company shall make copies of the public version of its Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies may also be obtained by submitting a written request to counsel for Aqua Virginia, 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 Company may provide the documents by electronic means. Copies of the public version of all 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>.

(7) On or before February 6, 2020, Aqua Virginia shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's service territory within Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
AQUA VIRGINIA, INC.,
FOR APPROVAL OF A WATER AND WASTEWATER
INFRASTRUCTURE SERVICE CHARGE PLAN
AND FOR AUTHORITY TO IMPLEMENT
WATER AND WASTEWATER WWISC RIDERS
CASE NO. PUR-2019-00209

- **Aqua Virginia, Inc., has applied for approval to implement its first water and wastewater infrastructure service charge ("WWISC") plan and for authority to implement a Water WWISC Rider with a revenue requirement of approximately \$137,000, and a Wastewater WWISC Rider with a revenue requirement of approximately \$150,000.**
- **A Hearing Examiner appointed by the Commission will hear the case on April 14, 2020, at 10 a.m.**
- **Further information about this case is available on the SCC website at: <http://www.scc.virginia.gov/case>.**

On December 6, 2019, Aqua Virginia, Inc. ("Aqua Virginia" or "Company"), pursuant to Rule 5 VAC 5-20-80 of the State Corporation Commission's ("Commission") Rules of Practice and Procedure ("Rules of Practice") and the Final Order entered in Case No. PUR-2017-00082 ("October 2018 Final Order"), filed an application for approval of a Water and Wastewater Infrastructure Service Charge ("WWISC") Plan and for authority to implement water and wastewater WWISC Riders ("Application").

Aqua Virginia asserts that the Commission authorized the Company to implement separate water and wastewater WWISCs over a three-year pilot period to enable the Company to make accelerated investments to replace mains and other aging infrastructure that have reached the end of their useful lives. Aqua Virginia further states that the Commission approved \$3,750,000 in WWISC projects over the three-year pilot period, specifically limiting same to \$1.765 million for accelerated water main replacement projects and \$1.99 million for inflow and infiltration ("I&I") reduction projects. As noted by the Applicant, such approval was wholly subject to the specific safeguards recommended by the Hearing Examiner and adopted in their entirety by the Commission.

Aqua Virginia states that the October 2018 Final Order authorized the Company to begin deferring the costs of WWISC-eligible investment placed in service on and after March 1, 2019. In testimony accompanying the Application, Aqua Virginia describes the water main replacement projects and wastewater infrastructure replacement projects that the Company proposes to complete as part of its first WWISC Plan period beginning March 1, 2019 and ending December 31, 2020. The Company

requests that the Commission approve the first roster of WWISC-eligible investments.

The Company further requests approval of its proposed WWISC Tariff, including the proposed (1) Water WWISC Rider with a revenue requirement of approximately \$137,000, associated with approximately \$1,576,000 in water main replacement projects; and (2) Wastewater WWISC Rider with a revenue requirement of approximately \$150,000, associated with approximately \$1,382,000 in wastewater I&I projects. Aqua Virginia has proposed a rate of \$0.1317 for each 1000 gallons of water used and \$0.5778 for each 1000 gallons of wastewater billed. If the WWISC Plan and Riders are approved, the impact on customer bills would depend on usage. The Company estimates that implementation of its proposed Riders would increase the monthly bill of a residential water customer using 4,000 gallons per month by \$0.53, and would increase the monthly bill of an average residential sewer customer by \$2.31.

Aqua Virginia proposes to add the Water WWISC and Wastewater WWISC Riders to customer bills "effective for the period from 120 days after filing of this Application until the filing of the Company's next WWISC proceeding or the effective date of interim base rates in its next base rate case." Accordingly, the Company proposes a beginning date of April 6, 2020, for the first WWISC Rider Rate Year.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals.

TAKE NOTICE that the Commission may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents and thus may adopt rates that differ from those appearing in the Company's Petition and supporting documents.

Per the Company's request and subject to true-up and the Hearing Examiner's protections adopted by the Commission in PUR-2017-00082, the Commission has granted the Company's request to begin charging customers for its WWISC related expenses for billings made on or after April 6, 2020 (\$0.1317 for each 1000 gallons of water used and \$0.5778 for each 1000 gallons of wastewater billed); and as done so with express notice that the Commission may lower such WWISC rates based on the final outcome of these proceedings.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing to commence at 10 a.m. on April 14, 2020, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Company, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

Copies of the Application and the Commission's Order for Notice and Hearing are available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, 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 Company may provide the documents by electronic means.

Copies of the public version of the Application and other 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>.

On or before March 6, 2020, any interested 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 Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Anyone filing a notice of participation simultaneously shall serve a copy of the notice of participation on counsel to the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's 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. Any organization, corporation, or government body participating as a respondent must be represented by counsel as

required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00209.

On or before March 6, 2020, each respondent may file with the Clerk of the Commission and serve on the Commission's Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. Respondents also shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00209.

On or before April 7, 2020, any interested person wishing to comment on the Company's Application shall file written comments on the Application with the Clerk of the Commission at the address set forth above. Any interested person desiring to file comments electronically may do so on or before April 7, 2020, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All such comments shall refer to Case No. PUR-2019-00209.

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 Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained from the Clerk of the Commission at the address above.

AQUA VIRGINIA, INC.

(8) On or before February 6, 2020, the Company shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or

equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made by first class mail to the customary place of business or residence of the person served.

(9) On or before February 6, 2020, Aqua Virginia shall serve a copy of the notice prescribed in Ordering Paragraph (7) of this Order directly on the Company's customers in accordance with the provisions of Code § 56-237.1 B. Service shall either be made by first class mail to the customary place of business or residence of the person served or may be included as a prominent and legible bill insert in each customer's respective bill. For those customers who have expressly approved service of bills and other correspondence by electronic means, the notice prescribed in Ordering Paragraph (7) of this Order may be sent electronically.

(10) On or before February 20, 2020, the Company shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the notice and service required by Ordering Paragraphs (7), (8) and (9), including the name, title, and address of each official served.

(11) On or before April 7, 2020, any interested person may file with the Clerk of the Commission, at the address set forth in Ordering Paragraph (10), written comments on the Application. Any interested person desiring to submit comments electronically may do so on or before April 7, 2020, 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-2019-00209.

(12) On or before March 6, 2020, any interested 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 in Ordering Paragraph (10). The

respondent simultaneously shall serve a copy of the notice of participation on counsel for the Company at the address set out in Ordering Paragraph (6). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's 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. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00209.

(13) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon such respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(14) On or before March 6, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. Each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (10). In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00209.

(15) The Staff shall investigate the Application. On or before March 13, 2020, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's

testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to the Company and all respondents.

(16) On or before March 27, 2020, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that the Company expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company simultaneously shall serve a copy of the testimony and exhibits on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (10).

(17) 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.

(18) The Commission's Rule of Practice, 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 seven (7) calendar days after receipt of the same. In addition to the service requirements of 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.¹⁸

¹⁸ 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-2019-00209, in the appropriate box.

Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-240 *et seq.*

(19) 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, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219; Kimberly A. Joyce, Esquire, and Mary McFall Hopper, Esquire, Aqua America, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania 19010; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 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 and Utility Accounting and Finance.