

Aqua's Motion To Consolidate

I filed my complaints on 9/18/2023. About eight months later on 5/23/2024 Aqua filed for a system wide rate increase. About seven weeks after that (7/11/2024), Aqua files a motion to consolidate my complaints with their rate case. That was a total surprise to me.

Here is Aqua's filing: [LINK](#) Some of the reasons to consolidate were:

“...the 2024 Base Rate Case and the Complaints are interrelated and raise common issues of law in fact.”

“...the 2024 Base Rate Case shall include consideration of the lawfulness, justness, and reasonableness of the existing rates, rules and regulations of Aqua PA WW, which the Complainant is challenging.”

“If these cases were to proceed and not be consolidated, the Commission would, in effect, be reviewing the same complex base rate-related issues twice and in parallel.”

“Thus, the consolidation of these proceedings will promote the efficient use of the time and resources of the parties and the Commission.”

I saw no connection between my complaints and Aqua's rate case. Further, I had a serious concern that if they were consolidated, they would get lost. In fact, I speculated that might be Aqua's intent. If you look at the “Opinion and Order” ([LINK](#)) for that rate case, there are 151 Formal Complaints associated with it. On PDF page 181 of that order all 151 are summarily dismissed. Was each one appropriately adjudicated? I do not know, but I certainly have my doubts. I did not want my complaints to be summarily dismissed.

Therefore, I filed this reply to Aqua's motion: [LINK](#) Key points include:

“Aqua's motion appears to be implying that my complaints could change the outcome of the current rate case (paragraph 26 on page 7). However, Aqua does not offer any examples of how this could occur.”

“...my complaints will in no way impact the costs and investments upon which the total revenue is calculated. Therefore, my complaints should have zero impact on the outcome of the current rate case.”

“I have filed formal complaints and am entitled to the appropriate legal hearing process to adjudicate them. I believe they are stand alone issues unrelated to Aqua's current rate case. Therefore, the complaints should be adjudicated separately. “

About three months after I file my reply the Administrative Law Judge (ALJ) coordinating the complaints issued an order denying Aqua's motion: [LINK](#)

The ALJ's order is interesting. The title is "Order Granting Motion To Consolidate". In spite of the title, it concludes denying the motion. The order takes a total of nine pages. Several pages review the case history and several more discuss the legal aspects of consolidation. At the end, the ALJ concluded it was not appropriate to combine the cases.

However, the ALJ finished up with a stern warning: "*A complainant seeking to evade the effect of an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable.*"

To me that warning seems out of place. This is a ruling on a motion. Why should I be admonished on the burden of proof issue? I think it suggests a bias against customer complaints.

In a different, but simultaneous filing, the ALJ scheduled my hearing for 11/25/2024: [LINK](#) There were no further delays and the hearing was actually held on that date.