

**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

William Ferguson,	:	
Petitioner	:	
	:	
v.	:	
	:	No. 876 C.D. 2025
Pennsylvania Public Utility Commission,	:	
Respondent	:	

**RESPONDENT PENNSYLVANIA PUBLIC UTILITY COMMISSION’S
ANSWER TO PETITIONER’S APPLICATION FOR LEAVE TO FILE
REPLY BRIEF IN EXCESS OF WORD COUNT LIMIT**

TO THE HONORABLE COURT, THE PRESIDENT JUDGE, AND JUDGES OF
THE COMMONWEALTH COURT OF PENNSYLVANIA:

Pursuant to Pennsylvania Rules of Appellate Procedure (Pa.R.A.P.) 123(b)
and consistent with this Court’s February 10, 2026 Order, Respondent
Pennsylvania Public Utility Commission (Commission) by and through its counsel
submits the following Answer to Petitioner’s Application for Leave to File Reply
Brief in Excess of Word Count Limit. The Commission avers as follows:

I. Procedural History

1. On July 17, 2025, Mr. Ferguson filed a Petition for Review with this Court, alleging that the Commission’s dismissal of his claims against Aqua Pennsylvania Wastewater Inc. (Aqua) was improper.

2. On November 10, 2025, Mr. Ferguson filed his principal brief.

3. On January 29, 2026, the Commission and Aqua, as intervenor, filed their principal briefs with this Court, both fully addressing the arguments in Mr. Ferguson’s brief. Mr. Ferguson’s reply brief was originally due on February 13, 2026.¹

4. On February 10, 2026, Mr. Ferguson filed his Application with this Court, asking for leave to exceed the statutory word limit of reply briefs by 3,000 words. *See* Pa.R.A.P. 2135(a).

5. This Court’s February 10, 2026 Order directed the Commission and Aqua to file answers to Mr. Ferguson’s Application by February 27, 2026.

II. Answer to Application

6. Pursuant to Pa.R.A.P. 2135(a)(1), “a reply brief shall not exceed 7,000 words.”

¹ The Court’s February 10, 2026 Order stayed the due date for Mr. Ferguson’s reply brief pending disposition of his “Application for Leave to File Reply Brief in Excess of Word Count Limit” (Application).

7. In discussing the replacement of page limits with word counts in briefs, the Rules of Appellate Procedure explain that “verbosity continues to be discouraged,” and “[t]he appellate courts strongly disfavor a statement that is not concise.” Pa.R.A.P. 2116 note (referencing the amendments to Pa.R.A.P. 2135).

8. The word limitation for a reply brief is less than the limitation for a main brief as the scope of a reply brief is more limited. As the Pennsylvania Supreme Court has stated:

The opportunity for, and the extent of, a reply brief is limited. The Pennsylvania Rules of Appellate Procedure make clear that an “appellant may file a brief in reply to matters raised by appellee's brief not previously raised in appellant's brief.” Pa.R.A.P. 2113(a). Thus, an appellant is prohibited from raising new issues in a reply brief. Moreover, a reply brief cannot be a vehicle to argue issues raised but inadequately developed in appellant's original brief.

Commonwealth of Pa. v. Fahy, 737 A.2d 214, 219 n.8 (Pa. 1999).

9. Despite the limited scope of reply briefs, Mr. Ferguson asks this Court to exceed the word limitation by 3,000 words—a significant increase in length. Mr. Ferguson fails to demonstrate a sufficient justification for such a deviation from the word limitation requirement.

10. Mr. Ferguson generally avers that because of the “number and length” of the arguments made in the Commission’s and Aqua’s briefs, this grant is necessary. However, the only specific argument referenced in his application is an

unfounded claim of an “*ad hominem* attack” by Aqua. Both the Commission and Aqua have fully responded to Mr. Ferguson’s arguments in his brief and have raised no novel issues that would warrant exceeding the word limit in the limited scope of a reply brief.

11. Mr. Ferguson alleges that the “number of additional words requested is consistent with” the granting of Petitioner Penn Renewables’ application for leave to file its reply brief in *Penn Renewables, LLC v. Pa. Pub. Util. Comm’n*, No. 337 C.D. 2025 (Order entered Sept. 19, 2025). However, Mr. Ferguson fails to mention that Penn Renewables’ application was *unopposed*, while his application here is opposed by both the Commission and Aqua. Additionally, the petitioner in *Penn Renewables* was required to respond to four opposing briefs including a range of issues, rather than only two opposing briefs here, neither of which raises new or novel issues. This is a significant difference that should not be brushed away easily.

12. Mr. Ferguson attempts to differentiate his application from that of the petitioner in *Penn Renewables* by claiming that the difference in the number of briefs is offset by “(a) the need for [Mr. Ferguson] to elucidate [his] replies to Aqua’s barrage of categorical accusations and denials, and (b) the importance of this case to the integrity of public utility ratemaking in Pennsylvania.” Ferguson Application at 2. Neither of these justifications survive scrutiny.

13. For his first claim, as noted above, “a reply brief cannot be a vehicle to argue issues raised but inadequately developed in appellant's original brief.” *Fahy*, 737 A.2d at 219 n.8. Aqua’s denial of Mr. Ferguson’s claims does not give Mr. Ferguson *carte blanche* to continue developing his previously plead arguments; instead, Mr. Ferguson is limited to addressing those matters that were raised in either the Commission’s or Aqua’s brief that were not raised in his own. The only new matter referenced in Mr. Ferguson’s Application is a vague reference to an “*ad hominem* attack” by Aqua, and Mr. Ferguson fails to demonstrate why this purported “attack” cannot be addressed in 7,000 words.

14. For his second claim, the mere subjective belief that an appellant’s case is “important” cannot justify deviation from procedural requirements. “The Rules of Appellate Procedure were adopted to insure the orderly and efficient administration of justice at the appellate level.” *Stout v. Universal Underwriters Ins. Co.*, 421 A.2d 1047, 1049 (Pa. 1980). While circumstances may sometimes warrant deviation, if a party could dispose of these requirements by simply alleging that their case is important, then the Rules of Appellate Procedure would be effectively meaningless. Something more must be shown, and Mr. Ferguson has failed to provide anything but general claims and subjective belief.

WHEREFORE, for the foregoing reasons, the Commission respectfully requests that this Honorable Court deny Petitioner's Application.

Respectfully submitted,

/s/ Colin W. Scott
Colin W. Scott
Assistant Counsel
Attorney ID No. 311440

Sharon E. Webb
Deputy Chief Counsel
Attorney ID No. 73995

David E. Screven
Chief Counsel
Attorney ID No. 80711

Counsel for the Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: February 27, 2026

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I hereby certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Colin W. Scott
Colin W. Scott
Attorney ID No. 311440

Date: February 27, 2026