

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

***Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.***

To complete this form, please type or print legibly in ink.

1. **Customer (Complainant) Information**

Provide your name, mailing address, county, telephone number(s), email address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name **William Ferguson** _____

Street/P.O. Box **313 Hyde Park Road** _____

City **Landenberg** _____ State **PA** _____ Zip **19350** _____

County **Chester** _____

Telephone Number(s) Where We Can Contact You During the Day (required):

(610) 268-5731 _____ (home) (_____) **Not used** _____ (mobile)

Email Address (required): **zzzferg@gmail.com** _____

Utility Account Number (from your bill) **002644533 1498090** _____

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name **Does Not Apply** _____

Street/P.O. Box _____

City _____ State _____ Zip _____

2. **Methods of Communication by the Commission**

You have three options on how you would like to receive all communication from the Commission about your Complaint. By selecting one of the following three options, you are agreeing to receive all hearing notices, orders, and related documents about your Complaint in the manner selected.

Select one of the following options for receiving all communications from the Commission:

- a. **eFiling:** You agree to open and use an eFiling account – free of charge through the Commission’s website. By selecting this method you will be eServed. (This is the best way to receive, file, and submit documents).

Initial here if you are selecting eFiling: _____ **WEF**

(And create an eFiling account at <http://www.puc.pa.gov/efiling/default.aspx>)

- b. **Email:** You agree to receive all documents by email (using the email you provided on page 1). Please note that you will only be able to receive documents from the Commission by email and will not be able to file documents by Email or Fax. To submit documents to the Commission you must create an eFiling account accessed at <http://www.puc.pa.gov/efiling/default.aspx> or mail your submissions.

Initial here if you are selecting Email service: _____

- c. **First Class Mail:** You agree to be served only by First Class Mail (at the address on page 1 of this form).

Initial here if you are selecting First Class Mail service: _____

***If you do not select one of the three options above, the Commission will serve all documents to you by First Class Mail at the address listed on page 1 of this form.**

3. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Aqua Pennsylvania Wastewater Inc. _____

4. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- Electric Gas Water Wastewater/Sewer Storm Water
 Steam Heat Motor Carrier (taxi, moving co., limo)
 Telephone/Telecommunications (local, long distance)

5. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
 I would like a payment agreement.
 Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
 I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
 Other (explain).

This complaint is about Aqua collecting revenue from New Garden ratepayers for a cost it is not incurring. Documentation is attached supporting this allegation.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia

County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

6. **Requested Relief**

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Specific actions are documented in the attachment.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

7. **Protection From Abuse (PFA)/ Domestic Violence**

Has a court granted you a “Protection From Abuse” order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a “Protection From Abuse” order or any other order for your personal safety or welfare?

YES NO X

If your answer to the above question is “yes,” attach a copy of the current Protection From Abuse order to this Formal Complaint form.

8. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC’s Bureau of Consumer Services (BCS)?

YES NO X

Note: If you answered yes, move to Section 9. No further contact with the utility or company is required. If you answered no, answer the question in Section 8 b. and answer the question in Section 8 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES NO X

Note: You **must** contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

This complaint is about a regulatory issue, not a billing or service issue. Aqua's Customer Service is not able to address this issue.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

9. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are **not** required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and email address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name **None** _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are **required** to have a lawyer represent them at a hearing **and** to file any motions, answers, briefs or other legal pleadings.

10. **Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. **If you do not sign the Formal Complaint, the PUC will not accept it.**

Verification:

I William Ferguson hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to

prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

William Ferguson _____ 18-September-2023 _____
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

11 **How to File Your Formal Complaint**

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

If you are appealing a BCS decision: follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. **ONLY** Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. **All other formal complaints MUST be efiled or mailed.**

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records. Please know that your complaint form and the utility's answer will not be published to the PUC's website. Once your complaint case moves to the Office of Administrative Law Judge, any filings you make should be marked confidential if you do not want them published to the website.

First, page 13 of the PUC's complaint procedures guidelines states that it is appropriate to request that any hearing be conducted over the telephone. Telephonic hearings is definitely my preference.

The balance of this document is my detailed complaint along with its supporting documentation.

Thank you for your attention to this issue.

Bill Ferguson

Summary

This complaint focuses on Aqua's New Garden sewer customers (rate zone 11) being charged with a cost of \$1,200,000/yr that Aqua is not incurring. Aqua filed for a system wide rate increase during August-2021. That filing included a New Garden line item cost of \$1,200,000/yr for "Purchased Wastewater". At the time of filing Aqua knew or should have known that this cost would go to zero shortly after the filing date and many months before the rate increase would take effect. The PUC should not allow Aqua to be collecting revenue from ratepayers for this nonexistent cost.

I am requesting the PUC to investigate this situation. If it confirms this finding, Aqua should be required to refund overcharges incurred to date and to reduce future billings.

Complaint Details

On 20-August-2021 Aqua filed for a general rate increase¹. On 25-August-2021 Aqua then filed volumes 1 - 5 of their rate case documentation². That filing detailed operating expenses for New Garden on their Exhibit 1-G. Schedule C-1, page 1 (pdf page 662). Those expenses include a \$1,200,000/yr cost for "Purchased Wastewater" (Exhibit A). However, the filing never identifies what "Purchased Wastewater" is. Further on in the filing, Schedule C-7.1 (pdf page 682 and my Exhibit B) it notes that the service provider is Brandywine Septic.

On November 12, 2021 during the public comment part of the rate setting process I questioned what was "Purchased Wastewater". It represented over 63% of operating expenses in one line item. Aqua addressed that question in their 1-Jun-2022 Main Brief³ as follows:

¹ This was the PUC's docket case R-2021-3027386.

² Vol 1 – 5 rate case filing - <https://www.puc.pa.gov/pcdocs/1716839.pdf>

³ Aqua 1-Jun-2022 Main Brief - <https://www.puc.pa.gov/pcdocs/1746285.pdf> (Aqua's page 181 & pdf page 200)

2. Geoffrey Meyer, Peter Mrozinski and Bill Ferguson are neighbors and wastewater customers who testified at the public input hearing. They expressed concerns with the rate application filing and asked several questions. For example, they expressed concerns about purchased wastewater expense for New Garden. Mr. Duerr explained that purchased wastewater expense related to New Garden is costs for pumping and hauling wastewater for treatment at another location.

So that was the cost to truck wastewater from New Garden's South End plant to other locations for disposal. It was well known that New Garden had been trucking wastewater for several years. New Garden had noted that was costing about \$100,000/month.

At the time Aqua filed its rate increase it was working to activate a pipeline to eliminate the trucking operation. That project was complete before the end of 2021. Therefore, Aqua knew or should have known that the trucking expense would go to zero well before any rate increase took effect. Aqua should have been forecasting zero trucking expense in its 3/21/23 pro forma year. The actual forecast Aqua based its costs on is \$1,200,000/year.

Aqua made another major filing for this rate case on 4-Jan-2022⁴. That filing repeated many parts of the original filing including the New Garden cost data of which the \$1,200,000 is a part. That filing references Purchased Wastewater on pdf pages 667, 669, 671, 687 and 1,008. This apparently was an opportunity to update the filing. This filing was clearly after the trucking ended, but the cost was still included.

The following items validate that Aqua had terminated trucking New Garden wastewater by the end of 2021:

#1 Aqua participated in a New Garden public meeting on 21-Nov-2022. After that meeting the president of Aqua PA sent New Garden ratepayers a letter dated 9-December-2022 (Exhibit C). It states that Aqua spent \$800,000 on trucking while activating a pipeline. He clearly states that the pipeline replaced trucking several months after acquiring the system in December 2020. By the end of 2021 trucking of New Garden wastewater stopped.

⁴ Aqua rate case filing 4-jan-2022 - <https://www.puc.pa.gov/pcdocs/1729409.pdf>

- #2 At the 21-Nov-2022 meeting noted above, Aqua's operations manager discussed the issues with New Garden's South End system. He noted that it took about eight months to activate an existing pipeline. Once that was done, the cost of trucking was eliminated. Here is a link to a video of that meeting: <https://www.facebook.com/Ginny4PA/videos/1221133465137182>. The relevant part of the video starts at 1:30:00 and continues for about three minutes. At the end of that segment he clearly states that trucking had ended within the first year Aqua owned the system.
- #3 Aqua files annual reports with the PUC. Exhibit D is from Aqua Wastewater's 2021 annual report (New Garden lines highlighted)⁵. It confirms that Aqua invested in two capital projects related to New Garden's South End operations. It indicates that the pipeline project was complete by year end 2021.

Conclusions

Since Aqua's rate increase went into effect in May-2022, Aqua has been collecting \$1,200,000/year from New Garden ratepayers specifically for a cost they are not incurring.

A major part of Aqua's business is running pipeline operations. Relatively few incidents indicates they are very good at it. When Aqua filed for its rate increase it knew or should have known that the trucking expense would be eliminated within a very few months, well before a rate increase would take effect.

It is probably factual that the trucking cost was still being incurred on the date of the rate filing. But the basis for setting rates is a future year forecast. Their trucking cost forecast for their future proof year should have been zero. Yet, they forecast the \$1,200,000/yr for the 23-March-2023 year of operation. This appears to be Aqua taking advantage of the situation to profit above what the PUC allowed Aqua to earn from their New Garden sewer operation.

This should not be acceptable to the PUC. I am requesting the PUC to investigate Aqua's "Purchased Wastewater" expenses. If the excess charge is verified, it should be removed from the revenue Aqua is allowed to collect from New Garden ratepayers. All trucking funds collected so far should be refunded to customers.

⁵ Aqua Wastewater 2021 annual report - <https://www.puc.pa.gov/pcdocs/1754255.pdf>

Exhibit A

Docket No. R-2021-3027386
Exhibit 1-G

Schedule C-1
Witness: William C. Packer

AQUA PENNSYLVANIA WASTEWATER, INC. - NEW GARDEN

NOTES TO STATEMENT OF INCOME

OPERATING EXPENSES

EXPENSE DETAIL ACCOUNTS

LINE NO.	Acct. No.	Account Title	PER BOOKS 3/31/21	PRESENT RATES 3/31/21	PRESENT RATES 3/31/22	PRESENT RATES 3/31/23
	(1)	(2)	(3)	(4)	(5)	(6)
1		--Collection--				
2		-Operations-				
3	7151	Purchased Power	30,750	30,750	135,832	130,019
4	7161	Purchased Power	203	203	896	858
5		-Maintenance-				
6	7362	OS Other	5,095	25,475	25,921	26,361
7						
8		Total Collection Expense	\$ 36,048	\$ 56,428	\$ 162,649	\$ 157,238
9						
10		--Pumping--				
11		-Operations-				
12	7183	Chemicals	357	1,428	1,428	1,428
13	7203	Supplies	4,988	4,988	5,075	5,161
14		-Maintenance-				
15	7354	OS Lab Testing	670	15,670	15,944	16,215
16	7364	OS Other	19,497	97,485	99,191	100,877
17						
18		Total Pumping Expense	\$ 25,512	\$ 119,571	\$ 121,638	\$ 123,682
19						
20		--Treatment & Disposal--				
21		-Operations-				
22	7105	Purchased Wastewater	249,695	1,200,000	1,200,000	1,200,000
23	7365	OS Other	10,335	51,675	52,579	53,473
24		-Maintenance-				
25	7366	OS Other	20,970	104,850	106,684	108,498
26						
27		Total Treatment & Disposal Expense	\$ 280,999	\$ 1,356,524	\$ 1,359,263	\$ 1,361,970
28						

Exhibit B

Docket No. R-2021-3027386
Exhibit 1-G

Schedule C-7.1
Witness: Christopher M. Henkel

AQUA PENNSYLVANIA WASTEWATER, INC. - NEW GARDEN

NOTES TO STATEMENT OF INCOME

OPERATING EXPENSES

PURCHASED WASTEWATER TREATMENT EXPENSE

The Company's claim for purchased wastewater treatment expense is being annualized to give effect of a full twelve months of service for the New Garden Wastewater System. The service provider is Brandywine Septic.

LINE NO.	DESCRIPTION	PRESENT RATES 3/31/2021 AMOUNT	PRESENT RATES 3/31/2022 AMOUNT	PRESENT RATES 3/31/2023 AMOUNT
1	Claimed Purchased Wastewater Expense	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000
2	Less: Amount Charged to Operating Expense			
3	During the Twelve Months Ended 3/31/2021	249,695		
4	Less: Present Rates 3/31/2021		1,200,000	
5	Less: Present Rates 3/31/2022			1,200,000
6	Increase/(Decrease)	<u>\$ 950,305</u>	<u>\$ -</u>	<u>\$ -</u>
7	Pro Forma Adjustment:			
8	7105	\$ 950,305	\$ -	\$ -

Exhibit C

The following is Aqua's letter to New Garden ratepayers following up on the 21-Nov-2022 public meeting.



December 9, 2022

Dear New Garden Township Aqua Customer,

I want to thank township supervisors for inviting us to their November meeting with you to discuss the sewer system. My colleagues and I appreciated your questions and comments regarding sewer system operations and rates. An important point we shared at the meeting, which is worth repeating, is that our customer rates are set by the Pennsylvania Public Utility Commission (PUC) and that our requested rate adjustment was consistent with the agreement we made with the township including a 5,000-gallon allowance in your quarterly bill. The PUC, however, chose a different proposal presented in the case which is within their authority and they set your rates accordingly.

Other information we shared at the meeting focused on sewer system operations. Once your wastewater is treated, it is disposed of by spraying onto fields dedicated for this purpose. The facilities and spray field condition matter significantly to our operations and ability to protect the environment. Upon taking ownership, the condition of the facilities required that we immediately contact the PA Department of Environmental Protection to enter into an agreement in which we committed to improve operations. Initially, we had to truck excess treated wastewater from one wastewater treatment plant to another which cost more than \$800,000. After several months, we replaced hauling with a pipeline connecting the two treatment plants. It was work our experienced, dedicated, and creative employees completed safely and expeditiously. Over the next 10-years we expect investment needs to be more than \$11 million to sustain operations and environmental compliance. Please know that we will continue to evaluate alternatives that maintain operations, environmental compliance, and reduce capital investment and operational expense. We also discussed our active pursuit of grants and low-interest loans.

In closing, I want to say again that we are proud of the work we do, our commitment to environmental protection, the service we provide and are excited to be your sewer system service provider. I also want to remind you that we are aware how rates impact you and will continue to evaluate repair and replacement of these systems so that we may ensure uninterrupted, quality service and compliance. You can rest assured that we will never minimize our responsibility or avoid a challenge, so that your service is never compromised and the environment in which we operate will not suffer.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Lucca".

Marc A. Lucca
President, Aqua Pennsylvania

Exhibit D

The following is a page from Aqua's 2021 annual report to the PUC.

Aqua Pennsylvania Wastewater, Inc.

For the Year Ended December 31, 2021

(Company Name)

204. CONSTRUCTION WORK IN PROGRESS - Account No. 105.0

1. Describe the particulars concerning utility plant in process of construction but not ready for service at end of Calendar Year.
2. Describe separately each work order that exceeds an estimated expenditure of \$250,000 or 1%, whichever is lesser, of the book cost of utility plant at the beginning of the year. All other work orders may be grouped by nature of project.

Line No.	Description of Work (a)	Balance End of Year (b)	Estimate Total Cost of Construction (c)	Projected In-Service Date (d)
1	15075081550 Media WWTP Upgrade - Phase II	17,486,621	18,236,621	12/31/21
2	15089491798 Penn Twp WWTP Upgrade I (B1-2)	1,551,373	4,751,373	12/31/22
3	15084087775 Rehab Thornhurst WWTP	772,704	3,772,704	10/31/22
4	15081003127 Pinecrest WWTP Upgrade	6,474	3,656,474	12/31/25
5	15079003128 Rivercrest WWTP Upgrade I	348,056	3,363,056	12/31/22
6	15088006258 Masthope WWTP Add Treatment Train	125,276	3,275,276	12/31/23
7	15087087776 Upgrade Laurel Lakes WWTP	414,727	2,764,727	12/31/23
8	15089216947 Lake Harmony Hydraulic Improvements	1,964,120	2,664,120	12/31/21
9	15070087544 Headworks Improvements-LW (A-1)	2,398,284	2,398,284	12/31/21
10	15025070312 W Springs WWTP Upgrades Phase 1A	506,350	1,923,350	12/31/23
11	15078006637 WH Collection System Imprv (2019)	129,008	1,659,008	12/31/22
12	15068017506 New Garden Spray Field Automation	1,361,970	1,361,970	3/31/22
13	15069214471 PennDot SR202 Sewer Relocation	94,259	1,339,259	12/31/22
14	15090014365 Delcora-Infrastructure	960,204	1,255,604	12/31/21
15	15089476471 Jenners Pond Pump Station Upgrade	1,136,148	1,186,148	12/31/21
16	15069111889 Cheltenham Sewer I&I Program	1,049,708	1,049,708	12/31/22
17	15071006585 Peddlers WWTP Upgrade PLC	1,306	1,011,306	12/31/22
18	15064013170 Stony Creek Electrical Upgrades	16,954	816,954	12/31/22
19	15089367286 TL West WWTP-Copper TrmntAdd(WER)	761,945	761,945	6/30/22
20	15070091530 Rehab (6) Process Tanks- LWW	48,819	698,819	12/31/25
21	15068020333 New Garden Dry Line Activation	666,833	666,833	12/31/21
22	15063076694 Repl Effluent Pump Station - WWTP	87,522	637,522	12/31/22
23	15069311220 VCTS Elec Upg @ Wilson Rd PS	616,908	616,908	9/30/22
24	15083076711 ER Relocate & repl Bellacola PS	23,658	603,658	12/31/23
25	15063003132 Cove Village-Ballpark (Stratton) PS	94,252	601,752	12/31/24
26	15063003286 CV Replace Haystack PS	91,893	599,393	12/31/23
27	15078024405 WH Rehab Treatment Train A	595,817	595,817	12/1/21
28	15063003133 Cove Village Princess PS Replace	81,302	588,802	12/31/24