

BEFORE THE
ILLINOIS COMMERCE COMMISSION

AQUA ILLINOIS, INC.	:	
	:	
Proposed general increase in water rates for	:	Docket No. 06-0285
the Kankakee Division	:	

Rebuttal Testimony of
Scott J. Rubin

on Behalf of

County of Kankakee

September 5, 2006

Introduction

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Q. Please state your name and business address.

A. My name is Scott J. Rubin. My business address is 3 Lost Creek Drive, Selinsgrove, PA.

Q. By whom are you employed and in what capacity?

A. I am an independent consultant and an attorney. My practice is limited to matters affecting the public utility industry.

Q. What is the purpose of your testimony in this case?

A. I have been asked by the County of Kankakee (County) to review the request for a rate increase, testimony, and related documents filed by Aqua Illinois, Inc. (Aqua or Company) for the Kankakee Division. I also have reviewed the testimony filed by the Staff of the Illinois Commerce Commission (Commission) and the rebuttal testimony filed by Aqua. My testimony will respond specifically to portions of both Staff's direct testimony and Aqua's rebuttal testimony.

Q. What are your qualifications to provide this testimony in this case?

A. I have testified as an expert witness before utility commissions or courts in the District of Columbia and in the states of Arizona, Delaware, Kentucky, Illinois, Maine, Maryland, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. I also have testified as an expert witness before two committees of the U.S. House of Representatives and one committee of the Pennsylvania House of Representatives. I also have served as a consultant to the staff of two state utility commissions, several national utility trade associations, and state and local governments throughout the country. Prior to establishing my own consulting and law practice, I was employed by the Pennsylvania

23 Office of Consumer Advocate (Office) from 1983 through January 1994 in increasingly
24 responsible positions. From 1990 until I left the Office, I was one of two senior attorneys
25 in that Office. Among my other responsibilities in that position, I had a major role in
26 setting the Office's policy positions on water and electric matters. In addition, I was
27 responsible for supervising the technical staff of that Office. I also testified as an expert
28 witness for that Office on rate design and cost of service issues.

29 Throughout my career, I developed substantial expertise in matters relating to the
30 economic regulation of public utilities. I have published articles, contributed to books,
31 written speeches, and delivered numerous presentations, on both the national and state
32 level, relating to regulatory issues. I have attended numerous continuing education
33 courses involving the utility industry. I also periodically participate as a faculty member
34 in utility-related educational programs for the Institute for Public Utilities at Michigan
35 State University, the American Water Works Association, and the Pennsylvania Bar
36 Institute. Appendix A to this testimony is my curriculum vitae.

37 **Q. Do you have any experience that is particularly relevant to the issues in this case?**

38 A. Yes, I do. I have testified in numerous water utility rate cases, including the most recent
39 rate case for Aqua's largest affiliate, Aqua Pennsylvania, Inc. My testimony often deals
40 with rate design, cost of service, tariff, and related public policy issues. I also have
41 worked as a consultant to local government entities on rate design issues – both to assist
42 government-owned utilities in designing rates and to help government agencies obtain
43 reasonable rates from their utility. I also served on the editorial committee for the
44 preparation of the major rate design manual for the water utility industry, the American

45 Water Works Association's Manual M1: *Principles of Water Rates, Fees, and Charges*,
46 published in 2000.

47 In Illinois, I have been retained by the Office of the Attorney General as an expert
48 witness and consultant in several recent cases, including the rate cases for
49 Commonwealth Edison Company and Ameren's Illinois utility operating companies.

50 In the water sector, I testified on rate design, cost of service, and tariff issues in
51 the most recent rate cases involving Pennsylvania American Water Co., Illinois American
52 Water Co., Kentucky American Water Co., West Virginia American Water Co., and
53 Aqua Pennsylvania, Inc. In addition, I served as a consultant to the staff of the
54 Connecticut Department of Public Utility Control in the most recent Aquarion Water
55 Company of Connecticut rate case, and I am currently serving as a consultant and expert
56 witness for the staff of the Delaware Public Service Commission in a rate case involving
57 Artesian Water Company.

58 Summary

59 **Q. What is the primary focus of your rebuttal testimony?**

60 A. My rebuttal testimony focuses on three issues: (1) Staff's proposed rate design and
61 Aqua's response thereto; (2) Aqua's rebuttal concerning its proposed Plant Facilities
62 Charge (PFC); and (3) Aqua's continuing refusal to provide information about a
63 substantial portion of its claim for rate case expenses.

64 **Q. Please summarize your conclusions.**

65 A. First, I conclude that Staff's proposed rate design would place an unreasonably large
66 burden on commercial and industrial customers in the County, while providing a very

67 modest benefit to only some residential customers. I support Aqua's revised rate design
68 proposal, which I believe achieves a reasonable balance among all customer classes.

69 Second, I conclude that Aqua's proposed PFC would force new customers to
70 become investors in Aqua without receiving any of the benefits of being investors and
71 without receiving a reduction in rates. The Company's rebuttal testimony on this issue
72 does not provide valid reasons for imposing an onerous charge on new customers.
73 Further, the proposed PFC is likely to place the County at a competitive disadvantage and
74 is not consistent with well-established regulatory principles.

75 Third, I conclude neither Aqua's recent discovery responses nor its rebuttal
76 testimony provide adequate support for a portion of its claimed rate case expense.
77 Specifically, Aqua's continued failure to provide relevant, non-privileged information
78 should result in the denial of its claim for outside legal expenses associated with this rate
79 case.

80 Rate Design

81 **Q. Have you reviewed the Staff's rate design testimony and Aqua's rebuttal testimony**
82 **on that issue?**

83 A. Yes, I have reviewed the testimony of Staff witness Luth (Staff Exh. 6.0) and the rebuttal
84 of Aqua witness Monie (Aqua Exh. 9.0), both of which address rate design.

85 **Q. Please summarize your understanding of the various rate design proposals in this**
86 **case.**

87 A. I have prepared County Exhibit 1.1 to show the various proposals in one location. As
88 that exhibit shows, Aqua's original proposal would have imposed increases ranging

89 between approximately 22% (industrial) and 25% (residential) on each metered customer
90 class, not including the collection of public fire costs. When the public fire surcharge is
91 included, the typical residential customer's bill would have increased by approximately
92 26%. Aqua's original proposal also contains a 40% increase for private fire customers.

93 Mr. Luth proposed a significant change in Aqua's rate design proposal. When the
94 current QIPS charge is included, Mr. Luth is proposing a reduction in most of Aqua's
95 customer charges, while increasing the consumption charges by between 28% (industrial)
96 and 38% (residential). This results in substantially larger increases for industrial
97 customers (25.3% compared to the Company's filing of 22.2%). Mr. Luth also
98 significantly increases the allocation of costs to public fire service, resulting in increases
99 in public fire surcharges between 19% (Kankakee Township) and 151% (Grant Park Fire
100 District), as I show on County Exhibit 1.2.

101 Finally, in Mr. Monie's rebuttal testimony, Aqua accepts some of Staff's changes
102 (the higher public fire surcharges), but rejects others, such as the effective decreases in
103 most customer charges.

104 **Q. What effect would the various proposals have on a typical residential customer?**

105 A. At the bottom of County Exhibit 1.1, I calculate a bill for a typical residential customer
106 using 700 cubic feet per month in the City of Kankakee. It can be seen that the difference
107 between the various proposals amounts to less than 40 cents per month for a typical
108 residential customer.

109 **Q. Given this small difference, why does it matter which proposal is adopted?**

110 A. It matters a great deal for customers who are not “typical” residential customers. For
111 example, in the Grant Park area the difference in the public fire surcharges between Staff
112 and the original filing is more than \$2 per month. Moreover, for customers who use large
113 amounts of water, including schools, hospitals, and other large commercial and industrial
114 customers, Staff’s proposal would result in significantly higher rate increases than the
115 Company’s original filing. For example, for a large customer with a 6-inch turbine meter
116 using 11,000 ccf per month, the Company’s original proposal would have resulted in a
117 21.8% increase (increasing the bill from \$13,164.72 per month to \$16,037.10 per month),
118 Staff’s proposal would be a 26.1% increase (\$16,597.58 per month), and the Company’s
119 revised proposal would be an increase of 21.4% (\$15,984.23 per month).

120 **Q. What do you recommend?**

121 A. I recommend that the Commission adopt Aqua’s revised rate design proposal. In my
122 opinion, Aqua’s revised proposal fairly balances the interests of the various customer
123 classes, while remaining consistent with the results of the cost of service study. Aqua’s
124 proposal uses the increased revenues from the public fire surcharges to reduce customer
125 charges. While this does not result in customers’ bills being exactly the same (customers
126 in some municipalities and fire districts will see fire surcharges increase by more than the
127 customer charge reduction, while others will pay less), it represents a reasonable use of
128 the increased public fire proceeds.

129 Importantly, Aqua’s revised proposal does not result in the reduction of any
130 customer charges or fire surcharges. This represents a marked improvement over Aqua’s
131 original rate filing (which has reductions in some fire surcharges) and Staff’s proposal
132 (which has reductions in most customer charges, after the QIPS is taken into account). It

133 is unreasonable for any rates to be reduced in the context of an overall increase of 24.5%
134 as the Company has proposed.

135 It is also significant that Aqua's revised proposal does not result in higher
136 increases for large water users than Aqua originally proposed. As I mentioned above,
137 Staff's proposal would adversely affect industry, local governments, school districts,
138 hospitals, and other large water users.

139 Plant Facilities Charge

140 **Q. Have you reviewed the Staff's testimony concerning Aqua's proposed Plant**
141 **Facilities Charge (PFC), and Aqua's rebuttal testimony on that issue?**

142 A. Yes, I have reviewed the testimony of Staff witness Luth (Staff Exh. 6.0, lines 268-304)
143 and the rebuttal of Aqua witness Monie (Aqua Exh. 9.0, lines 167-262). I also have
144 reviewed Aqua's responses to data requests concerning this issue.

145 **Q. What is your understanding of the proposed PFC?**

146 A. Aqua is proposing a new tariff provision, the PFC, that would require each lot in a new
147 development to pay a connection fee to Aqua, ranging from \$1,453 (5/8-inch meter) to
148 \$7,625 (1.5-inch meter and larger). In essence the PFC is a capital contribution to Aqua,
149 supposedly representing a contribution toward existing facilities that are used to serve the
150 customer.

151 **Q. In his rebuttal, Mr. Monie gives several reasons why the PFC should be approved.**
152 **Do you agree with him?**

153 A. No, I do not agree with Mr. Monie's reasons for supporting the PFC.

154 **Q. Mr. Monie’s first point is that it is unfair to existing customers if new customers can**
155 **come on the system and use facilities “that existing customers have been paying for,**
156 **in most cases, for many years.” Why do you disagree with him?**

157 A. Mr. Monie’s testimony represents a fundamental misunderstanding of the rate-setting
158 process. Customers do not “pay for” facilities. Customers pay a return on funds that the
159 utility has invested, they are not buying an interest in the facilities. Customers also pay
160 depreciation expense, which reflects the reduction in the value of facilities during the
161 current year.¹ By paying depreciation expense, customers are not investing in the
162 facilities, they are paying for the use of those facilities during the current year. Thus, Mr.
163 Monie’s first rationale for the PFC is not correct: customers have not been paying for
164 facilities and have nothing to be compensated for when a new customer begins using the
165 same facilities. The new customers will pay the existing rates, which include an
166 allowance for the current use of the facilities (depreciation expense). As such, all
167 customers will pay their fair share of the cost of using existing facilities.

168 **Q. If new customers were required to pay a PFC as a capital contribution toward**
169 **existing facilities, what would happen?**

170 A. If a PFC were approved, then new customers would be paying twice for the use of
171 existing facilities: once through rates (those rates include a return of and return on the
172 Company’s investment in those facilities) and a second time through the PFC. That is
173 fundamentally unfair and should not be permitted.

¹ The American Water Works Association (AWWA) and the National Association of Regulatory Utility Commissioners (NARUC) define depreciation as “the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of utility plant in the course of service” *Water Utility Accounting* (AWWA, 3rd Ed. 1995), citing *Public Utility Depreciation Practices* (NARUC, the most current edition of which was published in 1996).

174 **Q. Mr. Monie also testifies that the cost of serving new developments is more expensive**
175 **than the cost of serving existing customers. Does this justify the proposed PFC?**

176 A. No, it does not. It is more expensive to serve some customers than others. For example,
177 some customers are located very close to the treatment plant while others may be miles
178 away. The entire purpose of single-tariff pricing (that is, serving all similarly situated
179 customers under the same tariff) is to average costs over a broad group of customers.
180 This cost-averaging provides substantial benefits in the long term, not the least of which
181 are reducing the record-keeping burden on the utility and enabling all customers to share
182 in the costs of new investments (which greatly minimizes the impact of any single
183 investment on the customers who benefit from it). Mr. Monie's proposal directly
184 contradicts the purpose of single-tariff pricing by carving out a particular group of
185 customers to pay higher rates than everyone else.

186 Further, I take issue with Mr. Monie's statement that "as water systems grow, the
187 average cost of serving each customer increases." If that were truly the case, after
188 considering developer contributions, then utility systems should not expand. While the
189 cost of providing safe and reliable water service has been increasing, there is no evidence
190 that the increase is the result of adding new customers. Rather, it appears more likely that
191 the cost increases are the result of inflation, replacing or upgrading existing facilities, and
192 meeting more stringent water treatment requirements. There are substantial economies of
193 scale inherent in the provision of water service – spreading the substantial fixed costs of a
194 utility (management, billing and customer service departments, transportation equipment,
195 office buildings, treatment plant, transmission mains, pumping and storage facilities, and
196 so on) over more customers – and the Company has not demonstrated that growth is

197 causing increases in the cost per customer. Further, if it were demonstrated that growth
198 were causing increases in the average cost per customer, that would raise serious
199 questions about the prudence of the utility pursuing a growth strategy.

200 **Q. Are there other indications that the PFC is not needed to enable Aqua to serve new**
201 **customers without harming existing customers?**

202 A. Yes. Mr. Monie calculates that the contribution from each new customer should be
203 \$1,439. I examined Aqua's annual reports in Illinois for 2003 and 2005 to try to
204 determine whether contributions in aid of construction (CIAC), without a PFC, were
205 sufficient to recover this cost (the annual report shows relevant figures for Aqua Illinois
206 as a whole, not the Kankakee Division). At year-end 2003, Aqua showed net CIAC of
207 \$16,162,152 and 54,348 customers. At year-end 2005, Aqua had net CIAC of
208 \$21,972,338 and 57,899 customers. In other words, during that two-year period, Aqua
209 added 3,551 customers in Illinois, and received an additional \$5,810,186 in CIAC. This
210 is an average of \$1,636 for each new customer, which exceeds the amount that Mr.
211 Monie claims is necessary.

212 **Q. Mr. Monie also states that because PFC payments will be CIAC, "the revenues from**
213 **the PFC will not, in any way, accrue to the stockholders of the Company." Is this**
214 **accurate?**

215 A. No, it is not entirely accurate. This statement fails to recognize that PFC payments would
216 reduce the Company's need to finance working capital between rate cases, which
217 provides a direct benefit to stockholders. Mr. Monie acknowledged this in response to
218 County data request 2.4, a copy of which is attached as County Exhibit 1.3.

219 **Q. Are there other reasons why the proposed PFC would not be in the public interest?**

220 A. Yes, the PFC could place Kankakee County at a competitive disadvantage when
221 attempting to attract new business or other development. In effect, the proposed PFC
222 would make it more expensive for land to be developed within Aqua's service area in the
223 County. In my opinion, this could have an adverse effect on land prices and taxpayers
224 within the County.

225 **Q. What do you recommend?**

226 A. I recommend that the Commission reject Aqua's proposed PFC. The charge is not
227 needed to adequately compensate Aqua or its customers for costs associated with new
228 development. The utility has the obligation to raise capital. The proposed PFC would
229 shift some of that obligation to customers, which is neither reasonable nor necessary
230 given Aqua's generally healthy financial condition. There is not a sound basis in public
231 policy for imposing such a charge, and the imposition of such a charge could have an
232 adverse impact on economic development within the County.

233 **Rate Case Expense**

234 **Q. Have you reviewed Aqua's rebuttal testimony concerning rate case expense?**

235 A. Yes, I have reviewed Mr. Schreyer's rebuttal testimony on this issue (Aqua Exh. 7, lines
236 91-585).

237 **Q. Do you have concerns with any portion of that testimony?**

238 A. Yes, I am very concerned about, and strongly disagree with, Mr. Schreyer's rebuttal
239 testimony concerning expenses for outside legal services. In particular, I disagree with
240 Mr. Schreyer's claim that the invoices provided to Aqua by its counsel are protected by

241 attorney-client privilege. Further, I have attempted to obtain detailed summaries of the
242 invoices, eliminating any potentially privileged information, but Aqua has refused to
243 provide this information either. Based on the information that Aqua has provided, it is
244 impossible to determine whether Aqua's claim for outside legal services is valid. I
245 conclude, therefore, that the portion of Aqua's rate case expense claim for outside legal
246 services must be rejected in its entirety.

247 **Q. You stated that you disagree with Aqua's claim that its bills for legal services are**
248 **subject to attorney-client privilege. Why do you reach that conclusion?**

249 A. As you know, I am an attorney in addition to being a consultant. I am not providing a
250 legal opinion, but I am relying on my experience as both a regulatory attorney and
251 consultant. Neither my bills for legal services nor those of other attorneys I know contain
252 advice to clients or an attorney's mental impressions concerning a matter. Once a case is
253 filed and my representation of a client is made public, the fact that I performed certain
254 work for a client is not privileged; only the specific legal advice I give to the client (or
255 information the client gives to me) is privileged.

256 In addition, over the years I have been involved in dozens, if not hundreds, of rate
257 cases. I have never before seen a utility claim that everything in its bills for legal services
258 (except the attorney's name and the total number of hours) is subject to attorney-client
259 privilege. When a utility makes a claim for legal services, the utility recognizes that it
260 bears the burden of proving that those expenses are reasonably and prudently incurred in
261 the provision of utility service. Utilities routinely produce supporting bills from law
262 firms in order to meet that burden of proof. There is no other way to verify the accuracy,
263 relevance, reasonableness, and prudence of the utility's claim for legal services.

264 **Q. Mr. Schreyer claims that Aqua’s assertion of privilege as to legal bills is “standard**
265 **practice before the Commission” (19:403). Do you agree?**

266 A. No, I do not agree. Precisely this issue was addressed by the Commission in Aqua’s last
267 rate case (Docket No. 04-0442). In its Order, the Commission ruled: “attorney-client
268 privilege does not extend to legal bills where the utility has put them at issue to collect
269 rate case expense in the new rates. The privilege does not exist as asserted by Aqua, and
270 therefore is not a justification for failing to produce the required documents.”

271 I agree completely with the Commission’s decision. A utility cannot claim that it
272 is entitled to recover an expense and then refuse to provide information to document that
273 the expense was reasonably and prudently incurred in the provision of service to its
274 customers.

275 **Q. In your experience, is a utility’s assertion of privilege as to legal bills “standard**
276 **practice” in any other jurisdictions?**

277 A. No, it is not. I have participated in rate cases in several other jurisdictions and I have
278 never seen a utility claim that essentially the entire bill for legal services is privileged.
279 Moreover, I conducted some cursory research into this matter and I identified at least two
280 other state utility commissions that have issued decisions that reach the same conclusion
281 that this Commission has reached:

282 • *Matanuska Electric Association, Inc.*, 2000 Alas. PUC LEXIS 472 (Reg.
283 Comm. of Alas. 2000): “Thus, we find, as a legal matter, that the subject
284 matter of MEA's legal expenditures is not protected from disclosure under
285 the attorney-client privilege. Furthermore, we find, as a policy matter, that
286 we cannot adequately address the reasonableness of MEA's legal
287 expenditures in this Docket without knowing the subject matter or ‘general
288 purpose of the work performed.’”

289 • *Citizens Communications Company* (Vt. Pub. Svc. Bd. June 24, 2002):
290 “[I]nformation regarding ‘the general nature of the services performed’ is
291 not privileged, while information ‘that reveals specific research or
292 litigation strategy’ is privileged. The fundamental inquiry is whether the
293 attorney bills reveal anything regarding the legal advice sought or given,
294 or regarding the mental impressions, conclusions or legal theories of the
295 attorney.” (citations omitted)

296 In short, I find no support for Aqua’s assertion of attorney-client privilege as to
297 the contents of its legal bills, when it is making an affirmative claim for recovery of
298 expenses shown on those bills.

299 **Q. Even though you do not believe that Aqua has a valid claim of privilege, did you**
300 **nevertheless attempt to provide Aqua with a way for you to verify the expenses**
301 **without providing the actual legal bills?**

302 A. Yes, I did. In County data request 2.8, we gave Aqua an opportunity to provide a
303 detailed summary of its outside law firm’s bills, by category. By definition, such a
304 summary would not contain any of the attorney’s mental impressions or advice. I do not
305 consider this to be an adequate substitute for reviewing the actual bills, but I thought this
306 might provide a way to avoid a confrontation with Aqua on this issue.

307 **Q. Did Aqua provide the summary you requested?**

308 A. No, Aqua refused to provide the summary, claiming that the information is privileged.
309 I am attaching a copy of Aqua’s response dated August 23, 2006, as County Exhibit 1.4.

310 **Q. From the information that Aqua has provided, is it possible to verify the outside**
311 **legal services portion of its rate case expense claim?**

312 A. No, it is not. From the information Aqua provided, there is no way to know if the outside
313 law firm billed for services solely related to this case, or if those costs were reasonably
314 and prudently incurred by Aqua.

315 **Q. What do you recommend?**

316 A. I recommend that the Commission disallow Aqua's entire claim for outside legal services
317 associated with this rate case. Aqua's original claim for outside legal services was
318 \$261,000. Mr. Schreyer revised the claim to \$241,712 in his rebuttal testimony (27:578).
319 This entire amount should be disallowed because it cannot be verified.

320 **Conclusion**

321 **Q. Does this conclude your rebuttal testimony?**

322 A. Yes, it does.

Appendix A

Scott J. Rubin

Attorney + Consultant

3 Lost Creek Drive • Selinsgrove, PA 17870

Current Position

Public Utility Attorney and Consultant, Selinsgrove, PA. 1994 to present. I provide legal, consulting, and expert witness services to various organizations interested in the regulation of public utilities.

Previous Positions

Lecturer in Computer Science, Susquehanna University, Selinsgrove, PA. 1993 to 2000.

Senior Assistant Consumer Advocate, Office of Consumer Advocate, Harrisburg, PA. 1990 to 1994.

I supervised the administrative and technical staff and shared with one other senior attorney the supervision of a legal staff of 14 attorneys.

Assistant Consumer Advocate, Office of Consumer Advocate, Harrisburg, PA. 1983 to 1990.

Associate, Laws and Staruch, Harrisburg, PA. 1981 to 1983.

Law Clerk, U.S. Environmental Protection Agency, Washington, DC. 1980 to 1981.

Research Assistant, Rockville Consulting Group, Washington, DC. 1979.

Current Professional Activities

Member, American Bar Association, Public Utility Law Section.

Member, American Water Works Association.

Admitted to practice law before the Supreme Court of Pennsylvania, the New York State Court of Appeals, the United States District Court for the Middle District of Pennsylvania, the United States Court of Appeals for the Third Circuit, and the Supreme Court of the United States.

Previous Professional Activities

Member, American Water Works Association, Rates and Charges Subcommittee, 1998-2001.

Member, Federal Advisory Committee on Disinfectants and Disinfection By-Products in Drinking Water, U.S. Environmental Protection Agency, Washington, DC. 1992 to 1994.

Chair, Water Committee, National Association of State Utility Consumer Advocates, Washington, DC. 1990 to 1994; member of committee from 1988 to 1990.

Member, Board of Directors, Pennsylvania Energy Development Authority, Harrisburg, PA. 1990 to 1994.

Member, Small Water Systems Advisory Committee, Pennsylvania Department of Environmental Resources, Harrisburg, PA. 1990 to 1992.

Member, Ad Hoc Committee on Emissions Control and Acid Rain Compliance, National Association of State Utility Consumer Advocates, 1991.

Member, Nitrogen Oxides Subcommittee of the Acid Rain Advisory Committee, U.S. Environmental Protection Agency, Washington DC. 1991.

Education

J.D. with Honors, George Washington University, Washington, DC. 1981.

B.A. with Distinction in Political Science, Pennsylvania State University, University Park, PA. 1978.

Publications and Presentations

“Quality of Service Issues,” a speech to the Pennsylvania Public Utility Commission Consumer Conference, State College, PA. 1988.

K.L. Pape and S.J. Rubin, “Current Developments in Water Utility Law,” in *Pennsylvania Public Utility Law* (Pennsylvania Bar Institute). 1990.

Presentation on Water Utility Holding Companies to the Annual Meeting of the National Association of State Utility Consumer Advocates, Orlando, FL. 1990.

“How the OCA Approaches Quality of Service Issues,” a speech to the Pennsylvania Chapter of the National Association of Water Companies. 1991.

Presentation on the Safe Drinking Water Act to the Mid-Year Meeting of the National Association of State Utility Consumer Advocates, Seattle, WA. 1991.

“A Consumer Advocate's View of Federal Pre-emption in Electric Utility Cases,” a speech to the Pennsylvania Public Utility Commission Electricity Conference. 1991.

Workshop on Safe Drinking Water Act Compliance Issues at the Mid-Year Meeting of the National Association of State Utility Consumer Advocates, Washington, DC. 1992.

Formal Discussant, Regional Acid Rain Workshop, U.S. Environmental Protection Agency and National Regulatory Research Institute, Charlotte, NC. 1992.

S.J. Rubin and S.P. O'Neal, “A Quantitative Assessment of the Viability of Small Water Systems in Pennsylvania,” *Proceedings of the Eighth NARUC Biennial Regulatory Information Conference*, National Regulatory Research Institute (Columbus, OH 1992), IV:79-97.

“The OCA's Concerns About Drinking Water,” a speech to the Pennsylvania Public Utility Commission Water Conference. 1992.

Member, Technical Horizons Panel, Annual Meeting of the National Association of Water Companies, Hilton Head, SC. 1992.

M.D. Klein and S.J. Rubin, “Water and Sewer -- Update on Clean Streams, Safe Drinking Water, Waste Disposal and Pennvest,” *Pennsylvania Public Utility Law Conference* (Pennsylvania Bar Institute). 1992.

Presentation on Small Water System Viability to the Technical Assistance Center for Small Water Companies, Pa. Department of Environmental Resources, Harrisburg, PA. 1993

- “The Results Through a Public Service Commission Lens,” speaker and participant in panel discussion at Symposium: “Impact of EPA's Allowance Auction,” Washington, DC, sponsored by AER*X. 1993.
- “The Hottest Legislative Issue of Today -- Reauthorization of the Safe Drinking Water Act,” speaker and participant in panel discussion at the Annual Conference of the American Water Works Association, San Antonio, TX. 1993.
- “Water Service in the Year 2000,” a speech to the Conference: “Utilities and Public Policy III: The Challenges of Change,” sponsored by the Pennsylvania Public Utility Commission and the Pennsylvania State University, University Park, PA. 1993.
- “Government Regulation of the Drinking Water Supply: Is it Properly Focused?,” speaker and participant in panel discussion at the National Consumers League's Forum on Drinking Water Safety and Quality, Washington, DC. 1993. Reprinted in *Rural Water*, Vol. 15 No. 1 (Spring 1994), pages 13-16.
- “Telephone Penetration Rates for Renters in Pennsylvania,” a study prepared for the Pennsylvania Office of Consumer Advocate. 1993.
- “Zealous Advocacy, Ethical Limitations and Considerations,” participant in panel discussion at “Continuing Legal Education in Ethics for Pennsylvania Lawyers,” sponsored by the Office of General Counsel, Commonwealth of Pennsylvania, State College, PA. 1993.
- “Serving the Customer,” participant in panel discussion at the Annual Conference of the National Association of Water Companies, Williamsburg, VA. 1993.
- “A Simple, Inexpensive, Quantitative Method to Assess the Viability of Small Water Systems,” a speech to the Water Supply Symposium, New York Section of the American Water Works Association, Syracuse, NY. 1993.
- S.J. Rubin, “Are Water Rates Becoming Unaffordable?,” *Journal American Water Works Association*, Vol. 86, No. 2 (February 1994), pages 79-86.
- “Why Water Rates Will Double (If We're Lucky): Federal Drinking Water Policy and Its Effect on New England,” a briefing for the New England Conference of Public Utilities Commissioners, Andover, MA. 1994.
- “Are Water Rates Becoming Unaffordable?,” a speech to the Legislative and Regulatory Conference, Association of Metropolitan Water Agencies, Washington, DC. 1994.
- “Relationships: Drinking Water, Health, Risk and Affordability,” speaker and participant in panel discussion at the Annual Meeting of the Southeastern Association of Regulatory Commissioners, Charleston, SC. 1994.
- “Small System Viability: Assessment Methods and Implementation Issues,” speaker and participant in panel discussion at the Annual Conference of the American Water Works Association, New York, NY. 1994.

- S.J. Rubin, "How much should we spend to save a life?," *Seattle Journal of Commerce*, August 18, 1994 (Protecting the Environment Supplement), pages B-4 to B-5.
- S. Rubin, S. Bernow, M. Fulmer, J. Goldstein, and I. Peters, *An Evaluation of Kentucky-American Water Company's Long-Range Planning*, prepared for the Utility and Rate Intervention Division, Kentucky Office of the Attorney General (Tellus Institute 1994).
- S.J. Rubin, "Small System Monitoring: What Does It Mean?," *Impacts of Monitoring for Phase II/V Drinking Water Regulations on Rural and Small Communities* (National Rural Water Association 1994), pages 6-12.
- "Surviving the Safe Drinking Water Act," speaker at the Annual Meeting of the National Association of State Utility Consumer Advocates, Reno, NV. 1994.
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Olde Port Mariner Fleet, Inc. Complaint Regarding Casco Bay Island Transit District's Tour and Charter Service, Maine Public Utilities Commission, Docket No. 98-161. 1998. Concerning the standards and requirements for allocating costs and separating operations between regulated and unregulated operations of a transportation utility, on behalf of the Maine Public Advocate and Olde Port Mariner Fleet, Inc.

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In the Matter of Petition of Seaview Water Company for an Increase in Rates for Water Service, New Jersey Board of Public Utilities, Docket No. WR98040193. 1999. Concerning the revenue requirements and rate design for a water utility, on behalf of the New Jersey Division of Ratepayer Advocate.

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on low-income households and small communities from a more stringent regulation of arsenic in drinking water.

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Joint Application of Pennsylvania-American Water Company and Thames Water Aqua Holdings GmbH, Pennsylvania Public Utility Commission, Docket Nos. A-212285F0096 and A-230073F0004. 2002. Concerning the risks and benefits associated with the proposed acquisition of a water utility, on behalf of the Pennsylvania Office of Consumer Advocate.

Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE AG and Thames Water Aqua Holdings GmbH, Kentucky Public Service Commission, Case No. 2002-00018. 2002. Concerning the risks and benefits associated with the proposed acquisition of a water utility, on behalf of the Kentucky Office of Attorney General.

Joint Petition for the Consent and Approval of the Acquisition of the Outstanding Common Stock of American Water Works Company, Inc., the Parent Company and Controlling Shareholder of West Virginia-American Water Company, West Virginia Public Service Commission, Case No. 01-1691-W-PC. 2002. Concerning the risks and benefits associated with the proposed acquisition of a water utility, on behalf of the Consumer Advocate Division of the West Virginia Public Service Commission.

Joint Petition of New Jersey-American Water Company, Inc. and Thames Water Aqua Holdings GmbH for Approval of Change in Control of New Jersey-American Water Company, Inc., New Jersey Board of Public Utilities, Docket No. WM01120833. 2002. Concerning the risks and benefits associated with the proposed acquisition of a water utility, on behalf of the New Jersey Division of Ratepayer Advocate.

Illinois-American Water Company, Proposed General Increase in Water Rates, Illinois Commerce Commission, Docket No. 02-0690. 2003. Concerning rate design and cost of service issues, on behalf of the Illinois Office of the Attorney General.

Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company, Pennsylvania Public Utility Commission, Docket No. R-00038304. 2003. Concerning rate design and cost of service issues, on behalf of the Pennsylvania Office of Consumer Advocate.

West Virginia-American Water Company, West Virginia Public Service Commission, Case No. 03-0353-W-42T. 2003. Concerning affordability, rate design, and cost of service issues, on behalf of the West Virginia Consumer Advocate Division.

Petition of Seabrook Water Corp. for an Increase in Rates and Charges for Water Service, New Jersey Board of Public Utilities, Docket No. WR3010054. 2003. Concerning revenue requirements, rate design, prudence, and regulatory policy, on behalf of the New Jersey Division of Ratepayer Advocate.

Chesapeake Ranch Water Co. v. Board of Commissioners of Calvert County, U.S. District Court for Southern District of Maryland, Civil Action No. 8:03-cv-02527-AW. 2004. Submitted expert report concerning the expected level of rates under various options for serving new commercial development, on behalf of the plaintiff.

Testimony concerning Lead in Drinking Water, Committee on Government Reform, United States House of Representatives. 2004. Concerning the trade-offs faced by low-income households when drinking water costs increase, including an analysis of H.R. 4268.

West Virginia-American Water Company, West Virginia Public Service Commission, Case No. 04-0373-W-42T. 2004. Concerning affordability and rate comparisons, on behalf of the West Virginia Consumer Advocate Division.

West Virginia-American Water Company, West Virginia Public Service Commission, Case No. 04-0358-W-PC. 2004. Concerning costs, benefits, and risks associated with a wholesale water sales contract, on behalf of the West Virginia Consumer Advocate Division.

Kentucky-American Water Company, Kentucky Public Service Commission, Case No. 2004-00103. 2004. Concerning rate design and tariff issues, on behalf of the Kentucky Office of Attorney General.

New Landing Utility, Inc., Illinois Commerce Commission, Docket No. 04-0610. 2005. Concerning the adequacy of service provided by, and standards of performance for, a water and wastewater utility, on behalf of the Illinois Office of Attorney General.

People of the State of Illinois v. New Landing Utility, Inc., Circuit Court of the 15th Judicial District, Ogle County, Illinois, No. 00-CH-97. 2005. Concerning the standards of performance for a water and wastewater utility, including whether a receiver should be appointed to manage the utility's operations, on behalf of the Illinois Office of Attorney General.

Hope Gas, Inc. d/b/a Dominion Hope, West Virginia Public Service Commission, Case No. 05-0304-G-42T. 2005. Concerning the utility's relationships with affiliated companies, including an appropriate level of revenues and expenses associated with services provided to and received from affiliates, on behalf of the West Virginia Consumer Advocate Division.

Monongahela Power Co. and The Potomac Edison Co., West Virginia Public Service Commission, Case Nos. 05-0402-E-CN and 05-0750-E-PC. 2005. Concerning review of a plan to finance the construction of pollution control facilities and related issues, on behalf of the West Virginia Consumer Advocate Division.

Joint Application of Duke Energy Corp., et al., for Approval of a Transfer and Acquisition of Control, Case Kentucky Public Service Commission, No. 2005-00228. 2005. Concerning the risks and benefits associated with the proposed acquisition of an energy utility, on behalf of the Kentucky Office of the Attorney General.

Commonwealth Edison Company proposed general revision of rates, restructuring and price unbundling of bundled service rates, and revision of other terms and conditions of service, Illinois Commerce Commission, Docket No. 05-0597. 2005. Concerning rate design and cost of service, on behalf of the Illinois Office of Attorney General.

Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc., Pennsylvania Public Utility Commission, Docket No. R-00051030. 2006. Concerning rate design and cost of service, on behalf of the Pennsylvania Office of Consumer Advocate.

Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a AmerenIP, proposed general increases in rates for delivery service, Illinois Commerce Commission, Docket Nos. 06-0070, et al. 2006. Concerning rate design and cost of service, on behalf of the Illinois Office of Attorney General.

Grens, et al., v. Illinois-American Water Co., Illinois Commerce Commission, Docket Nos. 5-0681, et al. 2006. Concerning utility billing, metering, meter reading, and customer service practices, on behalf of the Illinois Office of Attorney General and the Village of Homer Glen, Illinois.

Commonwealth Edison Company Petition for Approval of Tariffs Implementing ComEd's Proposed Residential Rate Stabilization Program, Illinois Commerce Commission, Docket No. 06-0411. 2006. Concerning a utility's proposed purchased power phase-in proposal, in behalf of the Illinois Office of Attorney General.

Illinois-American Water Company, Application for Approval of its Annual Reconciliation of Purchased Water and Purchased Sewage Treatment Surcharges Pursuant to 83 Ill. Adm. Code 655, Illinois Commerce Commission, Docket No. 06-0196. 2006. Concerning the reconciliation of purchased water and sewer charges, on behalf of the Illinois Office of Attorney General and the Village of Homer Glen, Illinois.

Illinois-American Water Company, et al., Illinois Commerce Commission, Docket No. 06-0336. 2006. Concerning the risks and benefits associated with the proposed divestiture of a water utility, on behalf of the Illinois Office of Attorney General.

Joint Petition of Kentucky-American Water Company, et al., Kentucky Public Service Commission, Docket No. 2006-00197. 2006. Concerning the risks and benefits associated with the proposed divestiture of a water utility, on behalf of the Kentucky Office of Attorney General.

Comparison of Rate Design Proposals

(Note: Staff Proposed Rates are designed to meet Company's original revenue requirement)

	Present Revenues		Company Original		Staff		Company Revised	
	Revenues	With QIPS Allocated	Revenues	Percent Increase	Revenues	Percent Increase	Revenues	Percent Increase
Residential								
Customer Charges	\$ 3,659,621	\$ 3,842,602	\$ 4,775,122	24.3%	\$ 3,784,465	-1.5%	\$ 4,464,219	16.2%
Consumption Charges	4,348,716	4,566,152	5,709,873	25.0%	6,296,228	37.9%	5,709,873	25.0%
QIPS	400,417	-	-		-		-	
Total Residential	\$ 8,408,754	\$ 8,408,754	\$ 10,484,995	24.7%	\$ 10,080,693	19.9%	\$ 10,174,092	21.0%
Commercial								
Customer Charges	\$ 770,765	\$ 809,303	\$ 1,005,803	24.3%	\$ 827,439	2.2%	\$ 940,074	16.2%
Consumption Charges	1,499,766	1,574,754	1,956,542	24.2%	2,074,114	31.7%	1,956,542	24.2%
QIPS	113,526	-	-		-		-	
Total Commercial	\$ 2,384,057	\$ 2,384,057	\$ 2,962,345	24.3%	\$ 2,901,553	21.7%	\$ 2,896,616	21.5%
Industrial								
Customer Charges	\$ 130,984	\$ 137,533	\$ 170,929	24.3%	\$ 135,526	-1.5%	\$ 159,747	16.2%
Consumption Charges	1,392,425	1,462,046	1,783,141	22.0%	1,868,135	27.8%	1,783,141	22.0%
QIPS	76,170	-	-		-		-	
Total Industrial	\$ 1,599,579	\$ 1,599,579	\$ 1,954,070	22.2%	\$ 2,003,661	25.3%	\$ 1,942,888	21.5%
All Metered								
Customer Charges	\$ 4,561,370	\$ 4,789,438	\$ 5,951,855	24.3%	\$ 4,747,429	-0.9%	\$ 5,564,040	16.2%
Consumption Charges	7,240,907	7,602,952	9,449,556	24.3%	10,238,477	34.7%	9,449,556	24.3%
QIPS	590,113	-	-		-		-	
Total Metered	\$ 12,392,390	\$ 12,392,390	\$ 15,401,411	24.3%	\$ 14,985,906	20.9%	\$ 15,013,596	21.2%
All Unmetered								
Private Fire	\$ 86,134	\$ 86,134	\$ 120,587	40.0%	\$ 115,188	33.7%	\$ 120,587	40.0%
Public Fire	1,000,184	1,000,184	1,299,387	29.9%	1,687,850	68.8%	1,687,850	68.8%
Other Revenues	224,111	224,111	236,287	5.4%	268,899	20.0%	236,287	5.4%
Total Unmetered	\$ 1,310,429	\$ 1,310,429	\$ 1,656,261	26.4%	\$ 2,071,937	58.1%	\$ 2,044,724	56.0%
Total Revenues	\$ 13,702,819	\$ 13,702,819	\$ 17,057,672	24.5%	\$ 17,057,843	24.5%	\$ 17,058,320	24.5%
Typical Residential Bill								
Customer charge w/QIPS	\$ 13.61		\$ 16.91	24.2%	\$ 13.27	-2.5%	\$ 15.81	16.2%
Charge for 7 ccf w/QIPS	16.66		20.84	25.1%	23.03	38.2%	20.84	25.1%
Public fire charge*	2.56		3.67	43.4%	4.75	85.5%	4.75	85.5%
Total bill	\$ 32.83		\$ 41.42	26.2%	\$ 41.05	25.0%	\$ 41.40	26.1%

* Public fire charge shown is for City of Kankakee. Charges vary by municipality.

Comparison of Fire Surcharges

(Note: Staff Proposed Rates are designed to meet Company's original revenue requirement)

<u>Municipality</u>	<u>Present</u>	<u>Aqua Original</u>		<u>Staff</u>	
		<u>Rate</u>	<u>% Increase</u>	<u>Rate</u>	<u>% Increase</u>
City of Kankakee	\$ 2.56	\$ 3.67	43.4%	\$ 4.75	85.5%
Village of Bradley	2.72	3.66	34.6%	4.73	73.9%
Kankakee Township	4.74	4.29	-9.5%	5.63	18.8%
Bourbonnais Township	2.82	3.79	34.4%	4.92	74.5%
Limestone Township	3.19	4.20	31.7%	5.50	72.4%
Manteno	6.97	6.57	-5.7%	8.84	26.8%
Grant Park FD	3.26	6.12	87.7%	8.20	151.5%
Aroma Park FD	4.21	5.31	26.1%	7.07	67.9%

ILLINOIS COMMERCE COMMISSION
PEOPLE OF THE COUNTY OF KANKAKEE DATA REQUEST

Utility Company: Aqua Illinois Inc.

Docket No.: 06-0285

Date Submitted: August 17, 2006

Submitted By: David R. Monie, P.E., Rate Consultant (856-354-2273)

2.4 Re: Aqua Exhibit 9.0(Monie), 10:204-206. The witness states that revenue from the PFC “will not, in any way, accrue to the stockholders of the Company.” Please explain in detail how customers’ rates will be changed to reflect PFC revenues that Aqua receives between rate cases.

Answer: Customers’ rates will not be changed between rate proceedings due to the implementation of the PFC. The revenues from the PFC charge will not, however, be treated as revenue and, therefore, the income of the company will not increase as a direct result of the PFC. It is possible that the PFC revenues will allow the Company to borrow less money such that the income of the company may be slightly higher between rate increases as a result of lower interest expenses. Overwhelmingly, however, the customers will be the primary beneficiaries of the PFC charge through lower rate increases due to the lowered rate base.

ILLINOIS COMMERCE COMMISSION
PEOPLE OF THE COUNTY OF KANKAKEE DATA REQUEST

Utility Company: Aqua Illinois Inc.

Docket No.: 06-0285

Date Submitted: August 23, 2006

Submitted By: Jack Schreyer, Manager of Rates (610) 645-4237

2.8 Please provide a summary of bills issued to date under Client/Matter number 09807980-0009, showing the person providing services, the number of hours provided, the date on which the services were provided, and the rate per hour that is charged for each of the following:

- a) Work involving the preparation of the initial filing and testimony
- b) Work involving responding to interrogatories
- c) Work involving legal research, or the preparation of motions or other pleadings
- d) Work involving preparation for and participation in status conferences
- e) Work involving the review of, and response to, ICC Staff's testimony
- f) Work involving conversations or correspondence with any officer or employee of Aqua that does not fall into the previous categories
- g) Work involving conversations or correspondence with any independent consultant or expert witness (not an employee of Aqua) that does not fall into the previous categories
- h) Other work, divided into appropriate categories that generally describe the nature of the work performed, but without disclosing the content of any communications between counsel and Aqua

Answer: Objection, calls for information protected by the attorney-client and attorney work product privileges.