

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AQUA ILLINOIS, INC.	)	
	)	
Petition for Issuance of Certificate of Public	)	
Convenience and Necessity to Operate Water	)	
and Sewer Distribution Systems; and for	)	Docket No. 06-0795
approval of accounting entries, depreciation	)	
rates, water and sewer rates and tariff pages	)	

**DRAFT ORDER**

In its Petition filed on December 19, 2006 with the Illinois Commerce Commission ("Commission") in this proceeding, Aqua Illinois, Inc. ("Aqua", "Petitioner" or the "Company") seeks a Certificate of Public Convenience and Necessity ("Certificate") to construct, operate and maintain water distribution and sewer collection systems in an area described herein in Lake County, Illinois, and to transact a public utility business in connection therewith, pursuant to Section 8-406 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq. Aqua also seeks other relief as described below. Pursuant to due notice, hearings were held before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois on March 12, 2007 and May 8, 2007. Appearances were entered for the Company and the Commission Staff ("Staff") by their respective counsel. Municipalities located within 1½ miles of the areas in question were provided a copy of the Petition, in accordance with 83 Ill. Adm. Code 200.150(b), and were served notice of the initial hearing. Other than Aqua and Staff, no appearances were entered at the hearings and no written entries of appearance or intervening petitions were filed.

Petitioner presented the testimony of Mr. Terry J. Rakocy, President of Aqua Illinois, Inc. Staff presented the testimony of William R. Johnson, Mike Ostrander, Michael McNally and Cheri L. Harden. At the close of the hearing, the record was marked "Heard and Taken." Thereafter, Aqua filed a draft order.

**Background; Relief Sought**

Aqua provides water and sewer public utility service to the public in certain areas of Kankakee, Vermilion, Champaign, Will, Boone, Knox, Lake and Lee Counties in the State of Illinois. Aqua is a public utility within the meaning of Section 3-105 of the Act, 220 ILCS 5/3-105.

In its Petition initiating this proceeding, Aqua requests that the Commission enter an order issuing a Certificate that authorizes Aqua to construct, operate and maintain water and sewer distribution systems and, in connection therewith, transact a public utility business in ten parcels in Lake County, Illinois (the "Hawthorn Expansion Areas"

or "proposed Certificated area") that are adjacent to Aqua's Hawthorn Woods service area ("Hawthorn Area") and Kemper Lakes service area ("Kemper Area"). (The Commission entered an Order granting Aqua a Certificate to provide water and wastewater service within the adjacent Hawthorn Area in Docket Nos. 03-0455 and 03-0550 (Cons.) and a Certificate to provide water service in the Kemper Area in Docket 06-0043.) Aqua also requests approval of accounting entries to record the net original cost of the water and sewer facilities used to provide service in the Hawthorn Expansion Areas, and approval of depreciation rates. In addition, Aqua requests approval of rates for water and sewer service in the Hawthorn Expansion Areas, and approval of the filing of new tariff pages which extend the application of the tariffs for the Hawthorn Area to two parcels in the Hawthorn Expansion Areas.

### **Applicable Statutory Authority**

Section 8-406 of the Act governs the issuance of a Certificate in this matter. Specifically, Section 8-406(b) provides:

No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

### **Aqua's Position**

Mr. Rakocy testified that Aqua seeks a Certificate for the Hawthorn Expansion Areas, which consist of the following ten parcels: (1) Winchester; (2) High Pointe Estates; (3) Fiore; (4) Towne; (5) Countryside Meadows; (6) Kemper 6; (7) Kemper 7; (8) Owl Haven; (9) Stonewood Glen; and (10) Individual Residential (2 lots), as shown on Aqua Exhibit 1.1 and legally described in Aqua Exhibit 1.2. Mr. Rakocy explained that the Hawthorn Expansion Areas presently consist of approximately 554 acres, which are being developed for primarily residential housing, with some commercial development, by certain developers (the "Developers"). (Aqua Ex. 1.0, p. 3.)

Mr. Rakocy further testified that the Developers of the Hawthorn Expansion Areas have requested that Aqua extend water and/or sewer service from existing mains that serve the Hawthorn Area and the Kemper Area. (Aqua Ex. 1.0, pp. 3-4.) Mr. Rakocy stated that Aqua has been requested to provide water and sewer service to members of the public in eight of the ten parcels in the Hawthorn Expansion Areas: Winchester, High Pointe Estates, Fiore, Towne, Countryside Meadows, Owl Haven, Stonewood Glen, and Individual Residential ("Water and Sewer Parcels"). (Id., p. 4.) Aqua has been requested to provide water service only to members of the public in the remaining two parcels: Kemper 6 and Kemper 7 ("Kemper 6 & 7 Parcels"). (Id.) Mr. Rakocy notes that at present, there is no public water service provided in the Hawthorn Expansion Areas and no public sewer service provided in the Water and Sewer Parcels. (Id.)

Mr. Rakocy testified that construction of the proposed main extension is necessary to provide adequate, reliable and efficient water service for customers within the Hawthorn Expansion Areas and that Aqua will take steps to assure that the construction process and supervision thereof will be adequate and efficient, and that the cost it will incur for these facilities is the least-cost means of providing the required water service. (Aqua Ex. 1.0, p. 5.)

Mr. Rakocy further testified that Aqua has the technical, financial and managerial ability to construct, operate and maintain public water and wastewater distribution systems for the Hawthorn Expansion Areas, without adverse financial consequences for existing customers and the provision of public water service in the Hawthorn Expansion Areas will impose no financial burden on either Aqua or its existing customers. (Id., pp. 5-6) Mr. Rakocy also stated that existing customers would experience benefits from growth of the Aqua system as common costs are spread over a larger customer base. (Id., p. 6.)

Mr. Rakocy stated that the Hawthorn Water System consists of (i) two deep wells with a combined capacity of 1.1 million gallons per day ("mgd"); (ii) a single deep well with a capacity of 1.2 mgd; (iii) a 634,000 gallon per day water treatment plant; (iv) a 370,000 gallon water storage tank; and (v) 22,300 lineal feet of 8", 12" and 16" water main with 98 fire hydrants connected to the water mains. (Aqua Ex. 1.0, p. 6.) The Hawthorn Sewer System consists of a 320,000 gallon per day wastewater treatment facility with spray irrigation; 2 lift stations; 12,090 lineal feet of 8", 10" and 15" gravity sewer mains; and 10,800 lineal feet of force mains. (Id., p. 7.)

Mr. Rakocy testified that the facilities necessary to extend water and/or sewer service to customers in the Hawthorn Expansion Areas (the "Extension Mains") will consist of water and wastewater mains necessary to meet the service requirements. (Aqua Ex. 1.0, p. 8.) Specifically, Mr. Rakocy stated that the Extension Mains will be constructed pursuant to Aqua's Rules, Regulations and Conditions of Service (Water), Section 29 (ILL. C.C. No. 47, Sec. 1, Original Sheet Nos. 32-33), and Aqua's Rules, Regulations and Conditions of Service (Sewer), Section XI (ILL. C. C. No. 48, Sec. 1, Original Sheet Nos. 28-30), regarding main extensions ("Standard Main Extension Rules"). (Id.) In accordance with the Standard Main Extension Rules, the cost of the

Extension Mains will be paid by applicants for the extensions, and Aqua will pay the applicants 1 ½ times estimated annual revenue from the Original Prospective Customers (as defined in the Standard Main Extension Rules) at the time title to the Extension Mains is transferred. (Id.)

Mr. Rakocy also explained that system of water mains in the Hawthorn Expansion Areas will be adequately sized to permit the installation and proper operation of public fire hydrants. (Aqua Ex. 1.0, p. 9.)

Aqua also proposed accounting entries and depreciation rates for the Hawthorn Expansions Areas. (Aqua Ex. 1.0., pp. 9-10.) With regard to depreciation rates, Mr. Rakocy testified that for the Hawthorn Expansions Areas, Aqua proposes to use the depreciation rates for the Hawthorn Area, as now in effect or as subsequently revised. (Id.)

Aqua proposes that the charges for water service in the Hawthorn Expansion Areas be the same as the approved rates for the Hawthorn and Kemper Areas, as now in effect or as subsequently revised. (Aqua Ex. 1.0, p. 10.) Aqua proposes that the charges for sewer service in the Water and Sewer Parcels be the same as the approved rates for the Hawthorn Area, as now in effect or as subsequently revised. (Id.) In addition, all other applicable water and wastewater charges for the Hawthorn Area would apply to service within the Hawthorn Expansion Areas.

Aqua further proposes to file revised tariff pages for the Hawthorn Area, which include the Hawthorn Expansion Areas, that are substantially in the form of Aqua Exhibit 1.8 ("Proposed Tariffs"). (Aqua Ex. 1.0, p. 11-12.) Mr. Rakocy testified that the Proposed Tariffs are identical to the tariff currently in effect for the Hawthorn Area, with certain changes that he described. First, the area that the tariff applies to has been changed, where applicable to include the "Village of Hawthorn Woods" and "Kemper 6 & 7 Parcels" in order to apply to the Kemper 6 & 7 Parcels, which are outside the corporate limits of the Village (the remaining eight parcels in the Hawthorn Expansion Areas will be annexed to the Village). (Id., p. 12.) Second, pursuant to an agreement between the Village and the developer of the Kemper 6 & 7 Parcels, certain fees, permits, or authorizations may be required to be paid to and/or received by the Village prior to customers in the Kemper 6 & 7 Parcels requesting water service from Aqua. (Id.) Mr. Rakocy stated that the Proposed Tariffs make reference to the fees, permits, or authorizations to avoid a situation in which Aqua would be obligated to connect customers but unable to do so because the developer of the Kemper 6 & 7 Parcels had not complied with the Agreement. (Id.) In addition, Mr. Rakocy explained that Aqua is proposing changes to the "Applies to the Following Territories" section of its Rules, Regulations and Conditions of Service tariffs. Specifically, Aqua is proposing adding language identifying the Village of Hawthorn Woods and Kemper Parcels 6 & 7 to the "Applies to the Following Territories" to ILL. C.C, No. 47, Title Page and ILL. C.C. No. 47, Section No. 1, Sheet No. 1 of its Rules, Regulations and Conditions of Service – Water and Sheet Nos. 1 - 4 of the Water Rate Tariff; and adding language identifying the Village of Hawthorn Woods to the "Applies to the Following Territories" to ILL. C.C, No. 48, Title Page and ILL. C.C, No. 48, Section No. 1, Sheet No. 1 of its Rules,

Regulations and Conditions of Service - Sewer, as shown in Aqua Exhibit 1.8. (Aqua Exhibit 1.0, pp. 11-12, Aqua Exhibit 1.8, and Aqua Exhibit 2.0, p. 4.)

### **Staff Position and Recommendations**

Staff witness Johnson described the proposed Certificated area and the facilities used to serve the Hawthorn Expansion Areas. (ICC Staff Ex. 1.0, pp. 3-5.) Mr. Johnson testified that Aqua currently has sufficient water capacity to serve the Hawthorn Expansion Areas until the Company approaches build-out and at that point it appears to have plans in place that will accommodate any needed water capacity. (Id., p. 6.) He also testified that Aqua has sufficient sewer capacity to serve the existing areas and the Hawthorn Expansion Areas until approximately 2013, when planned additional capacity will be added. (Id.)

Mr. Johnson noted that the only regulated utilities in the area are Valentine Water Service, Inc. (71 water customers) and Northern Illinois Investment Group, Inc. (87 water customers). (ICC Staff Ex. 1.0, p. 7.) Mr. Johnson explained, however, that Aqua's Hawthorn Woods water distribution system is closer in proximity to the proposed developments and many of the developments either have been or are being annexed to the Village of Hawthorn Woods, and running water mains from Valentine Water Service, Inc. or Northern Illinois Investment Group, Inc. would be cost prohibitive and would create a duplication of services that is not necessary. (Id.) In addition, Mr. Johnson stated, neither the Village of Hawthorn Woods, nor any other municipal corporation is willing or able to provide water and sewer service to the proposed parcels. (Id.) Mr. Johnson also noted that, with respect to the Kemper 6 & 7 Parcels where Aqua is only requesting a water Certificate, the Lake County Public Works Department is willing to provide sewer service. (Id.)

Mr. Johnson testified that the Company has demonstrated that the proposed construction is needed to serve the Hawthorn Expansion Areas in order to provide adequate, reliable, and efficient service to customers. (ICC Staff Ex. 1.0, pp. 9-10.) He stated that Aqua has been requested by the Developers to provide water service to the Hawthorn Expansion Areas and there is no other public water service offered in the Hawthorn Expansion Areas. (Id., p. 9) He pointed out that no other regulated utility is willing or able to provide water service to the Hawthorn Expansion Areas. (Id., p. 10.) Additionally, during an inspection of the proposed Certificated area on March 5, 2007, Mr. Johnson noted that construction of subdivisions was ongoing and new development signs were posted throughout the proposed Certificated area.

With regard to whether Aqua has demonstrated that the proposed extension of services is the least-cost method of providing water and sewer service to customers in the proposed area, Mr. Johnson noted that in response to Staff Data Request WD 1.25, Company witness Rakocy stated that the Company will assure the cost it will incur for the water and sewer facilities is the least-cost means of satisfying the service needs of its customers by applying the Company's existing policies to all construction. Further, Aqua will solicit multiple bidders on construction elements that would be at the Company's expense and review any design plans keeping in mind constructability and

maintenance issues. Additionally, costs for construction are reviewed before contracts are awarded and can be re-bid if the costs are unreasonable. Mr. Johnson concluded that Aqua has demonstrated that the proposed extension of services is the least-cost method of providing water and sewer service to customers in the Hawthorn Expansion Areas. (ICC Staff Ex. 1.0, p. 10.)

Mr. Johnson agreed that Aqua is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision. (ICC Staff Ex. 1.0, p. 11) He noted that Aqua has demonstrated that its water and sewer systems are well operated and maintained. Also, Mr. Johnson stated that Aqua is owned by a strong parent company, Aqua America, Inc., which suggests that resources for supervision, operations, and plant facilities are available, if needed. (Id.) Additionally, Aqua America, Inc. provides water and sewer services to approximately 2.8 million residents in Pennsylvania, Ohio, Illinois, Texas, New Jersey, Indiana, Virginia, Florida, North Carolina, Maine, Missouri, New York and South Carolina. (Id.)

With regard to depreciation rates, Mr. Johnson stated that because the proposed Hawthorn Expansion Areas are going to be served by the Hawthorn Woods water and sewer facilities, he had no objection to Aqua using the same water and sewer depreciation rates. (ICC Staff Ex. 1.0, p. 12.) He recommended that the Commission attach the proposed depreciation rates as shown in Aqua Exhibit 1.5 to the Final Order in this proceeding. (Id.)

With regard to rules and regulations, Mr. Johnson agreed with the Company's proposal to use the current water and sewer Rules, Regulations and Conditions of Service tariffs that are on file with the Commission for customers of the Hawthorn Expansion Areas. (ICC Staff Ex. 1.0, p. 13.) Mr. Johnson stated that the Company's current water and sewer Rules, Regulations and Conditions of Service tariffs that are on file with the Commission have been approved by the Commission for the Hawthorn Woods service area and should be used for the Hawthorn Expansion Areas. (Id.) Mr. Johnson also agreed with the Company's proposal to update the "Applies to" portion of the water and sewer Rules, Regulations, and Condition of Service tariffs. (Id.) Mr. Johnson testified that Aqua will follow its current Commission approved Water Rules, Regulations and Conditions of service tariffs, ILL. C.C. No. 47, Section No. 1, Original Sheet Nos. 32-33, and Sewer Rules, Regulations and Conditions of service tariffs ILL. C.C. No. 48, Section No. 1, Original Sheet Nos. 28-30, which includes a refund mechanism as customers attach to the main. (Id., p. 14.) He also noted that, with reference to the size of the mains proposed, Aqua intended to install 8" mains and would pay the cost difference between an 8-inch main and a larger size if Aqua, according to good engineering practice, decides to over size water mains for future growth. (Id.)

Mr. Johnson recommended that the Commission grant Aqua a Certificate of Public Convenience and Necessity to provide water and sewer service for the proposed Hawthorn Expansion Areas and find: (1) Aqua has demonstrated that the proposed certificate is necessary to provide adequate, reliable, and efficient service to customers

within the Hawthorn Expansion Areas; (2) Aqua has demonstrated that the proposed extension of services is the least cost method of providing water and sewer service to customers in the Hawthorn Expansion Areas; (3) Aqua has demonstrated that it is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision; (4) the water and sewer depreciation rates, attached to Company witness Terry J. Rakocy's Direct Testimony as Aqua Exhibit 1.5, that are currently in effect, or as subsequently revised, for the Hawthorn Woods service area should be applicable to the Expansion Area and included as an attachment to the Final Order in this proceeding; (5) the Company's Hawthorn Woods water and sewer service area Rules, Regulations and Conditions of Service tariffs should be applicable to the Hawthorn Expansion Areas; and (7) the Company's proposed certificated service area, which is legally described in Aqua Exhibit 1.2, should be approved. (ICC Staff Ex. 1.0, pp. 12, 15-16.)

Staff witness Ostrander explained that Aqua has presented proposed accounting journal entries in which Aqua proposes to record the original cost of the extension mains for the Hawthorn Expansion Areas in the applicable Utility Plant in Service accounts, with a credit to Account 252, incorrectly identified as Contributions in Aid of Construction. (ICC Staff Ex. 2.0, p. 3.) Upon transfer of ownership to Aqua of the extension mains, Aqua proposes to record a debit to Account 252, with a credit to cash for one and one-half the estimated annual revenue from the original prospective customers which will be paid to the developers. (Id.) Mr. Ostrander testified, however, that although he believes the accounting journal entries as Aqua presented them reflect the correct intention, the account title for Account 252 for the water and sewer plant in service should be corrected. (Id.) Mr. Ostrander noted that Aqua agreed that Advances for Construction is the appropriate account title for Account 252 in accordance with the Uniform System of Accounts ("USOA") for Water Utilities and Sewer Utilities operating in Illinois, and Aqua confirmed that after payment to developers, any remaining advances would be transferred to Account 271, Contributions in Aid of Construction. (Id.) Mr. Ostrander also noted that Aqua agreed that Account 331, Transmission and Distribution Mains, is the appropriate account in which to record the original cost of the water system extension mains in accordance with the USOA for Water Utilities and Aqua agreed that Account 360, Collecting Sewers – Force or Account 361, Collecting Sewers – Gravity, depending on the type of sewer main needed, are the appropriate accounts in which to record the original cost of the sewer system extension mains in accordance with the USOA for Sewer Utilities. (Id., p. 4.)

Mr. Ostrander concluded that, subject to the corrections he discussed, the accounting treatment proposed by Aqua to record the extension mains is in accordance with the USOA. (ICC Staff Ex. 2.0, p. 4.) Mr. Ostrander recommended that Aqua file with the Chief Clerk of the Commission, with a copy to the Manager of Accounting, copies of the actual accounting journal entries used to record the water and sewer systems within six months of finalizing construction of the extension mains or of the closing of the transactions, whichever comes first. (Id., pp. 4-5.)

With regard to operating income, Mr. Ostrander testified that the information Aqua provided supports Aqua's position that the forecasted rate of return for the

combined Hawthorn Area, Kemper Area, and Hawthorn Expansion Areas ("Combined Area") is not in excess of Aqua's last allowed rate of return. (ICC Staff Ex. 2.0, p. 5.)

Finally, Mr. Ostrander recommended that Aqua provide to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, by March 31 and September 30, of each year, a copy of actual financial information through June 30 and December 31 for the Combined Area, until the Commission makes a revenue requirement determination in a rate proceeding. (ICC Staff Ex. 2.0, p. 7.) He recommended that the financial information should include, but not be limited to, the aggregated plant investment, annual revenues, direct expenses, allocated expenses, Contributions In Aid of Construction received, number of customers, and the status of the construction. In addition, the report should include an explanation of any significant changes in the status or operations of the Combined Area. (Id.)

Staff witness McNally testified that Aqua will not finance the construction of the Extension Mains, but rather, Aqua will make a payment to the Developers at the time the Extension Mains are transferred, which occurs only after the mains are fully tested and operational. (ICC Staff Ex. 3.0, pp. 2-3.) Mr. McNally explained that Aqua is capable of raising the investment funding required for the proposed Extension Mains and that the proposed cost of the construction would be de minimis relative to the Company's total utility plant and operating revenue. (Id.) Furthermore, Mr. McNally noted that the Company has bank lines of credit totaling \$20 million available to finance capital investment needs, and the Company is a subsidiary of Aqua America, Inc. and, thus, is backed by the financial resources of a corporation that has revenues of approximately \$500 million, assets of over \$2.5 billion and capital expenditures of over \$230 million. (Id.) Therefore, Mr. McNally concluded that the Company is capable of financing the relatively small investment in the proposed Extension Mains without significant adverse financial consequences for the utility or its customers. (Id.)

Staff witness Harden testified regarding proposed water and sewer rates for the Hawthorn Expansion Areas and the proposed tariffs to be filed by the Company. (ICC Staff Ex. 4.0, p. 2.) She testified that Aqua is proposing the tariffed rates that are currently applicable to the Hawthorn and Kemper Areas for both water and sewer customers. (Id.) Because the Hawthorn Expansion Areas will be connected to the Hawthorn and Kemper Areas and incorporated into the service territory, Ms. Harden stated that she believed it is appropriate that these areas have the same rates and that she agrees with the Company's proposed water and sewer rates for the Hawthorn Expansion Areas as proposed in this docket. (Id., pp. 3-4.) Ms. Harden refers to Aqua Exhibit 1.8 for the proposed tariffs which include Sheet Nos. 1 – 4 of the water rates and the title page and Sheet No. 1 of the Rules, Regulations and Conditions of service for water and the Title page and Sheet No. 1 for Rules, Regulations, Conditions of Service and Tariffs for sewer service as shown in the Proposed Tariff. With regard to water and sewer tariff changes, Ms. Harden recommended that the Table of Contents be updated for both Aqua's water and sewer tariffs as set forth in Schedules 4.01 and 4.02 to her testimony. (Id., pp. 5-6.)

Ms. Harden recommended that if the Commission approves Aqua's request for a certificate of public convenience and necessity, based on the information provided by the Company, the Commission should find that the Company's proposed water and sewer rates for the Hawthorn Expansion Areas are reasonable and should be put in place. (ICC Staff Ex. 4.0, p. 6.) She also recommended that the Company should file the necessary revised tariffs for the Hawthorn Area within ten (10) days of the final Order if the certificate is approved for the Hawthorn Expansion Areas, with an effective date of not less than five (5) working days after the date of filing, for service rendered on and after their effective date, with individual tariff sheets to be corrected within that time period, if necessary.

### **Company's Response to Staff's Direct Testimony**

With regard to the testimony of Staff witness Johnson (ICC Staff Ex. 1.0), Mr. Rakocy testified that Aqua agrees with Staff's conclusions that: (i) Aqua has demonstrated that the proposed construction of water and sewer main extensions is necessary to provide adequate, reliable, and efficient water service to customers within the Hawthorn Expansion Areas; (ii) Aqua has demonstrated that construction of the proposed main extensions is the least-cost method of providing water and sewer service to customers in the Hawthorn Expansion Areas; (iii) Aqua has demonstrated that it is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision; (iv) water and sewer depreciation rates in Aqua Exhibit 1.5, that are currently in effect, or as subsequently revised, for the Hawthorn Woods service area should be applicable to the Hawthorn Expansion Areas; (v) Aqua's Hawthorn Woods water and sewer service area Rules, Regulations and Conditions of Service tariffs should be applicable to the Hawthorn Expansion Areas and (vi) a Certificate of Convenience and Necessity should be granted for the proposed Hawthorn Expansion Areas. (Aqua Ex. 2.0, pp. 1-2.)

With regard to the testimony by Staff witness Ostrander, Mr. Rakocy testified that Aqua agrees with Staff's proposed modification to Aqua's journal entries for the Hawthorn Expansion Areas development as set forth in ICC Staff Exhibit 2.01. (Aqua Ex. 2.0, p. 2.) With respect to the recommendations made by Staff regarding filing of journal entries, Aqua agrees to file a copy of the actual journal entries with the Manager of the Accounting Department within six months of the finalizing construction of the main extension or the closing of the transaction, whichever is earlier. (Id.) With regard to the further recommendation by Staff regarding the filing of financial information for the Hawthorn Expansion Areas, Aqua agrees to provide to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, by March 31 and September 30 of each year, a copy of the actual financial information through December 31 or June 30, respectively, concerning the combined: Hawthorn Area (as required by the Commission Order in Docket Nos. 03-0455/03-0550 (Cons.)); Kemper Area (as required by the Commission Order in Docket No. 06-0043); and Hawthorn Expansion Areas, until the Commission makes a revenue requirement determination for these Areas in a rate proceeding. (Id., pp. 2-3.)

With regard to the testimony of Staff witness McNally (ICC Staff Ex. 3.0), Mr. Rakocy testified that Aqua agrees with Staff's conclusion that Aqua has met the requirement of Section 8-406(b)(3) of the Act and is capable of financing the proposed construction without significant adverse financial consequences for Aqua or its customers. (Aqua Ex. 2.0, p. 3.)

With regard to the testimony of Staff witness Harden, Mr. Rakocy testified that Aqua agrees with Staff's conclusion that it is appropriate for the Hawthorn Expansion Areas to have the same water and sewer rates as the Hawthorn Area, and that the rates proposed by Aqua for the Hawthorn Expansion Areas are reasonable. (Aqua Ex. 2.0, p. 3.) Mr. Rakocy further testified that Aqua agrees that it will revise the Table of Contents for its water and sewer tariffs as set forth in Schedules 4.01 and 4.02 attached to Ms. Harden's testimony. (Id.) Aqua notes that with regard to its proposed water tariff change concerning certain fees, permits or authorizations that may be required to be paid to and/or received by the Village of Hawthorn Woods ("Village") prior to customers requesting water service from the Company (shown on Aqua Exhibit 1.8 and discussed by Ms. Harden at pages 4-5, lines 85-91), similar language regarding these Village fees, permits and authorizations was approved by the Commission in Dockets Nos. 03-0455 & 03-0550 (Consol.) and Docket No. 06-0043. As Mr. Rakocy explained, however, the language proposed by Aqua in Aqua Exhibit 1.8 is not identical to the prior-approved language as it reflects the different circumstances surrounding the requirement of Village fees, permits or authorizations for customers in the Kemper 6 & 7 Parcels. (Id., pp. 3-4)

### **Commission Conclusion**

For the reasons given by Aqua and Staff, the relief requested by Aqua in its Petition is reasonable and should be granted, subject to the conditions recommended by Staff. The Commission finds that the public convenience and necessity require the provision by Aqua of public water and sewer service, and the conduct by Aqua of a water and sewer public utility business in the Hawthorn Expansion Areas as set forth above. The Commission further concludes that: (1) Aqua has demonstrated that the proposed construction of the Extension Mains is needed to serve the new developments in order to provide adequate, reliable, and efficient water and sewer service to customers within the Hawthorn Expansion Areas; (2) Aqua has demonstrated that construction of the Extension Mains is the least-cost method of providing water and sewer service to customers in the Hawthorn Expansion Areas; (3) Aqua has demonstrated that it is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision; (4) Aqua has demonstrated that it is capable of financing the proposed construction of the Extension Mains without significant adverse financial consequences for the utility or its customers; (5) to record the original cost of water and sewer facilities transferred to Aqua, the form of accounting entries set forth in ICC Staff Exhibit 2.01 is reasonable; (6) the depreciation rates approved by the Commission in Docket Nos. 03-0455/03-0550 (Cons.) for the Hawthorn Area should also be approved for the Hawthorn Expansion Areas; (7) the proposed water and sewer rates for the Hawthorn Expansion Areas, which are the same as those for the Hawthorn Area, are reasonable and should

be approved; (8) the Proposed Tariffs are reasonable and should be approved; and (9) the Company's current Rules, Regulations and Conditions of Service (Water and Sewer) that are on file with the Commission for the Hawthorn Area, with the changes proposed by Staff and the Company, are reasonable and should be approved for the Hawthorn Expansion Areas. The conditions recommended by Staff that are described above and referenced in the ordering paragraphs below should also be adopted.

### **Findings and Ordering Paragraphs**

The Commission, having considered the entire record herein, is of the opinion and finds that:

(1) Aqua Illinois, Inc. provides water and sewer public utility services to the public in certain areas of Kankakee, Vermilion, Will, Boone, Knox, Lake, Champaign and Lee Counties in the State of Illinois and is a public utility within the meaning of the Act, 220 ILCS 5/3-105;

(2) the Commission has jurisdiction over Aqua and of the subject matter of this proceeding;

(3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;

(4) construction of the Extension Mains described herein is necessary to provide adequate, reliable, and efficient utility service to customers in the Hawthorn Expansion Areas, and is the least-cost means of satisfying the service needs of those customers;

(5) Aqua has the technical, financial and managerial ability to operate and maintain a public water and sewer distribution system and to provide public water and sewer service for the Hawthorn Expansion Areas;

(6) Aqua is capable of efficiently managing and supervising the construction process and will ensure that the construction and supervision thereof is adequate and efficient;

(7) the provision of public water and sewer service in the Hawthorn Expansion Areas will impose no financial burden on either Aqua or its customers;

(8) no public water or sewer utility company, other than Aqua, within, or within a reasonable proximity to, the Hawthorn Expansion Areas is willing or able to render public water or sewer utility service, as applicable, to the Hawthorn Expansion Areas; no municipal water or wastewater system is available to provide adequate and efficient service to the Hawthorn Expansion Areas, with the exception of the Lake County Public Works Department, which will provide sewer service to the Kemper 6 & 7 Parcels;

(9) to record the original cost of water facilities transferred to Aqua, the form of accounting entries set forth in ICC Staff Exhibit 2.01 is reasonable and should be approved;

(10) Aqua should file a copy of the actual journal entries with the Manager of the Accounting Department within six months of finalizing construction of the Extension Mains or the closing of the transaction, whichever is earlier;

(11) because the Hawthorn Expansion Areas are going to be served by the Hawthorn Area water facilities, the depreciation rates approved by the Commission in Docket Nos. 03-0455/03-0550 (Cons.) for the Hawthorn Area and identified in Aqua Exhibit 1.5, as attached hereto as Appendix A, should also be approved for the Hawthorn Expansion Areas;

(12) the proposed water and sewer rates for the Hawthorn Expansion Areas, which are the same as those for the Hawthorn Area, are reasonable and should be approved, and the Proposed Tariffs are reasonable and should be approved;

(13) the Company's current Rules, Regulations and Conditions of Service that are on file with the Commission for the Hawthorn Area should be used for the Hawthorn Expansion Areas;

(14) the Company should file revised Tables of Contents tariffs (ILL. C.C. No. 47, Second Revised Table of Contents and ILL. C.C. No. 48, Second Revised Table of Contents) as shown in ICC Staff Exhibits 4.01 and 4.02; and file revised tariff pages adding the Village of Hawthorn Woods and Kemper Parcels 6 & 7 to the "Applies to the Following Territories" to ILL. C.C. No. 47, Title Page and ILL. C.C. No. 47, Section No. 1, Sheet No. 1 of its Rules, Regulations and Conditions of Service – Water and Sheet Nos. 1 -4 of the Water Rate Tariff; and adding the Village of Hawthorn Woods to the "Applies to the Following Territories" to, ILL. C.C. No. 48, Title Page and ILL. C.C. No. 48, Section No. 1, Sheet No. 1 of its Rules, Regulations and Conditions of Service – Sewer, as shown in Aqua Exhibit 1.8;

(15) Aqua should provide to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, by March 31 and September 30, of each year, a copy of actual financial information through December 31 or June 30, respectively, for the Hawthorn Area, Kemper Area and Hawthorn Expansion Areas until the Commission makes a revenue requirement determination in a rate proceeding;

(16) for the reasons indicated above, issuance of a Certificate of Public Convenience and Necessity for the Hawthorn Expansion Areas will promote the public convenience and is necessary thereto, as will the construction of water and sewer facilities described above, and the requirements of Section 8-406(b) of the Act have been met with respect thereto;

IT IS THEREFORE ORDERED that Aqua be granted approval to construct the Extension Mains as described above;

IT IS FURTHER ORDERED that, effective on completion of the Extension Mains, Aqua Illinois, Inc. is granted a Certificate of Public Convenience and Necessity for the construction, operation and maintenance of a public utility water and sewer system, as

described above, and the provision of public utility water and sewer service in connection therewith, and this Certificate shall read as follows:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity requires the construction, operation and maintenance of water and sewer distribution systems and, in connection therewith, the provision of public utility water and sewer service by Aqua Illinois, Inc. in the Water and Sewer Parcels of the Hawthorn Expansion Areas, and the construction, operation and maintenance of water distribution systems and, in connection therewith, the provision of public utility water service by Aqua Illinois, Inc. in the Kemper 6 & 7 Parcels of the Hawthorn Expansion Areas, as legally described in Aqua Exhibit 1.2, attached hereto as Appendix B.

IT IS FURTHER ORDERED that Aqua record the original cost of water and sewer facilities transferred to Aqua in the form of accounting entries set forth in ICC Staff Exhibit 2.01;

IT IS FURTHER ORDERED that Aqua file a copy of the actual journal entries with the Manager of the Accounting Department within six months of finalizing construction of the Extension Mains or the closing of the transaction, whichever is earlier;

IT IS FURTHER ORDERED that the depreciation rates approved by the Commission in Docket Nos. 03-0455/03-0550 (Cons.) for the Hawthorn Area and identified in Aqua Exhibit 1.5, as attached hereto as Appendix A, be applied to the Hawthorn Expansion Areas;

IT IS FURTHER ORDERED that Aqua's water and sewer rates for the Hawthorn Expansion Areas, as applicable, shall be the same as those tariffed for the Hawthorn Area, and those water and sewer rates are therefore approved;

IT IS FURTHER ORDERED that Aqua be authorized to file the Proposed Tariffs within ten (10) days of the Order, with an effective date of not less than five (5) business days after the date of filing, for service rendered on and after their effective date, with individual tariff sheets to be corrected within that time period, if necessary;

IT IS FURTHER ORDERED that the Company's current Rules, Regulations and Conditions of Service that are on file with the Commission for the Hawthorn Area be used for the Hawthorn Expansion Areas;

IT IS FURTHER ORDERED that Aqua Illinois, Inc. is authorized to file new tariff sheets for both water and sewer in accordance with Finding (14);

IT IS FURTHER ORDERED that Aqua provide to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, by March 31 and September 30, of each year, a copy of actual financial information through December 31 and June 30,

respectively, for the Hawthorn Area, Kemper Area and Hawthorn Expansion Areas until the Commission makes a revenue requirement determination in a rate proceeding;

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Illinois Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this \_\_\_\_ day of June, 2007.