

From Jean Simmons
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Howard Jack/OHADR/NYS DPS 04/03/2012 04:13 PM To Case
11-W-0472 - Aqua-American Stock Transfer cc Subject Case 11-W-0472 - American Water Acquisition of Stock of Aqua New York - 4-3-12
Teleconference on Motion to Compel

TO ALL PARTIES:

This message memorializes a teleconference held beginning at 3:00 p.m. on Tuesday, April 3, 2012. The teleconference was held as a means of expediting receipt of responses to a March 30, 2012, motion to compel responses to discovery requests made by the Willows Homeowners Association, Inc. (The Willows) to American Water Works Company, Inc. (American Water) and Aqua New York, Inc. (Aqua NY). Given that the Commission has already considered action on the proposed stock transfer at its March session and is scheduled to consider the item further at its April 19, 2012, session, rather than wait the eight days normally allowed under the Commission's Rules of Procedure for responses to motions, I sought to accelerate the responses by hearing them orally at the teleconference. All parties were notified of the intended date and time of the teleconference by electronic mail. The Willows, American Water, Aqua NY, and trial staff of the Department of Public Service (Staff) replied indicating their intent to participate. Neither the Utility Intervention Unit of the Department of State nor the Water Authority of Southeastern Nassau County replied.

All parties that indicated an intent to participate in the teleconference did so. Representatives of The Willows, Aqua NY, and Staff were present with me at the Commission's headquarters offices. A representative of American Water and a second representative of Aqua NY participated by telephone. I explained that the purpose of the teleconference was not to hear oral argument on the motion to compel, but to receive responses to the motion orally on an expedited basis. Therefore, since American Water had filed a written response earlier in the day, hearing any further oral response from American Water was unnecessary and I would hear only the oral responses of Aqua NY and Staff. Aqua NY then made its response in opposition to the motion, followed by Staff's response, which also opposed the motion.

I then advised the parties that I would take the motion and responses to it under advisement and issue a formal ruling on it as soon as practical. I will note the reasons stated by Aqua NY and Staff in opposition to the motion in that ruling.

Mr. Duthie for the Willows said he had not seen American Water's written response and asked for the opportunity to seek leave the morning of Wednesday, April 4, 2012, to reply to it, if necessary. I stated that the Commission's Rules of Procedure provide for replies to responses to motions only under extraordinary circumstances and that I would therefore entertain a reply only upon a satisfactory demonstration of extraordinary circumstances.

The teleconference then concluded.

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PLEASE NOTE: Effective immediately my new email address is howard.jack@dps.ny.gov