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The Company You Keep: Should Bucks County Roll Out The Welcome Wagon For Aqua?

Privatization of public utilities is actually not popular with taxpayers across Pennsylvania. This explains the robust resistance we are seeing in Bucks County to the proposed sale of the sewer authority to a giant corporation.





Image via Shutterstock.

by Jenny Stephens | August 18, 2022

It's nearly impossible to find a single property owner in Pennsylvania who is keen on the idea of having their municipal water or sewer authority sold to a for-profit corporation.

Despite the outcry from a majority of residents in communities across the state, including Bucks County, township commissioners and supervisors, along with water and sewer authorities, appear to be distracted by shiny objects. The shiny objects, in this instance, are buckets of cash.

The overwhelming sentiment from Pennsylvania residents is that officials who oversee local water and sewer authorities are not representing the best interests of their constituency and are making decisions that ratepayers do not agree with.

Repeatedly, officials claim that money received from these sales will offset other needed improvement projects in the community. They also say that for-profit corporations are in a better financial position to make sure water utilities remain in compliance with state and federal regulations. It's even been said that these utility acquisitions represent a "win-win" situation however residents who have experienced **sky high rate increases**, subsequent to sales, beg to differ.

In almost every instance where a bid to purchase a municipal water or sewer system has

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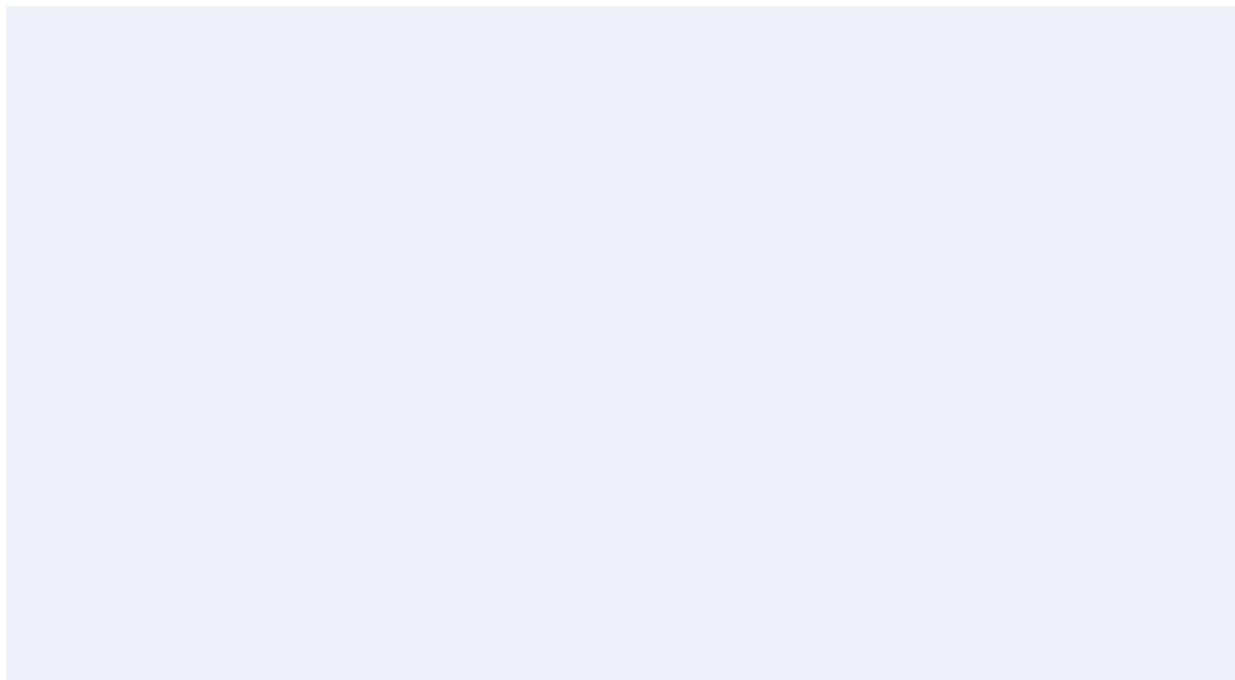
Many ratepayers fear that once the money from an acquisition has been spent, the officials who okayed the sale to begin with will be long gone leaving residents on the hook for exorbitant utility bills in perpetuity and without any recourse to reduce those rates.

When did it become incumbent upon a water or sewer utility to financially facilitate a wish list of improvements having nothing to do with the actual functioning of the utility?

UTILITIES operated by FOR-PROFIT corporations do not represent a new concept in Pennsylvania. **Philadelphia Suburban Water Company** (PSW) was buying and operating utilities long before it went public on the New York Stock Exchange in 1971. In fact, as early as 1925 the company provided water to 58 municipalities.

PSW would eventually change its name to Aqua and today Aqua, along with a conglomeration of other companies, fall under the corporate umbrella of **Essential Utilities** with operations in ten states across the country. In addition to water and sewer systems, the corporation is also buying up municipal natural gas utilities.

Why, all of a sudden, does it seem that Pennsylvania municipal utility sales are in the news? Largely because **House Bill 1326** of 2016, a *bipartisan* bill that easily made its way through the legislature, was signed into law by Governor Wolf, and made the acquisition of public utilities easier and more profitable.



Legislators in Harrisburg are currently working on **new legislation**, sponsored by Senator Pat Stefano (R., Fayette), to make the acquisition of municipal services **even easier** for publicly traded companies to poach municipal utilities.

Chester City, Delaware County, PA

“You can’t tell Aqua no,” said Catherine Miller, who coordinates **Save Chester Water Authority** (CWA). In 2017 the Chester Water Authority board unanimously rejected an offer from Aqua for \$320 million dollars to buy the utility.

CWA saw no benefit in selling because the authority wasn't – and continues not to be – in financial or operational distress.

“The only thing the sale would do for ratepayers is increase their rates,” Miller said.

“Aqua has been very aggressive and they have been trying to convince the City of Chester that they, in fact, own the Chester Water Authority and have the ability to sell it and monetize its assets” she said.

Further complicating the CWA matter is the detail that Chester City is in receivership due to a **cash crisis**. In 2020, a “Declaration of Fiscal Emergency” for the City of Chester was enacted by Governor Wolf. It is this financial instability that creates a large incentive for Chester City to claim ownership rights of the CWA with the hope of selling the utility, pocketing the money and paying down its debts.

The Chester Water Authority has sued Chester City and placed the following question before the court: who has the legal right to sell the utility. It's an interesting question because only 19% of the ratepayers are from Chester City, while 81% of customers live in Delaware and southern Chester Counties and the physical plant is situated on the border of Lancaster and Chester Counties – a full 40 miles away from Chester City.

The lawsuit was originally filed in Pennsylvania's Court of Common Pleas where CWA won round one. Chester City appealed and the case was heard by the Commonwealth Court who provided a mixed ruling; the case is now pending review by Pennsylvania's Supreme Court.

How can an insolvent city afford legal counsel for these various legal maneuvers? A right-to-know was filed with Chester City requesting all legal billings; there were none. Aqua is providing counsel on a contingency fee basis. Aqua has also increased their offer to \$420 million dollars for the CWA.

Miller said calculations estimate that if Aqua were to acquire CWA and become the provider of drinking water, annual consumer rates would increase by approximately \$600.00.

All parties await the Supreme Court's ruling.

Norristown & Conshohocken, Montgomery County, PA

In June of 2020, the Norristown Municipal Council voted 5-2 in favor of selling its sewer system to Aqua Pennsylvania for \$82 million dollars and the community **balked**.

David McMahon, a Norristown resident and a co-founding member of Norristown Opposes Privatization Efforts (**NOPE**) was successful in utilizing the “**home rule charter**.”

Dozens of **municipalities** and a handful of counties in Pennsylvania have an existing home rule charter and Norristown is one of them.

Simplified, **home rule** conveys specific governing power from the state to the citizens of a local municipality who then have more control in decisions that impact their day-to-day life.

McMahon was ultimately successful in gathering the necessary signatures to repeal two ordinances associated with the sewer authority at which point Aqua **backed out** of the deal without explanation. It is unknown if they will return at a later date to try again.

In 2021, residents in **Conshohocken** took note of McMahon’s activism when Aqua came knocking at their door with a proposal to purchase the municipal sewer system. They launched a highly successful protest campaign and the Conshohocken council voted against the \$52 million dollar buyout.

The acronym **NOPE** now translates to Neighbors Opposing Privatization Efforts and McMahon, along with Miller, are taking their experience to other communities facing what can only be described as leveraged buyouts.

“This is a fight against corporate takeover,” McMahon said. “The main question here is what is the dilemma where privatization is the only solution?”

“It’s a net drain on the community. All of the money that gets siphoned out goes to profits and executives pay and lobbyists and dividends. That’s all money that’s not going back to the community” he added.

Towamencin, Montgomery County

Towamencin Supervisors began exploring the sale of their water authority in 2020.

In a 4-1 vote on May 25, 2022, they announced their decision to sell the water authority to **Next Era** for \$115 million dollars. The dissenting vote was from the sole Democrat, Joyce Ferguson.

The community was outraged and subsequent meetings were **heated**, sending a clear message to the supervisors that residents opposed the sale.

Kofi Osei, a local Towamencin resident, has taken the mantle to organize and is following in the footsteps of Miller and McMahon. He has formed **Towamencin NOPE** and is well on the way to collecting the necessary signatures required to move ahead and establish a home rule charter.

“From local officials all the way up to federal, water/wastewater privatization is an abdication of the responsibility to govern” Osei said. “Ratepayers understand the problems when you talk with them,” he said.

Bucks County Sewer Authority

In an unannounced change to their July 13, 2022, meeting agenda, **Bucks County Water and Sewer Authority** announced their interest in **selling the sewer authority** to Aqua for \$1.1 billion dollars.

In 2017 Aqua **sued** the Bucks County Water and Sewer Authority for anti-competitive practices, claiming Bucks’ non-profit status gave them an unfair advantage in keeping overhead expenses down.

If the sale goes through, more than half a million people in southeastern Pennsylvania would be impacted and the acquisition would represent one of the largest water utility acquisitions by a private corporation in the country.

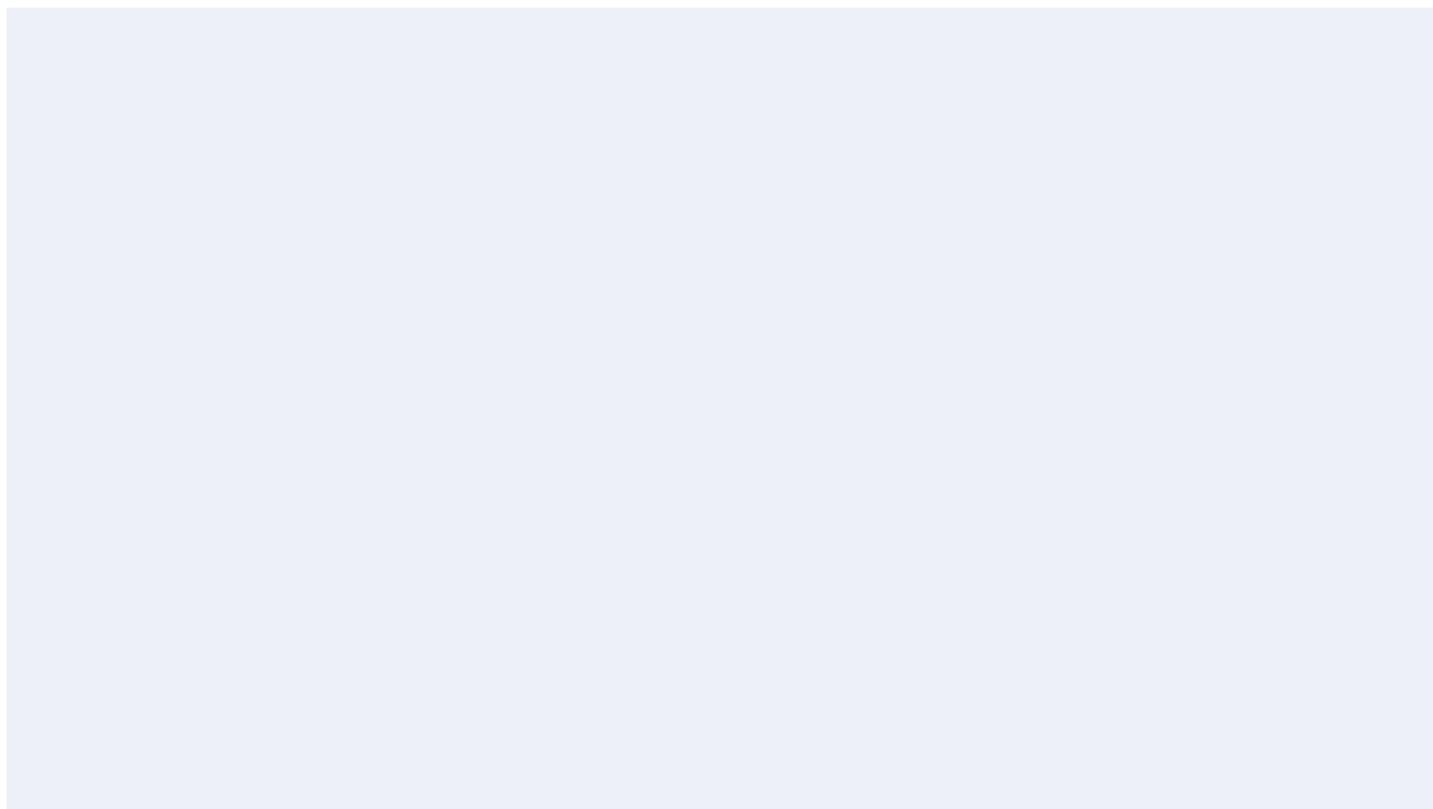
When McMahon, Miller and Osei learned of the possible sale of the Bucks County Sewer Authority they didn’t hesitate to share their experience and knowledge with residents and have been helping to organize a Bucks County **NOPE** chapter.

“Any Bucks County official not taking a stand against the sale is complicit in letting investors leech off of our public institutions” Osei said.

On July 26, residents and NOPE activists attended a **town hall**-like presentation that, according to attendees, was largely orchestrated by Aqua and appeared to be more of a sales pitch than an opportunity to express concerns and secure answers to questions.

On July 28, the **Bucks County Association of Township Officials**, an organization of county supervisors, managers, tax collectors and auditors, passed a **resolution** denouncing the sale.

Those served by the Bucks County Sewer Authority continue to organize and explore ways to stop the sale including an upcoming **August 18 virtual town hall**.



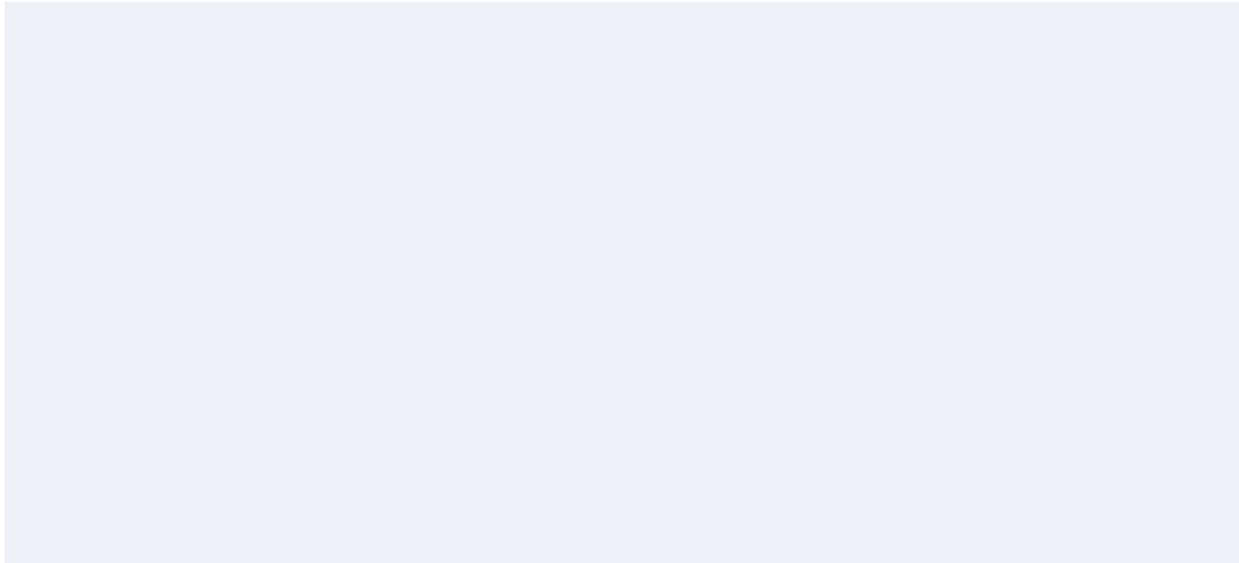
Essential Utilities

Essential Utilities is a public company trading as **WTRG** on the New York Stock Exchange. Located at 762 West Lancaster Avenue in Bryn Mawr, Essential employs upwards of 3,000 workers. Additionally, the company has an untold number of subsidiaries throughout the country.

A closer look at Essential Utilities is somewhat eye opening. The corporation has been **cited** for environmental related offenses upwards of 64 times. Other infractions include violations of consumer protection, utility safety, workplace safety and labor relations.

SUBSIDIARIES CITED INCLUDE: AQUA UTILITIES, INC., AQUA PA., INC., AQUA PENNSYLVANIA Wastewater, Inc., Aqua Texas, Inc., Aqua Ohio, Inc., Aqua Illinois, Inc., and AquaSource Utility, Inc.

The violations occurred over an approximate 20 year period and while some may say that 64+ incidents over 20 years isn't that bad, Chester Water Authority, Norristown Sewer Authority, Borough of Conshohocken Authority, Towamencin Township Sewer Authority and Bucks County Water and Sewer Authority had zero violations.



What about the rate increases that so many consumers believe Aqua will impose after they gain ownership of a water utility? In May of this year, the Philadelphia Inquirer ran this **story**:

Aqua Pa. details its steep rate increase and hits sewer users the hardest

*“An average Aqua residential wastewater bill will go up 59%, from \$55.51 to \$88.18, a **monthly increase** of \$32.67 according to an Aqua spokesperson. That’s an average among 11 different Aqua rate zones.”*

Even more surprising is the fact that the company is involved in another industry: **fracking**.

“In 2012, Aqua formed a joint venture with Penn Virginia Resource Partners to construct and manage a pipeline supplying fresh water to natural gas producers drilling in the Marcellus Shale in north-central Pennsylvania. Penn Virginia Resource Partners was later acquired by

*Regency Energy Partners, which is now part of Energy Transfer Partners.” – **Chris Frankun**, Aqua CEO*

In a criminal case filed by Pennsylvania’s Attorney General Josh Shapiro, Energy Transfer entered a plea of no contest on August 05, 2022 and was convicted of **criminal charges** relating to their conduct during the construction of two major pipelines in the Commonwealth. A \$10 million dollar fine was assessed.

Pennsylvania radio station **WESA** reported: *“Energy Transfer will spend \$10 million to restore waterways damaged by its construction. The Attorney General’s office says that is more than six times the maximum penalty required under state law. Under the Pennsylvania Clean Streams Law, penalties for these charges would have amounted to just \$1.45 million.”*

Adding insult to injury, a large portion of the natural gas liquids will ultimately be transported to European countries for the purpose of making **single use plastics**.

The environmental damage that has taken place in Pennsylvania since Aqua first teamed up with Penn Virginia, ultimately to be in partnership with Energy Transfer, is a very bitter pill for environmentalists and those concerned with climate change.

Former State Senator Andrew Dinniman (D-19) was quoted in the **Daily Local News** as saying: *“According to Energy Transfer’s 2018 annual report, the company owns a 51 percent stake in Aqua – ETC Water solutions, characterized as a ‘joint venture that transports and supplies fresh water to natural gas producers drilling in the Marcellus Shale in Pennsylvania.”*

It’s ironic that Aqua, a company that sells clean drinking water, has a connection to the contamination and destruction of privately owned water wells.

According to **Huffington Post**: *“The state’s often-plodding response has left hundreds of rural Pennsylvanians in a sort of forced drought, scrambling to pay for water deliveries, seek remedies in court, take out second mortgages or even abandon their homes.”*

Online **reviews** of Aqua services reveal a roster of very unhappy Aqua customers. From the **Better Business Bureau** to **independent message boards**, a majority of the consumer comments are less than positive.

When it comes to water and sewer utilities, most property owners have no choice of

vendors. The public must rely on local officials to make decisions that beneove residents and businesses financially while ensuring quality service.

A handful of politically connected individuals comprise the 2022 **reorganized** Bucks County Water and Sewer Authority **Board**, including former Bucks County Democratic party leader John Cordisco and Pat Poprik, the current Bucks County Republican Party Chairwoman who signed onto the fake slate of electors in support of the “Big Lie.” Bryan Allen, Dennis Cowley and George Hutt make up the balance of the board.

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Many find it incredible that a board of unelected officials has the authority to dictate the sale of a public utility that will impact 100,000 households, business accounts, and some 525,000 people in the southeastern Pennsylvania region.

At the end of the day there are no guarantees that a municipality won't be thrown a curveball every now and then when entering into a business relationship with a for-profit corporation. Perhaps before deciding to partner up it may be wise to peel back the shiny façade and have a look at what's on the inside because clearly, all that glitters is not gold.

McMahon, Miller and Osei realized early on that the privatization of public utilities is not a good idea for a variety of reasons. Together they plan on working to educate the public about how they might fend off these hostile takeovers.

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Jenny Stephens

Jenny Stephens is a freelance journalist who has written for a variety of publications, including The Reporter. An avid collector of all things vintage, she resides in Lansdale, PA.

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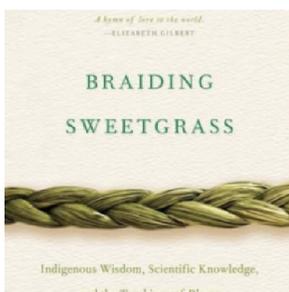
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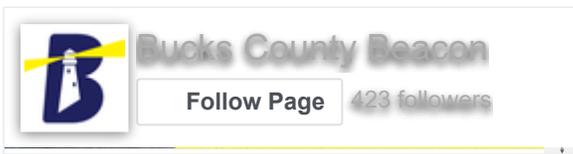
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