Chester Water Authority
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December 19, 2025

To all members of DELCORA Board of Directors[1]
c/o Executive Director
100 East Fifth Street
Chester, PA 19103
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RE: DELCORA must oppose Aqua's plan to merge with American Water

Dear DELCORA Board of Directors:

I. Introduction.

As you know, in 2019 DELCORA entered into a contract, called an Asset Purchase Agreement, whereby DELCORA agreed to sell itself to Aqua. It has been six years since then, and the sale still has not closed. In that intervening time, all the reasons that DELCORA gave to justify the sale are now moot. First, the "tunnel project" DELCORA was hoping to avoid by selling is now not needed. Second, the idea that a sale would help DELCORA avoid an expensive contract renewal with the Philadelphia Water Department is now moot; DELCORA renewed the contract in 2023 on very favorable terms. And third, the "rate stabilization trust" that Aqua and DELCORA touted to temporarily keep rates low following a sale – a key promise made to protect ratepayers – is illusory and not enforceable by contract.

On the other hand, the sale will have a tremendous drawback if it ever closes: DELCORA's ratepayers will see their rates rapidly increase by at least 300% over an initial period of time and will continue to experience compounding rate hikes at a pace that they would have not experienced with DELCORA. This is because Aqua's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[2] DELCORA currently charges $33.28 per month for

[1] Kindly distribute a copy to all members of the DELCORA Board of Directors.

[2] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

the same amount.[3] If Aqua acquires DELCORA, then DELCORA's ratepayers will eventually be forced onto Aqua's much higher rates.

This problem became even more acute when Aqua announced in 2025 that Aqua was selling itself to American Water. American charges $133.16 for the same residential service noted above.[4] This is over 30% more than Aqua's already high rates and over **400%** more than DELCORA's rates. If American acquires Aqua, and then the combined entity closes on the long-stalled acquisition of DELCORA, then DELCORA's ratepayers will eventually be moved to American's even higher rates.

Given all of the above, it is difficult to see how closing on a sale of DELCORA is in the public interest at this point. Your ratepayers will be forced to pay substantially more for essentially the same level of service, compounding the pressure of other rising utility costs across the Commonwealth and two recent double-digit tax increases in Delaware County.

Additional harm will fall on DELCORA's customers because, instead of being governed by a Delaware County–appointed public board, they will be subject to a state regulated private monopoly whose core duty is to deliver steady earnings and executive compensation growth to shareholders—costs that are ultimately recovered through their monthly bills.

You, as DELCORA board members, are charged with operating this system as an efficient, non-profit municipal entity in the public interest; by contrast, an investor-owned acquirer would be legally structured and financially incentivized to run DELCORA as a profit maximizing enterprise.

However, the proposed merger between Aqua and American presents DELCORA with a unique opportunity. There is a provision in the 2019 Asset Purchase Agreement that prohibits Aqua from assigning that contract to American. There is also a provision that allows DELCORA to cancel the 2019 Asset Purchase Agreement if there is a "material adverse event" before closing. The fact that DELCORA's customers will have to eventually pay American's even higher rates, which are 30% more than Aqua's, constitutes a "material adverse event" that DELCORA never bargained for. The fact that Aqua has not been able to close on the sale for six years and counting also constitutes a "material adverse event."

Will DELCORA invoke any of these provisions and cancel the 2019 Asset Purchase Agreement?

Will DELCORA file a protest with the Pennsylvania Public Utility Commission, which is presently accepting public comment on the Aqua-American merger?

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[3] https://delcora.community.highbond.com/document/70c4a52d-f5bb-42b7-8959-7d5d0a4f8bf4/ (DELCORA bills at a flat rate of $8.32 per 1,000 gallons)

[4] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

Chester Water Authority is a ratepayer of DELCORA and also the entity responsible for shutting off water for DELCORA's ratepayers who are in arrears on their sewer bills. If Aqua or American is successful at acquiring DELCORA, CWA will no longer be involved in the shut of process. Your former customers will have to resolve their issues with either a for-profit company or the Public Utility Commission and will no longer be able to address their issues with a local municipal authority like DELCORA or CWA. CWA believes that DELCORA should be prudent and act in the public interest and should take these steps to cancel the long-stalled sale to Aqua and instead keep DELCORA in public hands. A rate increase of 300% or more is not in the public interest of DELCORA's ratepayers.

II. Executive summary.

In 2019, DELCORA proposed to sell itself to Aqua. DELCORA's sale would mean massive rate increases for ratepayers as they are involuntarily shifted from DELCORA's lower rates to Aqua's much higher rates. Ratepayers would get no commensurate benefit in service, but Aqua's shareholders would enjoy huge profits off the backs of DELCORA's ratepayers.

The proposed sale ignited a firestorm of public outcry and opposition. Litigation surrounding the proposed sale has dragged on for six years now, and the proposed sale has yet to close.

Now, Aqua has announced a plan to be acquired by American Water. American Water's rates are 30% higher than Aqua's already massive rates. If that merger goes through, American Water will take over Aqua's long-stalled attempt to close on the acquisition of DELCORA. If that acquisition succeeds, DELCORA's ratepayers will end up paying American Water's even higher rates.

Aqua's acquisition of DELCORA was already against the public interest given Aqua's much higher rates. The public interest problems are now magnified given that it will be American's even higher rates that ratepayers will pay if the sale of DELCORA closes.

However, American Water's acquisition of Aqua now presents DELCORA with an opportunity to cancel the long-stalled purchase agreement DELCORA ill-advisedly entered with Aqua in 2019 and walk away from a deal that clearly makes no sense.

III. Background on DELCORA.

A. DELCORA's system.

Delaware County residents and businesses generate millions of gallons of wastewater every day. This wastewater must be collected, conveyed, and treated in a safe, effective way that prevents the contamination of streams, rivers, and general water supply. DELCORA, the Delaware County Regional Water Quality Control Authority, has been providing this vital function to its local communities for over four decades. Serving as a municipal authority, DELCORA, owns, operates, and maintains wastewater facilities that serve approximately half a million people, including 46 municipalities in Delaware and Chester Counties. DELCORA collects and conveys an average

daily wastewater flow of approximately 60 million gallons per day with an instantaneous peak flow of approximately 200 million gallons per day.[5]

B. The 2015 Consent decree with the EPA, known as the Long-Term Control Plan.

DELCORA has a "combined" sewer system. DELCORA offers the following explanation for what this means:

> Combined sewer systems are sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe. Most of the time, combined sewer systems transport all of their wastewater to a sewage treatment plant, where it is treated and then discharged to a water body. During periods of heavy rainfall or snowmelt, however, the wastewater volume in a combined sewer system can exceed the capacity of the sewer system or treatment plant. For this reason, combined sewer systems are designed to overflow occasionally and discharge excess wastewater directly to nearby streams, rivers, or other water bodies.
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> These overflows, called combined sewer overflows (CSOs), contain not only stormwater but also untreated human and industrial waste, toxic materials, and debris. They are a major water pollution concern for the approximately 772 cities in the U.S. that have combined sewer systems.

DELCORA website, https://www.delcora.org/combined-sewer-systems/.

In 2015, DELCORA entered into a consent decree with the U.S. EPA to ameliorate pollution from DELCORA's CSOs. This is known as DELCORA's "Long-Term Control Plan."[6]

C. DELCORA's Eastern and Western Service Areas and the interplay with the Long-Term Control Plan.

DELCORA has two different service areas: the Eastern and Western service areas.[7] DELCORA pumps wastewater flow from the Eastern Service Area to a treatment plant that the Philadelphia Water Department owns near Philadelphia International Airport. DELCORA has a long-term contract with PWD for this service. DELCORA pumps wastewater flow from the Western Service Area to a treatment plant that DELCORA owns along the Delaware River in Chester, PA.

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[5] https://www.delcora.org/about-us/delcora/

[6] https://www.delcora.org/combined-sewer-systems/delcora-cso-ltcp/#:~:text=The%20Long%20Term%20Control%20Plan,and%20implementation%20of%20the%20controls

[7] https://www.delcora.org/combined-sewer-systems/cso-areas/

When DELCORA entered into the consent decree in 2015, DELCORA's contract with the PWD was set to expire in 2028. As DELCORA considered its options for complying with the consent decree, apparently, in 2018 DELCORA inquired with the PWD about the cost to renew the treatment contract for an additional term. PWD apparently responded that the rates PWD would charge DELCORA would go up substantially in an additional contract term after 2028.

Faced with the prospect of these increasing costs, DELCORA considered an option that involved not renewing the contract with PWD. This would mean that DELCORA would have to divert the flows from the Eastern service area to DELCORA's Western Regional Treatment Plant, where DELCORA was already treating flows from the Western service area. DELCORA would also have to greatly expand the capacity for the WRTP to handle these additional flows. In addition, to mitigate CSOs, DELCORA would build enormous 14-foot diameter tunnels underground to handle excess flows during rainstorm events. During such events, excess flows would be retained in the tunnels, rather than discharged into the Delaware River, until the WRTP could "catch up" and treat the retained flows when capacity is available.

D. In 2019, DELCORA's agrees to sell itself to Aqua rather than construct the "tunnel project" or renew with the PWD.

The "tunnel project" was projected to be enormously expensive. In 2018, renewing the contract with PWD also appeared to be excessively expensive, based on the renewal rates PWD quoted at the time.

Rather than bear either of these expenses or come up with more practical, sustainable, palatable and affordable options, DELCORA's Board instead made the surprising decision to sell DELCORA to Aqua Pennsylvania Wastewater, Inc. On September 17, 2019, DELCORA and Aqua entered into an Asset Purchase Agreement whereby DELCORA agreed to close on a sale of its assets to Aqua.[8]

This expense of the "tunnel project" or the alternative expense of renewal with PWD were the principal public justifications DELCORA's Board provided when they decided to sell DELCORA to Aqua. In short, the DELCORA Board said that Aqua would be better positioned to handle whatever work would be necessary to comply with DELCORA's long-term control plan.

E. The announcement of DELCORA's sale to Aqua ignites a firestorm of opposition.

The announcement of DELCORA's sale generated enormous local opposition.

One aspect of this opposition was legal challenges to the sale itself. DELCORA, Delaware County, and Aqua sued each other multiple times to either block or proceed with closing on the sale.

Another aspect of the local opposition was directed at the "tunnel project." Local municipalities and citizens vigorously opposed the disruptions that such large construction would cause in their streets and on their properties. They spoke out at meetings and refused to cooperate

[8] https://www.puc.pa.gov/pcdocs/1682281.pdf

with providing necessary easements for project construction. The strength of this local opposition was so great that in the summer of 2023, DELCORA announced that it was abandoning the "tunnel project" and renewing another contract with PWD. DELCORA's decision to renew with PWD was also aided by the fact that PWD provided drastically lower rate projections for a renewed contract than the projections PWD originally offered to DELCORA in 2018. In sum, the "tunnel project" is now dead.

Another aspect of local opposition centered on the dramatically increased rates that Aqua would charge DELCORA's ratepayers. Aqua's current monthly rate for the average residential home using 4,000 gallons per month is $103.09.[9] DELCORA only charges $33.28 per month for the same amount.[10] If Aqua acquires DELCORA, then DELCORA's ratepayers will eventually be forced onto Aqua's much higher rates.

This problem became even more acute when Aqua announced in 2025 that Aqua was selling itself to American Water. American charges $133.16 for the same residential service noted above.[11] This is over 30% more than Aqua's already high rates. If American acquires Aqua, and then the combined entity closes on the long-stalled acquisition of DELCORA, then DELCORA's ratepayers will eventually be moved to American's even higher rates.

F. DELCORA and Aqua promised a temporary "rate stabilization trust" to mask the rate pain, but the trust is an illusion.

When DELCORA announced in 2019 that it planned to sell itself to Aqua, both DELCORA and Aqua attempted to mollify public opposition by promising a temporary "rate freeze" to mask the pain of the inevitable massive rate increases that Aqua would impose. Specifically, DELCORA and Aqua stated that any proceeds from the sale of DELCORA would be placed into a trust fund that would be used to offset any Aqua rate increases. This would temporarily "stabilize" the rates that customers would pay, until the trust fund inevitably runs out.

To understand how this works, it is first necessary to provide some background on how public utilities went from servicing the public to being a tool for private entities to turn profits at the expense of the public. The Pennsylvania Legislature first created Municipal Authorities in 1935. These Authorities were created primarily to facilitate the financing and public ownership of public utilities such as water and sewer systems, airports, etc., which are essential to provide necessary public services. The Authorities operate as not-for-profit entities focused solely on providing essential services to the public. The structure and nature of the Authorities have allowed them to operate without influences from corporate entities for decades.

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[9] https://www.aquawater.com/sites/default/files/2025-03/wastewater_-_rate_zone_1_-_rate_comparison.pdf

[10] https://delcora.community.highbond.com/document/70c4a52d-f5bb-42b7-8959-7d5d0a4f8bf4/ (DELCORA bills at a flat rate of $8.32 per 1,000 gallons)

[11] https://amwater.com/paaw/Resources/PDF/Rates/Rate%20Changes%20-%20Wastewater%20Rate%20Zone%201.pdf

However, in 2016, the Pennsylvania Legislature passed a bill known as Act 12 (66 Pa.C.S.A. § 1329) that allows private, investor-owned utilities to purchase public municipal water and wastewater systems at an inflated "fair market" price and then recoup the sale price *and a profit* from the public by raising rates. Although Act 12 requires that the sought-after water and wastewater systems be appraised to determine a baseline for the value of the systems, the appraisals are done in accordance with a non-traditional inflated valuation method known as "fair market value." The supposed "fair market value" appraisal approach yields inflated appraised values far above the traditional metric of valuing a system based on its original cost less depreciation.

The investor-owned utilities then offer this inflated "fair market value" price to local government officials, hoping the promise of even larger sums will entice them into selling water and wastewater systems that are in strong operational and financial shape. To sweeten the deal, investor-owned utilities often promise to "freeze" any rate increases for a few years, meaning that the real rate pain will only hit once the government officials who vote to sell are no longer in office.

This egregious tactic is essentially a smoke screen that results in government officials becoming blinded by the promise of enormous short-term cash infusions and the promise of no short-term rate increases. This smoke screen has proven very effective at causing elected officials to increasingly agree to sell the operationally and financially healthy water and wastewater systems they oversee, only to then face the wrath of their constituents when rates rise very rapidly.

Investor-owned utilities are glad to offer more money for the systems they acquire since they get it back in permanently increased rates, plus a very lucrative year-over-year profit. Specifically, following a sale Act 12 *requires* that the Pennsylvania Public Utility Commission authorize the acquiring investor-owned utility to raise its rates to recoup the inflated "fair market value" acquisition price *plus* a profit margin. Thus, as soon as they are able following an acquisition, the investor-owned utilities raise rates sharply. Act 12 has thus created a no-lose situation for the investor-owned utilities and distorted traditional market dynamics so profoundly that these for-profit businesses are racing each other to actually pay *more*.

The losers in these acquisitions are the ratepayers, of course. There is often a public outcry when the investor-owned utilities quickly move to raise rates following acquisitions, with the newly acquired customers feeling duped by the "rate freeze" promises.[12] Indeed, the local governments quickly regret their short-sighted decision to sell healthy public water and wastewater systems.[13] But it is too late. The furious local customers are now saddled with enormous and unnecessary rate increase *forever*.

[12] "Limerick residents oppose 90% sewer rate hike by Aqua PA," by Evan Brandt, The Times Herald, September 16, 2021 (available at https://www.timesherald.com/2021/09/16/limerick-residents-oppose-90-sewer-rate-hike-by-aqua_-pa/).

[13] "Towns sell their public water systems — and come to regret it," by Elizabeth Douglas, The Washington Post, July 8, 2017 (available at https://www.washingtonpost.com/national/health-

Recognizing that Act 12 has created a no-lose situation for them, investor-owned utilities have gone on a buying spree in Pennsylvania over the last nine years. Indeed, as an editorial in The Philadelphia Inquirer stated, "residents saddled with hefty water and sewer bill increases can thank lawmakers in Harrisburg for unleashing the frenzy of for-profit water companies buying up local systems."[14]

The effects of Act 12 on the public can be seen across Pennsylvania. Aqua recently purchased municipal water and wastewater systems in Limerick Township, New Garden, East Norriton, Cheltenham and East Bradford. Ratepayers in all five towns have seen dramatic early increases in their bills that are continuing to rapidly climb: Limerick Township – up 98%, New Garden – up 90%, East Norriton – up 73%, Cheltenham – up 69% and East Bradford – up 47%.[15] Further, significant rate increases are inevitable as companies like Aqua need to generate the profits required to service their acquisition debt and provide shareholder value. Sometimes, the negative effects on the public are often masked behind discount programs or deferred rate increases. For example, York County's public wastewater system was recently sold to Pennsylvania American Water. The deal prohibits American Water from raising rates for three years, but after that, rates can go up by almost 50%.[16]

These rate increases have a significant and disproportionate impact on low-income communities of color. Many observers, including the NAACP, have documented this phenomenon and accordingly labeled water and wastewater privatization as a form of "environmental racism."[17]

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science/towns-sell-their-public-water-systems--and-come-to-regret-it/2017/07/07/6ec5b8d6-4bc6-11e7-bc1b-fddbd8359dee_story.html).

[14] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sales-20220818.html).

[15] "Aqua Pa. details its steep rate increase and hits sewer users the hardest," by Andrew Maykuth, The Philadelphia Inquirer, May 24, 2022 (available at https://www.inquirer.com/business/aqua-pennsylvania-rates-water-wastewater-20220525.html). Since this article was published in 2022, the rates have increased even further.

[16] "As Pa. municipalities sell water systems to for-profit companies, consumers are left paying the price," by The Editorial Board, The Philadelphia Inquirer, August 18, 2022 (available at https://www.inquirer.com/opinion/editorials/pennsylvania-municipalities-water-sewer-utility-sales-20220818.html).

[17] In 2019 the NAACP Legal Defense and Educational Fund issued a 104 page report titled "WATER/COLOR A Study of Race & the Water Affordability Crisis in America's Cities" which demonstrates the "disproportionate impact of rising water bills on Black communities." *See* https://www.naacpldf.org/wp-content/uploads/Water_Report_FULL_5_31_19_FINAL_OPT.pdf

Sticking to the well-worn script, Aqua and DELCORA promised a "rate stabilization trust" when they first announced their deal in 2019. But the promise was illusory and unenforceable. The actual contract between Aqua and DELCORA did not include any provisions making the "rate stabilization trust" enforceable.[18] It was simply an illusory promise Aqua and DELCORA made to deflect bad PR in 2019 that followed the aforementioned "smoke screen" playbook of investor-owned utilities.

Moreover, litigation immediately ensued over the unenforceability of the "rate stabilization trust." That litigation involved DELCORA, Aqua, and Delaware County. That litigation was convoluted and the results muddled. But it seems that even if the trust was enforceable by contract – which it is not – it is unclear if the Courts would even allow the trust to proceed.

IV. Circumstances have changed significantly since 2019, and it would now be unjustifiable for DELCORA to close on a sale of itself.

The principal justifications that DELCORA's Board gave in 2019 to justify the sale to Aqua are now all dead or moot.

The expensive and disruptive "tunnel project" that DELCORA was so worried about is dead.

DELCORA's contract with PWD – which DELCORA originally thought could only be renewed at much higher rates – has been renewed for a very reasonable price, which has been locked in for many years to come following 2028.

The "rate stabilization trust" that DELCORA and Aqua promised is dead.

And, perhaps most significantly, Aqua has announced its own plans to sell itself to American. That means that if the DELCORA sale closes, DELCORA will eventually come under American's umbrella. And American's rates are 30% higher than Aqua's already very high rates.

Given these dramatically changed circumstances from 2019, there is no reasonable or rational justification or supportive reason for closing on the sale of DELCORA.

V. DELCORA now has an opportunity to walk away from the 2019 deal, and DELCORA should take it.

The 2019 Asset Purchase Agreement between Aqua and DELCORA contains a clause stating that Aqua cannot assign the contract without DELCORA's consent.[19] This clause prevents Aqua from assigning the 2019 Asset Purchase Agreement to American without DELCORA's consent.

The 2019 Asset Purchase Agreement also contains a provision allowing DELCORA to cancel the contract if Aqua suffers a "material adverse event" prior to closing. *Id.* at Section 12.05.

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[18] https://www.puc.pa.gov/pcdocs/1682281.pdf

[19] https://www.puc.pa.gov/pcdocs/1682281.pdf (Section 15.09).

The Aqua-American merger likely constitutes such a "material adverse event" because American's rates, which DELCORA's customers will eventually have to pay, are over 30% higher than Aqua's already high rates. In other words, the Aqua-American merger is tantamount to a bait-and-switch from the perspective of DELCORA and its ratepayers, with a further 30% rate increase that DELCORA never bargained for and never expected. Indeed, had DELCORA been comfortable with American's stupendously high rates in 2019, DELCORA could have made a deal directly with American, instead of Aqua. DELCORA did not. And DELCORA's ratepayers should not be backdoored into an even higher rate structure than the already high one DELCORA's board originally thought it contracted for.

Aqua's inability to close on the 2019 Asset Purchase Agreement for six years and counting is another "material adverse event." Surely, DELCORA never would have entered the 2019 Asset Purchase Agreement in the first place if DELCORA knew that it would take Aqua more than six years to close. This is especially true since, in the intervening six years since 2019, all the major justifications for the DELCORA acquisition are now moot or dead.

VI. Our questions for you.

Is DELCORA informing Aqua and American of the positions above and stating that DELCORA now considers the 2019 Asset Purchase Agreement to be cancelled and of no further effect?

Will DELCORA file an official protest with the Pennsylvania PUC informing it of the same? The PUC is currently accepting public comment and protests on the proposed Aqua-American transaction until December 29, 2025, and so DELCORA should act quickly to make its voice heard.

Thank you for your time and consideration.

Chester Water Authority Board of Directors

/s/ Noel Brandon

By: Noel Brandon, Board Chair