

Testimony before the Democratic Policy Committee

January 22, 2024

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My name is Peter Mrozinski, and I am a resident of New Garden Township (NGT).

In 2016 NGT announced it had signed an agreement with Aqua for the sale of our sewer system. It was the first such sale under Act 12. We have witnessed firsthand the impact of Act 12, and we are speaking from experience. Few have taken the time to delve into the details of an Act 12 acquisition. But we have and we are here to tell the real story.

The purpose of this hearing is to identify unexpected consequences of Act 12. Our experience has shown that Act 12 has led to one overriding consequence. It allows private utilities to offer local municipalities large sums of money. Local officials are then enthralled by this money, and it becomes the driving force.

For NGT, and I expect this to be the case in other municipalities, the potential influx of a large sum of money, \$29.5 million in our case, became the key issue. The money became the goal and because there was no quantifiable benefit for the sale of a healthy municipal system, the justification was shaped to fit the sale goal.

A review of the facts clearly shows how we were misled to justify the sale.

- We were warned that the sewer system needed an immediate \$12 million investment. Almost eight years after that warning, Aqua has invested less than \$4 million in the system. *(See Note 1. Below)*
- We were told that without a sale a 78% rate increase was required to fund this investment. Since the announcement of the sale, our rates have increased by over 140%. But none of this increase went to fund any system improvements. The largest portion went solely to pay for Aqua's "infrastructure investment" to purchase the system. We will pay for the improvements in future rate increases. *(See note 2. Below)*
- We were told Aqua can do any required system upgrades cheaper than NGT. Aqua's costs can be 20% to 30% cheaper because of "economies of scale". But what we were not told was that Aqua's required profits needed to be added to their costs and these profits far outweigh any economy of scale benefits. It may be a lower cost for Aqua, but it is a greater cost for the residents.
- We were told a clause in the sale agreement stipulated our rates would be frozen for two years and future increases would be capped at 4% annually for ten years. This clause was removed before the final sale, with no clear justification. *(See Note 3. Below)*
- We were told part of the sale proceeds would be used to mitigate our rates should the contractual rates be exceeded. In December 2022, the current NGT BOS voted to not honor this promise.

- We were told part of the sale proceeds would be used to establish a fund to offset future tax increases. This fund was never established and the current NGT BOS announced a 127% real estate tax increase in November 2023. (*See Note 4. Below*)

The facts of the NGT sewer sale are far from the claims and promises made at the outset. The NGT Board of Supervisors (BOS) was enthralled by the potential influx of \$29.5 million, more than 4 times their annual budget at that time. The \$29.5 million became the driving force and a justification was constructed to convince residents they would benefit from the sale. We have been burdened with outrages bills for several years now, yet the current BOS has also done nothing to help its residents. The remaining proceeds from the sale are sitting in an interest-bearing account, which has only recently provided any income, due to higher interest rates. They have also resisted any effort to obtain information about the sale, recently spending over \$20,000 to fight Open Records Requests.

All the consequences of Act 12 derive from the simple fact that Act 12 has given the green light to private utilities to use their honed tactics to lure local municipalities into deals that are bad for their residents, and we are left to pay the bill. Municipalities are falling victim to the promise of “free” money. This needs to stop. We have attended meetings at other municipalities considering the sale of their local utility. We see the same misleading justifications being used over and over. Any municipal utility sale must be based on demonstrated net financial benefit to the residents.

In NGT, we are not only victims of Act 12 with our sewer sale, but our award-winning water supplier Chester Water Authority (CWA) is also now the victim of a hostile takeover attempt by Aqua PA, which is again driven only by the money. (*See Note 5. Below*) We have seen what the lust for money has done to our sewer rates and we are now working hard to prevent that lust for money from winning out over CWA.

You need to shut the door on predatory pricing. Act 12 cannot be fixed, Act 12 cannot be tweaked, Act 12 must be repealed.

Notes:

1. Publicly available records on the condition of the NGT sewer system also show that the system was in good financial and structural condition before the sale.
2. This is an important point. Private utilities continue to claim that their higher rates are due to the infrastructure investments needed because local municipalities failed to properly maintain their systems. As recent as December 12, 2023, in testimony to the Pennsylvania House Consumer Protection, Technology & Utilities Committee, Mr. Marc Luca, president of Aqua stated “It is true that customer rates were lower prior to the sale, but that rate reflected the lack of investment that led to the poor condition of the assets.” Mr. Luca insinuates that NGT’s rate increase under Aqua was necessary to correct past “lack of investment”. That is highly deceptive. The dramatic rate increase we have seen reflects Aqua’s profits and financing costs on the purchase price. It has little or nothing to do with improvements Aqua had made at that point in time.

3. NGT continues to claim that the Office of Consumer Advocate (OCA) “required” the removal of this clause. The public record including OCA filings and the Administrative Law Judge (ALJ) opinion do not support this claim. We have asked NGT several times to substantiate the claim. Not only have they failed to produce any substantiation, but they spent over \$20,000 on legal fees to avoid compliance with a Right to Know Request for any relevant documentation.
4. When asked directly about the fund to offset tax increases, the NGT BOS stated that the interest from the sale proceeds is offsetting taxes, because without that interest the tax increase would be even higher. We were told that without the interest an additional 1 mil increase would be needed. For the “average” NGT resident, 1 mil converts to \$185 per year in additional tax. So, the \$29.5 million influx to the township saves the “average” resident \$185 in taxes. Yet that same “average” resident is paying an additional \$770 annually for sewer service. The one-time influx of cash cannot financially help the municipality in any long-term way.
5. Aqua rightfully does not claim that CWA is a rundown and neglected utility. This sale is driven entirely by a potential influx of over \$400 million to help solve the financial problems of the city of Chester. Yet over 80% of CWA ratepayers do not live in the city of Chester. They will pay double for water with absolutely no benefit. This is a most egregious example of a sale driven entirely by money, with absolutely no concern about the consequences for the ratepayers.