

SUPREME COURT OF PENNSYLVANIA

Darryl A. Lawrence, Acting Consumer Advocate v. Pennsylvania  
Public Utility Commission; Appeal of East Whiteland Township;  
Appeal of Aqua Pennsylvania Wastewater, Inc.

Lawrence v. Pa. Pub. Util. Comm'n · No. Nos. 47 MAP 2024, 48 MAP 2024, and 49 MAP 2024 · Decided  
December 16, 2025

SUMMARY

The Supreme Court of Pennsylvania reviews consolidated appeals concerning Aqua Pennsylvania Wastewater, Inc.'s application for a Certificate of Public Convenience to acquire East Whiteland Township's wastewater system under Section 1329 of the Pennsylvania Public Utility Code. The Court holds that the Commonwealth Court misapplied the statutory framework and precedent governing affirmative public benefits and reverses and remands its decision.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| COURT                 | Supreme Court of Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Justice Mundy; Chief Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Brobson; Justice McCaffery                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | Supreme Court of Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | December 16, 2025                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET                | Nos. 47 MAP 2024, 48 MAP 2024, and 49 MAP 2024                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Consolidated appeals from the Commonwealth Court's reversal of the Pennsylvania Public Utility Commission's order granting Aqua Pennsylvania Wastewater, Inc. a certificate of public convenience for its acquisition of East Whiteland Township's wastewater collection system under 66 Pa.C.S. § 1329.                                                                                                                                                                  |
| STANDARD OF REVIEW    | Appellate review of a Commission certification decision is generally limited to constitutional violations, errors of law, procedural violations, and whether necessary factual findings are supported by substantial evidence. Reviewing courts accord considerable deference to the Commission's expertise and may not reweigh evidence or substitute judicial judgment for administrative discretion. Discretionary agency action may be reversed only when made in bad |

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|                           | faith or constituting a manifest or flagrant abuse of discretion or a purely arbitrary execution of agency duties.                                  |
| <b>PRECEDENTIAL VALUE</b> | precedential                                                                                                                                        |
| <b>PARTIES</b>            | Pennsylvania Public Utility Commission, East Whiteland Township, Aqua Pennsylvania Wastewater, Inc. v. Darryl A. Lawrence, Acting Consumer Advocate |

## TOPICS

judicial review of agency action

public utilities

administrative law

statutory interpretation

municipal law

## PRACTICE AREAS

administrative law

public utilities

statutory interpretation

municipal law

## QUESTIONS PRESENTED

1. Whether Section 1329 altered or displaced the existing certificate-of-public-convenience requirements in Sections 1102 and 1103 of the Public Utility Code.
2. Whether the Commission may consider benefits deriving from an acquiring utility's size and technical, managerial, and financial fitness in determining whether a transaction provides substantial affirmative public benefits.
3. Whether the Commonwealth Court improperly reweighed the evidence and substituted its judgment for the Commission's judgment concerning the benefits and rate impacts of the transaction.
4. Whether the Commission properly considered the transaction's effect on customer rates as part of the affirmative public-benefits and net-benefits analysis.
5. Whether the Commission's factual findings were supported by substantial evidence.

## HOLDINGS

1. Section 1329 did not alter the existing requirements of Sections 1102 and 1103 for obtaining a certificate of public convenience. Section 1329 transactions must comply with those provisions and with precedent interpreting them.
2. To obtain a certificate of public convenience for a Section 1329 transaction, the proponents must demonstrate by a preponderance of the evidence that the transaction affirmatively promotes the service, accommodation, convenience, or safety of the public in some substantial way. Absolute public necessity is not required because the statute includes the alternative concept of propriety.
3. The Commission is not barred from considering benefits that derive from the acquiring utility's size, technical fitness, managerial expertise, or financial capability in its affirmative public-benefits analysis. Those characteristics are not benefits in themselves, but benefits emanating from them may be considered.

4. The Commonwealth Court erred by reweighing the evidence concerning the services Aqua could provide and by substituting its judgment for the Commission's judgment about the value of those benefits.
5. The Commission must consider a Section 1329 transaction's impact on future rates as part of the affirmative public-benefits and net-benefits analysis, at least in a general fashion, but the rate impact is not automatically a 'known harm' and the transaction need not produce lower consumer rates to satisfy the public-benefits standard.
6. The Commonwealth Court must address the Consumer Advocate's contention that the Commission's factual findings were not supported by substantial evidence; the Supreme Court therefore remanded for that unresolved review.

#### KEY QUOTATIONS

*“We, therefore, concur with the Commonwealth Court that Section 1329 did not alter the requirements of Sections 1102 and 1103 and our precedent interpreting those requirements is applicable to Section 1329 transactions.” (28)*

*“Merely because certain benefits of a transaction derive from the acquiring utility’s fitness to provide the proposed service does not automatically bar the Commission from considering those benefits in its affirmative benefits analysis.” (31-32)*

*“The extent to which the services Aqua could provide would be an improvement over the services the Township currently provides goes to the weight accorded to those particular benefits rather than whether or not the services qualify as benefits at all.” (35)*

*“By reweighing the evidence in that manner, the court replaced the Commission’s consideration of the evidence of record with its own.” (35)*

*“We have never characterized a transaction’s impact on rates as a “known harm” and decline to do so today.” (35-36)*

#### FACTUAL BACKGROUND

Aqua, an investor-owned certified public utility, agreed to purchase East Whiteland Township's wastewater collection system for \$54,930,000. The parties used Section 1329's fair-market-value procedure, which produced an estimated fair market value of \$56,724,729, and Aqua sought a certificate of public convenience to provide wastewater service to approximately 3,895 Township customers. The administrative law judge found that the acquisition could produce substantial rate increases and recommended denial, but the Commission found substantial affirmative benefits, including Aqua's technical, managerial, and financial capabilities, capital-investment commitments, customer-service improvements, regionalization, and the Township's desire to exit the wastewater business. The Commission also considered the transaction's potential rate effects and granted Aqua the certificate.

#### PROCEDURAL HISTORY

Aqua and East Whiteland Township agreed to the purchase of the Township's wastewater system and pursued the fair-market-value process under Section 1329 of the Public Utility Code. After hearings, an administrative law judge recommended denial of Aqua's certificate of public convenience, but the Public Utility Commission granted the application. The Commonwealth Court reversed, concluding that the transaction did not produce substantial affirmative public benefits sufficient to outweigh anticipated rate impacts. The Supreme Court of Pennsylvania granted allowance of appeal, consolidated the appeals, reversed the Commonwealth Court, and remanded for consideration of whether the Commission's factual findings were supported by substantial evidence.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remanded to the Commonwealth Court to consider the Consumer Advocate's contention that the Commission's factual findings were not supported by substantial evidence of record.

## CASES CITED

- McCloskey v. Pa. Pub. Util. Comm'n, 195 A.3d 1055 (Pa. Cmwlth. 2018)
- Seaboard Tank Lines, Inc. v. Pa. Pub. Util. Comm'n, 502 A.2d 762 (Pa. Cmwlth. 1985)
- City of York v. Pa. Pub. Util. Comm'n, 295 A.2d 825 (Pa. 1972)
- Popowsky v. Pa. Pub. Util. Comm'n, 937 A.2d 1040 (Pa. 2007)
- Elite Industries, Inc. v. Pa. Pub. Util. Comm'n, 832 A.2d 428 (Pa. 2003)
- Cicero v. Pa. Pub. Util. Comm'n, 300 A.3d 1106 (Pa. Cmwlth. 2023)
- Popowsky v. Pa. Pub. Util. Comm'n, 706 A.2d 1197 (Pa. 1997)
- Rohrbaugh v. Pa. Pub. Util. Comm'n, 727 A.2d 1080 (Pa. 1999)
- Commonwealth v. King, 839 A.2d 237 (Pa. 2003)
- Blumenschein v. Hous. Auth. of Pittsburgh, 109 A.2d 331 (Pa. 1954)
- Wise v. Unemployment Comp. Bd. of Rev., 111 A.3d 1256 (Pa. Cmwlth. 2015)
- Slawek v. State Bd. of Med. Educ. & Licensure, 586 A.2d 362 (Pa. 1991)
- Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm'n, 995 A.2d 465 (Pa. Cmwlth. 2010)
- PECO Energy Co. v. Pa. Pub. Util. Comm'n, 791 A.2d 1155 (Pa. 2002)
- S. River Power Partners, L.P. v. Pa. Pub. Util. Comm'n, 696 A.2d 926 (Pa. Cmwlth. 1997)
- Aizen v. Pa. Pub. Util. Comm'n, 60 A.2d 443 (Pa. Super. 1948)
- N. Pa. Power Co. v. Pa. Pub. Util. Comm'n, 5 A.2d 133 (Pa. 1929)
- Cicero v. Pa. Pub. Util. Comm'n, 320 A.3d 667 (Pa. 2024) (per curiam)
- Phila. Elec. Co. v. Pa. Pub. Util. Comm'n, 433 A.2d 620 (Pa. Cmwlth. 1981)

