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August 11, 2017

Via Electronic Filing

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

In re: Docket No. I-2016-2526085
Section 529 Investigation of the Public Utility Commission – Delaware Sewer Company

Dear Secretary Chiavetta:

We are counsel to Delaware Sewer Company in the above matter and are submitting via electronic filing the Company's Initial Prehearing Conference Memorandum. Copies of the Memorandum are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

Encl.

cc: The Honorable Steven K. Haas (w/encl.)
Certificate of Service (w/encl.)
Scott F. Linde (via email, w/encl.)

170811-Chiavetta (Prehearing Memorandum).wpd

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Steven K. Haas, Presiding**

**Investigation Instituted Into Whether the : Docket No. I-2016-2526085
Public Utility Commission Should Order A :
Capable Public Utility to Acquire :
Delaware Sewer Company Pursuant to :
Section 529 :**

**INITIAL PREHEARING CONFERENCE MEMORANDUM OF
DELAWARE SEWER COMPANY**

AND NOW, comes Delaware Sewer Company (“DSC”), by its attorney, and, pursuant to the Prehearing Conference Order of Administrative Law Judge Steven K. Haas, dated July 31, 2017, submits this Initial Prehearing Conference Memorandum in connection with the initial prehearing conference scheduled for August 14, 2017:

History of Proceedings

This proceeding is a Section 529 Investigation into whether the Public Utility Commission (“Commission”) should order a capable public utility to acquire DSC.

DSC is a Pennsylvania public utility providing wastewater service to thirty-eight residential houses in Sections 19, 21 and 22 of Wild Acres, a planned residential development in Delaware Township, Pike County.

By letter dated September 23, 2011, DSC and Clean Treatment Sewage Company (“CTSC”), a sister utility, advised the Department of Environmental Protection, through their engineering consultant, Applied Water Management, that they would not have funds available to continue operations past December 31, 2011. The letter noted that the Public Utility

Commission (“Commission”) was initiating a proceeding under Section 529 of the Public Utility Code (“Code”).

Thereafter, the Commission in an Order dated July 16, 2013, at Docket No. I-2009-2109324, concluded a proceeding under Section 529 of the Code whereby Pennsylvania American Water Company (“PAWC”) acquired the CTSC wastewater system. The focus of that proceeding being the CTSC wastewater system, DSC and its wastewater system were not addressed.

PAWC is the largest water utility in the Commonwealth of Pennsylvania. PAWC has a significant presence in Delaware Township. It is the public water provider in Wild Acres where it has approximately 2,000 residential customers, including the thirty-eight DSC wastewater customers.

On February 6, 2014, DSC filed a petition asking the Commission to move forward, address the DSC wastewater system and open a proceeding, pursuant to Section 529 of the Code, into whether the Commission should order a capable public utility to acquire the system.

By Opinion and Order entered January 28, 2016, at Docket No. P-2014-2404341, the Commission instituted a Section 529 Investigation. The Opinion and Order entered January 28, 2016, directed the Bureau of Investigation and Enforcement to participate in the Investigation pursuant to Section 529(i).

The Investigation was assigned to docket I-2016-2526085 and Administrative Law Judge Steven K. Haas was assigned to preside over the Investigation. An Initial Prehearing Conference was noticed for August 14, 2017.

Judge Haas issued a Prehearing Conference Order on July 31, 2017. Paragraph 6 of the Prehearing Conference Order directs parties to file and serve a prehearing memorandum on or before Noon on August 11, 2017.

Name, Address and Telephone Number of Counsel for DSC

The name, postal and email addresses and telephone and fax numbers of counsel for DSC for this matter are as follows:

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Issues DSC Intends to Present

DSC supports the acquisition of its wastewater system pursuant to Section 529 of the Public Utility Code. It intends to address the issues raised by Section 529 including, *inter alia*, the *General Rule* criteria of Section 529(a) and the *Factors to be Considered* presented in Section 529(c).

In their Joint Statement dated February 12, 2015 at Docket No. M-2014-2453735, then Chairman Powelson and then Commissioner Witmer explained that the Commission has used its Section 529 authority with “great success to ensure that customers of troubled water and sewer utilities throughout the Commonwealth receive safe and reliable service.”

Witnesses of DSC and Subject Matter of Their Testimony

DSC intends to present Mr. Scott F. Linde and, possibly, Mr. Dennis Kalbarczyk as witnesses as follows:

Witness

General Subject Matter

Scott F. Linde Wastewater Operations, Financial Matters and the Acquisition of the DSC System Pursuant to Section 529 of the Public Utility Code

Dennis Kalbarczyk Financial Matters and the Acquisition of the DSC System Pursuant to Section 529 of the Public Utility Code

DSC respectfully reserves the right to present additional witnesses, testimony and exhibits as the matter progresses.

Proposed Procedural Schedule

This Investigation results from a petition filed by DSC in February 2014, more than three years ago, and a Commission Opinion and Order entered in January 2016, more than eighteen months ago, instituting this Investigation. DSC believes that the Commission's Investigation can now move forward on a reasonably expedited basis and proposes a schedule based on the issuance of a Recommended Decision as soon as reasonably convenient for Judge Haas. In respect to scheduling specifics, we point out that, in the CTSC Section 529 Investigation, there was one round of written testimony by all parties prior to an evidentiary hearing. One round of testimony might be appropriate here also. DSC will be prepared to further discuss a procedural schedule with Judge Haas and the parties at the initial prehearing conference.

Respectfully submitted,

By



Thomas T. Niesen Esquire

PA ID No. 31379

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Attorney for Delaware Sewer Company

Dated: August 11, 2017

**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Steven K. Haas, Presiding**

**Investigation Instituted Into Whether the : Docket No. I-2016-2526085
Public Utility Commission Should Order A :
Capable Public Utility to Acquire :
Delaware Sewer Company Pursuant to :
Section 529 :**

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of August, 2017, served a true and correct copy of the Initial Prehearing Conference Memorandum of Delaware Sewer Company, upon the persons and in the manner indicated below:

BY EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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