

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

August 11, 2017

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Pa. Public Utility Commission  
v.  
Delaware Sewer Company  
Docket No. I-2016-2526085

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lauren M. Burge".

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. 311570  
E-Mail: LBurge@paoca.org

Attachment

cc: Honorable Steven Haas, ALJ  
Certificate of Service

238500

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission:  
v. : Docket No. I-2016-2526085  
Delaware Sewer Company :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11th day of August, 2017.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

Scott B. Granger, Esquire  
Allison C. Kaster, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

SERVICE BY EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Thomas T. Niesen, Esquire  
Thomas, Niesen & Thomas, LLC  
212 Locust Street  
Suite 600  
Harrisburg, PA 17101  
*Counsel for Delaware Sewer Company*

Susan Simms Marsh, Esquire  
Pennsylvania-American Water Company  
800 West Hershey Park Drive  
P.O. Box 888  
Hershey, PA 17033

David P. Zambito, Esquire  
George A. Bibikos, Esquire  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101

/s/ Lauren M. Burge  
Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. # 311570  
Email: [LBurge@paoca.org](mailto:LBurge@paoca.org)

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #83487  
Email: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Counsel for  
Office of Consumer Advocate  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Into Whether the Commission :  
Should Order a Capable Public Utility to Acquire : Docket No. I-2016-2526085  
Delaware Sewer Company :

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the July 31, 2017 Prehearing Conference Order, the Office of Consumer Advocate (OCA) provides the following:

**I. BACKGROUND**

In February 2014, Delaware Sewer Company (DSC or the Company) filed a Petition asking the Commission to initiate a Section 529 investigation. The OCA participated in the Petition proceeding at Docket No. P-2014-2404341, and supported the request for a Section 529 investigation because DSC is not currently providing safe and adequate wastewater service under Section 1501 of the Public Utility Code. DSC does not have the financial capability to make necessary repairs to provide adequate service, and as such it is not a viable system. As a result of that proceeding, the Commission issued an Opinion and Order on January 28, 2016 instituting this investigation into whether the Commission should order a capable public utility to acquire the Company.

The OCA now files this Prehearing Memorandum to set forth the procedure and issues that the OCA believes are relevant to this proceeding.

## II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Christine Maloni Hoover and Erin L. Gannon and Assistant Consumer Advocate Lauren M. Burge. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923

Telephone (717) 783-5048  
Facsimile (717) 783-7152

Email service should include the following emails:

[choover@paoca.org](mailto:choover@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)  
[lburge@paoca.org](mailto:lburge@paoca.org)

## III. DISCOVERY

The OCA would modify the Commission's discovery regulations to expedite this proceeding, by providing that:

- A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service of the interrogatories. Discovery propounded after 12:00 noon on a Friday will be deemed served on the next business day for purposes of determining the due date of the responses.
- B. Objections to interrogatories be communicated orally within three (3) calendar days of service; unresolved objections be served to Administrative Law Judge Haas in writing within five (5) calendar days of service of interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) calendar days of service of such motions.

- E. Rulings over such motions be issued, if possible, within seven (7) calendar days of filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.
- G. Requests for admission be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- H. Answers to on-the-record data requests be served in-hand within seven (7) calendar days of the request.

#### IV. WITNESSES

If necessary, the OCA will present the testimony of Ashley E. Everette, Regulatory Analyst with the Office of Consumer Advocate and Terry L. Fought, P.E. Their contact information is as follows:

Ashley E. Everette, Regulatory Analyst  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923

Telephone (717) 783-5048  
Facsimile (717) 783-7152  
Email: [aeverette@paoca.org](mailto:aeverette@paoca.org)

Terry L. Fought, P.E., Consulting Engineer  
780 Cardinal Drive  
Harrisburg PA 17111  
(717) 580-4265  
(717) 566-7298 (Fax)  
E-mail: [TLFEngr@aol.com](mailto:TLFEngr@aol.com)

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

**V. ISSUES, EVIDENCE AND PROPOSED SCHEDULE**

A. In the interest of efficiency and expedience, the OCA submits that the parties may be able to stipulate to many of the findings set forth in Section 529 of the Public Utility Code regarding DSC’s financial, technical and managerial fitness.

B. To the extent that the requisite findings are not stipulated by DSC or moved into the record from other proceedings, the OCA will provide testimony to show that acquisition of DSC would be in the public interest, including evidence to support the findings required by Section 529.

C. The OCA will evaluate the impact of acquisition by Pennsylvania-American Water Company, Aqua Pennsylvania, or other proximate service provider or municipality on rates for DSC’s customers and the acquiring utility’s existing customers. See 66 Pa. C.S. § 529(a)(6).

D. The OCA will examine the reasonableness of any proposed acquisition price for DSC.

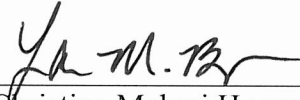
**VI. SCHEDULE**

The OCA will work with the ALJ and the parties to develop a schedule in this proceeding.

**VII. SETTLEMENT**

The OCA is willing to participate in settlement discussions in this matter.

Respectfully Submitted,



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Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. # 311570  
E-Mail: [LBurge@paoca.org](mailto:LBurge@paoca.org)

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(717) 783-7152 (fax)

DATED: August 11, 2017

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