

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

July 23, 2018

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

Re: Pa. Public Utility Commission  
v.  
Hidden Valley Utility Services, L.P.  
Water and Wastewater  
Docket Nos. R-2018-3001306  
R-2018-3001307

Dear Secretary Chiavetta:

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

Copies have been served per the attached Certificate of Service.

Very truly yours,

A handwritten signature in blue ink that reads "Christine Maloni Hoover".

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

Enclosures

cc: Honorable Mark A. Hoyer, ALJ  
Certificate of Service

\*254805

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. R-2018-3001306  
Hidden Valley Utility Services, L.P. : R-2018-3001307  
Water and Wastewater

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Further 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 23rd day of July 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Allison C. Kaster, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Jonathan P. Nase, Esquire  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Gerry and Melissa Pindroh  
206 St. Leonards Lane  
Cranberry Township, PA 16066

Debra J. Simpson  
29523 Bruce Drive  
Willowick, OH 44095

Tom and Shelley Conroy  
314 Swagler Road  
Scenery Hill, PA 15360

David W. Oster  
2302 Sarah Street  
Pittsburgh, PA 15203

John W. Cupps  
2406 South Ridge Lane  
P.O. Box 4506  
Hidden Valley, PA 15502

Toni Gorenc  
2802 Sarah Street  
Pittsburgh, PA 15203

David G. Brodland  
2014 Blainmont Drive  
Pittsburgh, PA 15241-2203

Robert and Katherine Bair  
5119 Summit Drive  
Hidden Valley, PA 15502

Jon and Nina Lewis  
25 Waverly Drive  
Greensburg, PA 15601

Jerome and Barbara Cypher  
17 Wilmont Avenue  
Washington, PA 15301-3536

Celeste Emrick  
503 Kooser Circle  
P.O. Box 4161  
Hidden Valley, PA 15502

Robert J. Kollar  
1374 Langport Drive  
Pittsburgh, PA 15241



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

Counsel for the Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: July 23, 2018  
\*251210

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
Office of Consumer Advocate	:	Docket No.	R-2018-3001306
	:	Docket No.	R-2018-3001307
v.	:	Docket No.	C-2018-3001841
	:		
Hidden Valley Utility Services-Water	:		
	:		
Hidden Valley Utility Services-Wastewater	:		

---

FURTHER PREHEARING  
MEMORANDUM OF THE  
OFFICE OF CONSUMER  
ADVOCATE

---

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. §333 and in response to the Further Prehearing Conference Order, dated June 25, 2018, and issued by Administrative Law Judge (ALJ) Hoyer in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. HISTORY OF THE PROCEEDING**

On April 27, 2018, Hidden Valley Utility Services-Water and Hidden Valley Utility Services-Wastewater (Company or HVUS) filed Supplement No. 1 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 1 to Tariff Wastewater – Pa. P.U.C. No. 1, respectively, to become effective July 1, 2018. The Company, by filing these tariff supplements, seeks Commission approval to make rate changes that would increase the level of rates that it charges for providing water and wastewater service to its customers.

The proposed water tariff contained changes in rates calculated to recover an estimated annual increase in base rate revenues of \$150,629. This represents an approximate 107.2% increase in the Company's annual revenues. Under the Company's proposal, the proposed water base rates for an average water customer using 9,000 gallons per quarter would increase from \$74.73 to \$145.80, or by 95.1%. The proposed wastewater tariff contained changes in rates calculated to recover an estimated annual increase in base rate revenues of \$185,432. This represents an approximate 63.1% increase in the Company's annual revenues. Under the Company's proposal, the proposed wastewater base rates for an average wastewater customer using 9,000 gallons of water per quarter would increase from \$167.40 to \$270.30, or by 61.5%. The Company serves approximately 1,224 water customers (1,126 residential) and approximately 1,154 wastewater customers (1,126 residential) in a portion of Jefferson Township, Somerset County, PA.

On May 14, 2018, the OCA filed a Formal Complaint (C-2018-3001841) against the proposed increase in rates and a Notice of Appearance. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on May 30, 2018. As of June 15, the OCA is aware of eighteen formal complaints in the water and wastewater dockets filed by HVUS customers and twenty-three informal complaints in the water and wastewater dockets filed by HVUS customers. On May 17, 2018, the Commission entered an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rates in Supplement No. 1 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 1 to Tariff Wastewater – Pa. P.U.C. No. 1 and suspended the effective date until February 1, 2019 by operation of law.

The Commission assigned the case to Deputy Chief Administrative Law Judge Hoyer. The Company agreed to participate in the Commission's mediation process and extended the effective date of the suspension period by sixty days, or until April 1, 2019. The parties participated in mediation, attending two mediation sessions.

## **II. ISSUES**

After completing discovery and any follow up discovery, the OCA will file direct testimony that will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations.

### Background

On May 3, 2018, the Commission entered an Order in McCloskey, Acting Consumer Advocate v. Hidden Valley Util. Service, L.P., Docket Nos. C-2014-2447138 (water) and C-2014-2447169 (wastewater). In that Order, the Commission granted in part the OCA's formal complaints against HVUS. The Commission found that HVUS was not providing safe, adequate, and reliable service as required by Section 1501 of the Public Utility Code. Order at 7; 66 Pa. C.S. § 1501. The Commission ordered HVUS to comply with the unresolved issues from the 2005 Settlement Agreement and to obtain a report from a water and wastewater engineer regarding the adequacy of its water distribution system. Order at 26. The Commission also ordered HVUS to comply with all recommendations from the engineer within one year of the date of the engineer's report, to bring its billing practices into compliance with all Commission rules, and to file detailed status reports every sixty days regarding its compliance with the order. Order at 27-30. In the event that an evidentiary hearing is/was required as a result of failure to accomplish recommended repairs and maintenance procedures or the water and wastewater service is not adequate, the Commission also will initiate an investigation under Section 529 of

the Public Utility Code. Order at 32; 66 Pa. C.S. § 529. Section 529 provides authority to the Commission to order the takeover of a small troubled system by a larger capable public utility. 66 Pa. C.S. § 529(a).

### OCA's Issues

The OCA's preliminary examination indicates that HVUS has not resolved the service issues that resulted in the Commission's order in the above-referenced complaint dockets. If HVUS is not providing safe, adequate, and reliable service to its customers, pursuant to Section 526 of the Public Utility Code, the OCA will argue that the rate increase requests should be denied due to inadequate service. 66 Pa. C.S. § 526; Clean Treatment Sewage Co., Docket No. R-2009-2121928, Order (Apr. 22, 2010); Pa. P.U.C. v. Pa. Gas and Water Co., 1986 Pa. PUC LEXIS 113 (April 25, 1986); Pa. P.U.C. v. Pa. Gas and Water Co., R-870853, 1988 Pa. PUC LEXIS 457 (Sept. 30, 1988).

The OCA will also present testimony regarding the Company's revenue requirement claims to develop a complete record. Generally, the OCA is reviewing issues related to rate base, revenues, and expense claims, rate of return, including capital structure, cost of debt, and cost of equity, rate design, tariff rules and regulations.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the expert witness responsible for that area of the case, as

well as mailing a copy to counsel for the OCA:

**Accounting and:  
Regulatory Policy** Stacy L. Sherwood  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Suite 300  
Columbia, MD 21044  
Telephone: (410) 992-7500  
E-Mail: [sherwood@exeterassociates.com](mailto:sherwood@exeterassociates.com)

**Rate of Return:** Aaron Rothschild  
Rothschild Financial Consulting  
15 Lake Road  
Ridgefield, CT 06877  
Telephone: (203) 894-1028  
E-Mail: [aaron@rothschildfinancial.com](mailto:aaron@rothschildfinancial.com)

**Rate Design:** Jerome D. Mierzwa  
Exeter Associates  
10480 Little Patuxent Parkway  
Suite 300  
Columbia, MD 21044  
Telephone: (410) 992-7500  
E-Mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

**Quality of Service:** Terry L. Fought  
780 Cardinal Drive  
Harrisburg, PA 17111  
Telephone: (717) 580-4235  
E-Mail: [tlfengr@aol.com](mailto:tlfengr@aol.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the ALJ and all parties of record will be notified.

#### **IV. SETTLEMENT**

The OCA is willing to participate in settlement discussions.



## V. DISCOVERY

To date, the OCA has served three sets of interrogatories on the Company. As soon as the OCA determines whether additional discovery, including informal discovery, is needed, the OCA will issue the discovery.

Because the time-period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding. The OCA, therefore, requests the following modifications to the discovery regulations:

A. Answers to written interrogatories be served in-hand within ten (10) calendar days of service. 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) days of service; unresolved objections be served to the ALJ in writing within five (5) 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) 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) days of service of such motions.

**VI. PUBLIC INPUT HEARINGS**

At the first prehearing conference, the OCA requested public input hearings in the service territory. The OCA’s request was granted and public input hearings are scheduled for July 27, 2018 at Hidden Valley Resort.

**VII. SERVICE ON THE OCA**

Senior Assistant Consumer Advocate Christine Maloni Hoover will represent the OCA in this case. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Email: [CHoover@paoca.org](mailto:CHoover@paoca.org)

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

The OCA also requests that the following additional email be included in all email correspondence in this proceeding: [LCastor@paoca.org](mailto:LCastor@paoca.org).

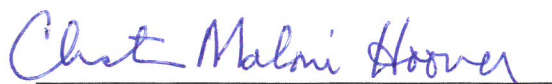
**VIII. PROPOSED LITIGATION SCHEDULE**

The parties propose the following litigation schedule:

Non-Company Direct Testimony	September 18, 2018
Rebuttal Testimony	October 18, 2018
Surrebuttal Testimony	November 9, 2018
Rejoinder Outline	November 14, 2018 by noon
Hearings (Harrisburg)	November 15, 2018(rate of return must be done) November 16, 2018
Main Briefs	December 11, 2018
Reply Briefs	December 21, 2018

The parties request that the ALJ adopt the proposed schedule.

Respectfully Submitted,



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

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

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

Dated: July 23, 2018  
254818.doc