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December 11, 2018

RE: Hidden Valley Foundation, Inc.
-Pa. Public Utility Commission
v. Hidden Valley Utility Services, L.P.
(Docket Nos. R-2018-3001306 and
R-2018-3001307)
Our File 5996

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


Dear Secretary Chiavetta:

Enclosed for filing is Hidden Valley Foundation, Inc.'s Main Brief in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Sincerely yours,

VUONO & GRAY, LLC


William H. Stewart III

Enclosures

cc: Hidden Valley Foundation, Inc.
Honorable Mark A. Hoyer
Honorable Katrina L. Dunderdale
Per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

HIDDEN VALLEY UTILITY
SERVICES, L.P. – WATER

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

HIDDEN VALLEY UTILITY
SERVICES, L.P. – WASTEWATER

DOCKET NO. R-2018-3001306

DOCKET NO. R-2018-3001307

**MAIN BRIEF
OF HIDDEN VALLEY FOUNDATION, INC.**

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I. INTRODUCTION

Hidden Valley Foundation, Inc. (the “Foundation”) hereby submits this Main Brief in opposition to the water and wastewater rate increases proposed by Hidden Valley Utility Services, L.P. (“HVUS”) or (the “Company”). In 2005, as part of a proceeding that began when HVUS filed applications to begin to provide utility service, HVUS executed a settlement with the Office of Consumer Advocate (“OCA”) and customer complainants which required HVUS to implement changes and improvements to provide adequate, safe and reasonable service and to address long-term problems including brown or rust-colored water, low water pressure, and high levels of unaccounted-for water and to assess adequacy of its wastewater treatment plant.¹ The settlement in the Application proceeding established deadlines, which HVUS failed to meet. On October 9, 2014, the OCA filed Formal Complaints against HVUS regarding both water services (Docket No. C-2014-2447138) and wastewater (Docket No. C-2014-2447169), alleging that, almost ten years after being ordered to do so by the Commission, the Company continued to fail to provide adequate, safe and reasonable service based on continuing incidents of dirty, brown, and rust-colored water; lack of proper equipment; failure to properly maintain water tanks; low water pressure; and lack of system maintenance. The OCA further alleged the existence of financial and managerial problems.

In the proceedings resulting from the OCA Formal Complaints, the Commission, in its January 2018 and May 2018 Orders, agreed with the Administrative Law Judge that the long-term water problems identified in 2005 persist, such that water service remains inadequate and unreasonable for purposes of 66 Pa. C.S. § 1501. The Commission issued an Order in January

¹ *In the Matter of: Application of Hidden Valley Utility Services, LP – Water; Application of Hidden Valley Utility Services, LP – Wastewater, for Approval to Offer, Render, Furnish, or Supply Wastewater Services to the Public in Hidden Valley, PA* (Order entered July 15, 2005) (2004 Application).

2018, modified by a subsequent May 2018 Order, finding that the Company is not providing adequate and reasonable service to its water and wastewater customers in violation of Section 1501 of the Public Utility Code (“Code”).² The McCloskey Order contained extensive ordering paragraphs requiring the Company to remedy these service issues so that HVUS customers receive safe, adequate and reasonable utility service as required by the Code.

Fewer than three months after the Commission’s January 2018 Order in *McCloskey*, 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 Foundation submits that the Commission should hold HVUS responsible for its continuing failure to provide adequate water and wastewater service to its customers from 2005 through the present and deny HVUS’ proposed rate increases (and any rate increase at all) until such time as HVUS has been found to “furnish and maintain adequate, efficient, safe, and reasonable service and facilities” as statutorily required by 66 Pa. C.S. § 1501.

II. BACKGROUND AND PROCEDURAL HISTORY

The Foundation hereby adopts the Background and Procedural History sections of the Main Brief of the Office of Consumer Advocate, pp. 5-13 of same.

III. LEGAL STANDARD

It is well-established under Pennsylvania law that public utility rates must be just and reasonable. 66 Pa. C.S. § 1301. As a public utility, HVUS bears the burden of proof to establish the justness and reasonableness of every element of its requested rate increase. As set forth in Section 315(a) of the Public Utility Code:

² *Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. – Water*, Docket No. C-2014-2447138, p. 23 (Order entered January 18, 2018); *Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. – Wastewater*, Docket No. C-2014-2447169, p. 23 (Order entered January 18, 2018) (collectively, “McCloskey Order”).

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). The Commonwealth Court interprets this principle as follows:

Section 315(a) of the Public Utility Code, 66 Pa. C.S. § 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the utility. It is well-established that the evidence adduced by a utility to meet this standard must be substantial.

Lower Frederick Twp. v. Pa. P.U.C., 48 Pa. Commw. 222, 226-27, 409 A.2d 505, 507 (1980)

(citations omitted). *See also, Brockway Glass v. Pa. P.U.C.*, 63 Pa. Commw. 238, 437 A.2d

1067 (1981); *Pa PUC v. Aqua Pennsylvania, Inc.*, 236 P.U.R. 4th 218 (2004). Substantial

evidence has been defined as "...that quantum of evidence which a reasonable mind might

accept as adequate to support a conclusion." *Dutchland Tours, Inc. v. Pa. PUC*, 337 A.2d 922,

925 (Pa. Cmwlth. 1975).

Even where a party has established its prima facie case, the party with the burden must establish that "the elements of the cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary." *Burleson v. Pa. P.U.C.*, 461 A.2d 1234, 1236 (Pa. 1983). Thus, a utility has an affirmative burden to establish the justness and reasonableness of every component of its rate request. *Pa. PUC v. Breezewood Telephone Company*, 74 PA PUC 431, 442 (1991).

Pennsylvania law is clear that there is no similar burden for a party proposing an adjustment to a utility base rate filing. *See, e.g., Berner v. Pa. P.U.C.*, 382 Pa. 622, 116 A.2d 738 (1955). In *Berner*, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.

Berner, 382 Pa. at 631, 116 A.2d at 744. The Commission recognizes this standard in its rate determinations. *Pa. P.U.C. v. Equitable Gas Co.*, 57 PaPUC 423, 471 (1983). *See also*, *University of Pennsylvania v. Pa. P.U.C.*, 86 Pa. Commw. 410, 485 A.2d 1217 (1984); *Pa. P.U.C. v. PPL Elec. Util. Corp.*, 237 PUR4th 419 (PaPUC 2004). Thus, it is unnecessary for the Foundation (or any challenger) to prove that HVUS' proposed rates are unjust, unreasonable, or not in the public interest. To prevail in this challenge, Pennsylvania law requires only that the Foundation show how HVUS failed to meet its burden of proof.

HVUS must affirmatively demonstrate the reasonableness of every element of its claims and demonstrate that its proposed rates are just, reasonable, and in the public interest. The Foundation will show that HVUS has failed to meet this burden.

IV. SUMMARY OF ARGUMENT

The Commission should deny HVUS' requests for water and wastewater rate increases because HVUS continues to fail to provide adequate, safe and reasonable service, as required by the Public Utility Code, fourteen years after first being ordered to do so by the Commission. Under Pennsylvania law, HVUS has the burden to prove that its rates are just and reasonable. 66 Pa. C.S. § 1301. Simply put, HVUS has not come close to meeting its burden in this case.

The main reason HVUS is unable to prove that its rates are just and reasonable is the fact that it has never been able to provide adequate, safe and reasonable water and wastewater service to its customers over the entire course of its existence, as the Commission has acknowledged. While the water has been deemed "technically" safe for drinking, it is undrinkable for practical purposes and it is unsuitable for other basic household purposes because of the continued presence of high levels of impurities—specifically, iron and manganese—in the water, an issue that has unreasonably persisted for the customers of HVUS since the company's inception in

2005. OCA St. 3S (Water) at 5. The Company essentially ignored the Commission's directive to solve these issues in 2005 and only recently, at the conclusion of the McCloskey case, has the Company begun to undertake the first steps necessary to move towards someday resolving the issue of brown and rust-colored water that is unsuitable for household needs and has forced the Company's customers to make significant expenditures in the form of replacing water pumps, water heaters and other appliances, installing water filtration systems, and other expenditures³ that are completely unjust and unreasonable obligations that have burdened its customers for a decade and a half.

Where, as here, the Commission has found after hearings that the quality of service rendered by a utility is inadequate, the Commission may reject a public utility's request to increase rates, in whole or in part. 66 Pa. C.S. § 526. A review of the record in the proceeding demands that HVUS' proposed rate increases be denied in their entirety because HVUS cannot meet its burden for proving that its rates are just and reasonable unless and until it demonstrates the ability provide adequate, safe and reasonable water and wastewater service to its customers.

Moreover, HVUS is unable to prove that its rates are just and reasonable because the financial information used to calculate such rates is unreliable at best and completely dubious at worst. HVUS has consistently filed inaccurate annual reports with the Commission and has shown no ability to correct this chronic problem, as illustrated by the errors in the recently-filed "corrected" annual reports filed in response to the McCloskey Order. I&E St. No. 1-SR (Wastewater) at 17. While remaining unable or unwilling to file accurate financial information for the last decade-plus, HVUS has also during that period made distributions to its owner, Mr. Kettler, of \$857,849 through 2017.⁴ HVUS has also taken on debt during such time that also

³ Public Input Hearing Transcript, pp. 36-206; *see also* Appendix A.

⁴ November 16, 2018 Hearing Transcript, p. 256.

approaches \$1 million dollars, has made no interest payments on its loan, and has no plan for repaying the loan.⁵ Had HVUS taken appropriate action in response to the 2005 settlement agreement approved by the Commission, using the revenues of the Company to complete studies and improve infrastructure to address the brown and rust-colored water issue when the problem was first identified, reasonable rate increases would be been appropriate and could have been used to provide additional revenue to the Company to improve its water and wastewater services. Instead, Mr. Kettler ignored the Company's obligations under the 2005 Settlement and completely failed to address the issues that the Company was bound to fix in 2005, completely mismanaging the Company and paying himself handsomely for such mismanagement in the form of significant yearly distributions beginning in 2009.

To request (and expect) rate increases in 2018 after failing to provide adequate, safe and reasonable service to its customers for 14 years, while not even attempting to comply with all of the terms of the 2005 Settlement and address the service issues identified in 2005 until forced to do so by the OCA litigation in 2014, is completely unreasonable. Clearly, any increase in rates prior to the Company's demonstrated ability to provide adequate, safe and reasonable service and the Commission's acknowledgement of same, is unjust and unreasonable for the customers of HVUS that have suffered inadequate service for years while Mr. Kettler has paid himself to mismanage an unprofitable company.

⁵ November 16, 2018 Hearing Transcript, pp. 281-282.

V. QUALITY OF SERVICE

A. Introduction

The Commission should exercise its authority under the Public Utility Code to deny any rate increases proposed by HVUS until such time as the customers of HVUS are receiving safe, adequate and reliable service.

B. Legal Standard

Section 523 of the Public Utility Code requires the Commission to “consider...the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates...” 66 Pa. C.S. § 523. In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate and reasonable service. *Pa P.U.C. v. Pennsylvania Gas & Water Co.*, 61 PaPUC 409, 415-16, 74 PUR4th 238 at 244-45 (1986) (PG&W 1986); 66 Pa. C.S. § 1501. Accordingly, the General Assembly has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a). In a case where the Commission finds inadequate service, rates of return may be set that might be below market rates.

The review of quality of service in a rate case and the discretion to deny a rate increase in whole or in part, was exercised by the Commission both before and after the enactment of Sections 523 and 526 of the Public Utility Code with regard to proposed rate increases filed by Pennsylvania Gas and Water Company in 1985 and 1987. *Pa. P.U.C. v. Pennsylvania Gas & Water Co.*, 68 PaPUC 191 (1988) (PG&W 1988). In the latter case, the Commission stated that “a utility is not *guaranteed* rate increases necessary for a return on its property; it is only entitled to rates sufficient to earn a fair return if it provides adequate service,” and found that this

regulatory bargain has been codified in Section 1501 of the Public Utility Code, which requires that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay.

66 Pa. C.S. § 1501.

The linkage between the setting of just and reasonable rates and the quality of service is well-established. In *Market Street Railway Co. v. Railroad Commission of California*, 324 U.S. 548 (1945), the Supreme Court recognized that the value of service could be considered in determining whether a rate resulted in the confiscation of utility property, finding no due process violation or denial of rights to a utility company where the Commission was influenced by considerations of the value of the service in this case. *Id.* at 563-64.

Moreover, a series of Pennsylvania cases have held that, until the quality of service improved, it would be impermissible for the effective rates to provide a return that might be considered to be confiscatory:

The making of repairs and improvements to meet the duty to render reasonable and adequate service is not necessarily dependent on the profit which may reasonably be expected therefrom; in proper cases such repairs and improvements may be ordered though the immediate result thereof would be a financial loss to the utility.

Colonial Prod. Co. v. Pa. P.U.C., 188 Pa. Super. 163, 172-73, 146 A.2d 657, 663 (1958); See *Sherman v. Public Service Commission*, 90 Pa. Super. 523, 526; *Ridley Township v. Pennsylvania Public Utility Commission*, 172 Pa. Super. 472, 478, 479, 94 A.2d 168; see also *National Util. Inv. v. Pa. P.U.C.*, 709 A.2d 972, 977-980 (Pa. Commw. 1998) (NUI 1998) (holding that the Fifth and Fourteenth Amendments to the U.S. Constitution are not violated when a public utility

is denied an increase in rates when it fails to provide adequate service to the public, even if the result is a rate of return less than it would otherwise be entitled to receive).

Because this Commission found the quality of HVUS' service to be inadequate in the 2005 Settlement and again in McCloskey Order, and because the evidence in this case shows that HVUS has failed to resolve its adequacy of service issues over a period of fourteen years, this Commission is obligated to set rates which reflect such inadequacy of service.

C. Ongoing Inadequate Service to Water and Wastewater Customers

The current and historical quality of service being rendered by HVUS can be summarized as follows:

1. The water provided by HVUS is not suitable for household purposes. Numerous HVUS customers testified at the public hearing held in June 2017 at Hidden Valley Resort reported incidents of discolored, brown, or "ice-tea" colored water. This has resulted in many residents being limited in their uses of water supplied by HVUS for laundry and other purposes. This has also resulted in additional costs to HVUS customers, because many commented that they "flush" their lines to remove the discolored water, install filters, and have replaced hot water tanks and other appliances earlier than normally needed. HVUS customers had identified these same issues two years earlier when they testified in the public hearing held in June 2015 during the OCA complaint proceedings. The testimony of the customers at the public input hearings establishes the significant failure of HVUS to supply water that can be used for household purposes.⁶

2. Water quality has been a persistent problem and no solution has been offered. Rust and brown-colored water are not new issues. The 2004 Public Input Hearing Testimony

⁶ Public Input Hearing Transcript, pp. 36-206; see also Appendix A.

addressed many of the same quality of service issues raised in the current proceeding and in the McCloskey case, including customers' inability to drink, cook, shower, and launder clothes, as well as the effect on appliances and fixtures.⁷ The Company has had since the date of the 2005 Agreement to correct the rust and brown-colored water provided to its customers. During the past fourteen years (2005-2018), HVUS has been fully aware of these problems, yet has taken no long-term steps to address the chronic problems of rust or brown-colored water.

3. The Company has failed to adequately maintain its wastewater treatment and pumping facilities, resulting in the potential contamination of groundwater and the potential for sewage to back up into customer homes and buildings. OCA St. 3 (Wastewater), pp. 2-4.

4. The Commission found that HVUS provides inadequate water service in the McCloskey case, stating “[i]t is apparent that the Company’s customers have been suffering from poor water quality and unreasonable service for years.” *McCloskey Order* at 31.

5. Regarding wastewater service in the *McCloskey* case, the Commission adopted the ALJ’s finding that HVUS failed to properly maintain its wastewater treatment plant. *McCloskey Order* at 50. Consequently, the Company failed to provide safe, adequate, and reasonable wastewater service, in violation of 1501.

D. Conclusion

Ratepayers should not be required to provide funds to a utility so that the utility may, at some future time, provide adequate service. The Public Utility Code places on the utility the specific obligation to provide adequate service. The Code provides:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the

⁷ See McCloskey Case ALJ Exh. 3 (2004 Public Input Hearing Transcript).

public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay.

66 Pa. C.S. § 1501. Accordingly, under the Code it is the utility which has the obligation to make all improvements which may be necessary to provide such service. It is only *after* these improvements are providing service that the ratepayers have the obligation to pay for those improvements. Until such time, and as long as service remains inadequate, HVUS' water and wastewater customers should not be required to pay rates based on adequate service when HVUS has never since its inception in 2005 provided adequate and reasonable service to its customers.

It is clear that HVUS continues to provide inadequate service to customers and that the Commission has ample basis to exercise its discretion pursuant to Section 526 of the Public Utility Code, 66 Pa. C.S. § 526(a), to reject the Company's proposed rate increase. The Foundation agrees with the OCA that the appropriate remedy is to deny the rate increase request in its entirety.

VI. INDEPENDENT AUDIT

The need for the Commission to order an independent audit of HVUS is very apparent to all parties in this matter. In fact, it has been apparent since at least the time of the McCloskey case that the financial statements of HVUS were unreliable. In that proceeding, Intervenor Bob Kollar, CPA and accounting professor at Duquesne University, recognized that the Company's annual reports filed with the Commission for the years 2009 to 2013 contained numerous errors. For that reason, Mr. Kollar recommended that a full audit of the Company's financial statements should be performed by an independent CPA firm, so that a clear and accurate assessment of the Company's financial position and results of operations can be obtained. No independent audit was ordered in the McCloskey proceeding and the Company's issue with filing inaccurate annual reports persists today.

Specifically, in both written testimony and at the hearing held on November 16, 2018, witness John Zalesky, a Fixed Utility Financial Analyst for the Bureau of Investigation and Enforcement, questioned the accuracy of the Company's annual reports in I&E Statement Nos. 1 and 1-SR⁸ and testified that he recommended a thorough independent financial audit of the company's financial statements because the company's annual reports contain numerous errors that call into question the accuracy of the company's financial position. Mr. Zalesky further testified that (1) the annual reports filed by HVUS are not accurate or reliable; (2) the concern about the accuracy of the company's financial statements has been an ongoing concern and issue going back to the McCloskey case; (3) the revised annual reports filed in response to the McCloskey Order still contain inaccurate and incorrect information; (4) no corrections have been filed since the still inaccurate revised reports were filed; (5) there is no reason to expect accurate reports as long as the same person who submitted the annual reports and revised annual reports submits any future revised reports; (6) the annual reports will continue to be inherently unreliable until a financial audit is completed or someone other than Mr. Kettler files the annual reports.⁹ Mr. Zalesky also identified several errors that are presented in I&E Exhibit No. 1-SR, Schedule 4.

Furthermore, Mr. Kettler's own testimony shows that an independent financial audit is essential, given his practices with respect to preparing and filing annual reports with the Commission. Mr. Kettler testified at the hearing on November 16, 2018 that: (1) he currently prepares the annual reports submitted to the Commission in connection with this case (and the McCloskey case before it); (2) he is not an accountant and has not received any training as an

⁸ I&E St. No. 1 (Water), pp. 13-15; I&E St. No. 1-SR (Water), pp. 17-22; I&E St. No. 1 (Wastewater), pp. 11-13; I&E St. No. 1-SR (Wastewater), pp. 15-20.

⁹ November 16, 2018 Hearing Transcript, pp. 301-305.

accountant; (3) he has not reviewed or corrected the revised annual reports that still contain errors and inaccuracies; (4) he does not know whether his “transcribing errors” to which he attributes the inaccuracies of the annual reports, resulted in differences of “dollars or tens of thousands of dollars or hundreds”; (5) he thinks that an independent financial audit will be “fine.”¹⁰

The following are the details that the Foundation and the customers of HVUS know about the finances of the Company: (1) the Company has never been profitable,¹¹ (2) Mr. Kettler, who is not an accountant, has prepared by himself and consistently filed inaccurate annual reports, giving an unclear picture of the Company’s actual financial position, (3) the Company has a \$750,000 outstanding loan on which it has paid no interest, and (4) Mr. Kettler has taken \$857,849 in distributions from the Company through 2017. Under such circumstances, an independent financial audit by a neutral third-party with no prior connection to the Company or Mr. Kettler is absolutely necessary to fairly evaluate the financial position of the Company, and the Foundation and the customers of HVUS demand such an audit at this time.

VII. NON-UNANIMOUS SETTLEMENT PETITION AND JOINT STIPULATION

Like the Office of Consumer Advocate (“OCA”), the Foundation did not join in the Non-Unanimous Settlement Petition and is opposed to the agreement between HVUS and the Bureau of Investigation and Enforcement therein. Accordingly, the Foundation adopts the OCA’s position and arguments in Section VII of OCA’s main brief.

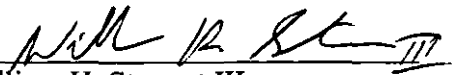
¹⁰ November 16, 2018 Hearing Transcript, pp. 276-280.

¹¹ November 16, 2018 Hearing Transcript, p. 252.

VIII. CONCLUSION

For the foregoing reasons, Hidden Valley Utility Services' proposal to increase rates for water and wastewater customers should be denied.

Respectfully submitted,



William H. Stewart III

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Counsel for Hidden Valley Foundation, Inc

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APPENDIX A: PROPOSED FINDINGS OF FACT

Hidden Valley Foundation, Inc. hereby adopts the Proposed Findings of Fact of the Office of Consumer Advocate, as enumerated in Appendix A to the Main Brief of the Office of Consumer Advocate.

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APPENDIX B: PROPOSED CONCLUSIONS OF LAW

1. Rates charged by public utilities must be just and reasonable. 66 Pa. C.S. § 1301.
2. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of the rate increase request. 66 Pa. C.S. § 315(a).
3. Courts have held that the burden of proof is satisfied by demonstrating by a preponderance of the evidence that the proposed transaction complies with Pennsylvania law. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).
4. As a public utility seeking a general rate increase, HVUS bears the burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested rate increases. 66 Pa. C.S. § 315(a).
5. HVUS has failed to meet its burden to prove the justness and reasonableness of every element of its requested rate increase under 66 Pa. C.S. § 315(a).
6. HVUS bears the burden of proving by a preponderance of the evidence that it provides adequate and reasonable water and wastewater service to its customers. 66 Pa. C.S. § 332(a).
7. HVUS has not met its burden of proving by a preponderance of the evidence that it provides “adequate, efficient, safe, and reasonable service and facilities” for its water and wastewater systems as required under Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501.
8. The water provided by HVUS is not suitable for basic household purposes, and as such HVUS is failing to provide “adequate, efficient, safe, and reasonable service” in violation of 66 Pa. C.S. § 1501.
9. HVUS has failed to properly maintain and operate its wastewater system, which constitutes a failure to provide adequate wastewater service. 66 Pa. C.S. § 1501.
10. HVUS is obligated to remedy any deficiencies in its system to ensure that its customers receive “adequate, efficient, safe, and reasonable service.” 66 Pa. C.S. §§ 501, 1501.
11. The Commission has the authority to require HVUS to take steps necessary to provide adequate service. 66 Pa. C.S. §§ 501, 1501.
12. HVUS has failed to maintain managerial, technical and financial fitness as required by the Public Utility Code. 66 Pa. C.S. §§ 501(a), 1103, 1501.
13. In exchange for customers paying rates for utility service, HVUS is obligated to provide safe, adequate and reasonable service. 66 Pa. C.S. §§ 523, 1501.

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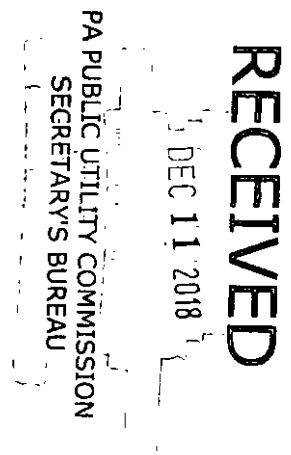
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

14. The Commission has the authority and obligation to set rates which reflect inadequate service. 66 Pa. C.S. §§ 501, 523, 526, 1501.

APPENDIX C: PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED:

1. That Hidden Valley Utility Services, L.P. shall not place into effect the rates contained in its Tariff Water – Pa. P.U.C. No. 1, Supplement No. 1, the same having been found to be unjust, unreasonable, and therefore unlawful.
2. That Hidden Valley Utility Services, L.P. shall not place into effect the rates contained in its Tariff Wastewater – Pa. P.U.C. No. 1, Supplement No. 1, the same having been found to be unjust, unreasonable, and therefore unlawful.
3. That Hidden Valley Utility Services, L.P. shall have an independent financial audit completed by an auditor approved by the Commission and the parties to this proceeding *within 6 months after the entry of the Commission's final order in this proceeding.*
4. That the Office of Consumer Advocate's Complaints filed at C-2018-30011841 and C-2018-3001843 be sustained consistent with this Opinion and Order.
5. That the following Complaints be sustained consistent with this Opinion and Order: Gerry and Melissa Pindroh, at C-2018-3001787; Debra J. Simpson, at C-2018-3002179; Tom and Shelly Conroy, at C-2018-3002198, C-2018-3002200; John Cupps, at C-2018-3002468, C-2018-3002459; David Oster, at C-2018-3002470, C-2018-3002475; Toni Gorenc, at C-2018-3002480, C-2018-3002481; David Brodland, at C-2018-3002485, C-2018-3002487; Robert and Katherine Bair, at C-2018-3002683; Jerome and Barbara Cypher, at C-2018-3002671, C-2018-3002683; Jon and Nina Lewis, at C-2018-3002701, C-2018-3002698; Celeste Emrick, at C-2018-3003020; Robert Kollar, at C-2018-3003370, C-2018-3003372; Hidden Valley Foundation, Inc., at C-2018-3003528, C-2018-3003529.
6. That this docket shall be marked closed.



CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket Nos. 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 Main Brief of Hidden Valley Foundation, Inc., 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 November 2018.

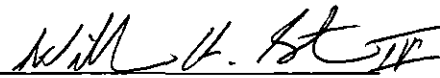
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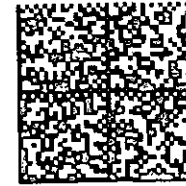
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