



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 21, 2018

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.
Hidden Valley Utility Services, L.P. – Water and Wastewater Division
Docket Nos. R-2018-3001306 and R-2018-001307

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Reply Brief** for the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 783-7998.

Sincerely,

Allison C. Kaster
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No.93176

ACK/jfm
Enclosure

cc: Hon. Mark A. Hoyer (*OALJ, Pittsburgh*)
Hon. Katrina L. Dunderdale (*OALJ, Pittsburgh*)
Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Brief** dated December 21, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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Allison C. Kaster
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No.93176

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Allison C. Kaster
Deputy Chief Prosecutor
PA Attorney ID No. 93176

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
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Dated: December 21, 2018

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I. INTRODUCTION

The Bureau of Investigation and Enforcement (I&E) and the Hidden Valley Utility Services, L.P.- Water and Hidden Valley Utility Services, L.P.- Wastewater (collectively, HVUS or Company) engaged in extensive settlement negotiations during the pendency of this proceeding and entered into a Joint Petition of Non-Unanimous Settlement (Joint Petition or Settlement) that closely aligns with the revenue requirements recommended in I&E's surrebuttal testimony. Specifically, the Settlement contains an agreed upon water increase of \$65,557 and a two-step wastewater increase of \$82,227 initially and \$145,842 in additional annual operating revenue over present rates when all repairs, modifications and improvements to the wastewater system have been completed as required by the McCloskey Order. Although it is a black box Settlement, the agreed upon revenue requirements are supported by I&E's testimony. The Settlement is in the public interest because it provides the Company a reasonable increase to recover operating expenses and plant in rates while moderating the amount paid by HVUS customers due to the ongoing service issues.

II. BACKGROUND AND PROCEDURAL HISTORY

The history of the proceeding was fully addressed in the Bureau of Investigation and Enforcement's (I&E) Main Brief.¹ In accordance with the procedural schedule established at the prehearing conference, parties submitted their Main Briefs on December 11, 2018, including I&E, the OCA and the Hidden Valley Foundation, Inc.

¹ I&E MB, pp. 3-5.

I&E now submits this timely Reply Brief in response to the Main Briefs submitted by OCA and the Hidden Valley Foundation.

III. LEGAL STANDARD

I&E addressed the burden of proof in its Main Brief.² The burden of proving the justness and reasonableness of proposed tariff rates and terms is on the utility. I&E asserts that the revenue requirement and terms contained in the Settlement satisfy this burden; therefore, I&E respectfully requests that the Administrative Law Judges and the Commission adopt the Joint Petition without modification.

IV. SUMMARY OF ARGUMENT

The testimony and briefs served in this proceeding demonstrate that the Company has an ongoing history of water and wastewater service issues. I&E strenuously argued that the Company should not be permitted to earn a return on equity until HVUS customers receive adequate and reasonable water and sewer service. This 0.00% equity recommendation resulted in I&E's primary revenue requirement recommendation of \$65,544³ for water and \$82,236⁴ for wastewater. I&E and the Company engaged in extensive settlement negotiations during the pendency of this proceeding and reached a revenue requirement that closely aligns with the revenue requirements recommended in I&E's testimony. Specifically, the Settlement contains an agreed upon water increase of \$65,557 and a two-step wastewater increase of \$82,227 initially and \$145,842 in additional annual operating revenue over present rates when all repairs, modifications and

² I&E MB, pp. 5-7.

³ I&E St. No. 1-SR (Water), p. 3.

⁴ I&E St. No. 1-SR (Wastewater), p. 3.

improvements to the wastewater system have been completed. Although it is a black box Settlement, the agreed upon revenue requirements are supported by I&E's testimony. In Main Briefs, the OCA and the Hidden Valley Foundation, Inc. argue that no rate increase is warranted because the Company is not providing its customers adequate service as required by the Public Utility Code. I&E recognizes the severity of these concerns and the ongoing impact on HVUS customers. However, I&E maintains that the revenue requirements proposed in the Settlement appropriately reflects the ongoing service issues and moderates the amount paid by HVUS customers, but still allows the Company recovery of prudent operating expenses and plant. As such, the Settlement is in the public interest and I&E respectfully requests that it be approved without modification.

V. QUALITY OF SERVICE

I&E is not addressing this issue as its Main Brief and Reply Brief support the terms contained in the Joint Petition.

VI. INDEPENDENT AUDIT

I&E is not addressing this issue as its Main Brief and Reply Brief support the terms contained in the Joint Petition.

VII. NON-UNANIMOUS SETTLEMENT PETITION AND JOINT STIPULATION

A. Revenue Requirement

The Settlement provides that the Company is permitted to increase its annual water operating revenue by \$65,557 over present rates in lieu of the \$150,629 requested in its rate filing. With respect to wastewater rates, the Company is permitted \$82,227 in

additional annual operating revenue over present rates and further provides that the Company can increase its wastewater rates to \$145,842 in additional annual operating revenue over present rates when it submits a report and verification from its engineer that all repairs, modifications and improvements to the wastewater system have been completed as required by the McCloskey Order.

The OCA and Hidden Valley Foundation Main Briefs argue that denial of the rate increases proposed in the Settlement is appropriate because HVUS is not providing adequate service as required by Section 1501 of the Public Utility Code.⁵ I&E does not dispute that service issues have been an ongoing concern in the Company's service territory and that customer rates should be moderated to reflect that they are not receiving adequate service. To address these service issues, I&E's primary revenue requirement position in this proceeding recommended that the ALJ and Commission not allow HVUS to earn a return on equity. I&E maintains that the water and wastewater revenue requirements contained in the Settlement appropriately reflects these ongoing service issues, while still allowing the Company recovery of prudent expenses.

Next, OCA argues that the Settlement rates "appears to have a return on equity that is more than 0%" because "I&E's calculated revenue increases using a 0% return on equity were \$57,753 for water and \$69,175 for wastewater."⁶ The amounts referenced in OCA's Main Brief reflect I&E's recommendations made in direct testimony; however, I&E revised its recommendations in surrebuttal testimony. As shown in I&E Statement

⁵ OCA MB, p. 49; Hidden Valley Foundation MB, p. 13.

⁶ OCA MB, p. 50.

No. 1-SR, I&E's primary recommendation continued to recommend 0% return on equity due to the Company's ongoing service issues but I&E revised its expense adjustments, which increased its proposed water revenue requirement to \$65,544⁷ and its wastewater revenue requirement to \$82,236.⁸ This is a black box settlement that does not specify a rate of return; however, the agreed upon Settlement increases for water (\$65,557) and wastewater (\$82,227) service are very closely aligned to I&E's revenue requirements in surrebuttal testimony that proposed 0% return on equity. Accordingly, OCA's concern that the Settlement revenue requirements provide HVUS with a positive return on equity is not supported by I&E's surrebuttal testimony.

B. Rate Structure

The OCA and Hidden Valley Foundation did not dispute the scaleback proposal recommended in Settlement as their position is that no rate increase should be granted. For the reasons, stated herein and in I&E's Main Brief, I&E believes that the Settlement rates and proposed customer charge and usage rates are in the public interest.

C. Quarterly Earnings Reports

The OCA supports the term that requires HVUS to correct existing annual reports on file with the Commission and to have a consultant review the reports as explained in

⁷ I&E St. No. 1-SR (Water), p. 3. I&E's water revenue requirement increased from \$57,573 in direct testimony to \$65,544 in surrebuttal testimony, in part, because the Company increased its rate case expense claim by approximately \$5,000 and because I&E removed its \$1,521 engineering expense adjustment and its \$3,395 payroll adjustment.

⁸ I&E St. No. 1-SR (Wastewater), p. 3. I&E's wastewater revenue requirement increased from \$69,175 in direct testimony to \$82,263 in surrebuttal testimony, in part, because the Company increased its rate case expense claim by approximately \$5,000 and because I&E removed its \$3,088 engineering expense adjustment and its \$6,893 payroll adjustment.

the Joint Petition. For the reasons identified in I&E's Main Brief and, as recognized by the OCA, this term is in the public interest.

VIII. CONCLUSION

The Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition of Non-Unanimous Settlement as being in the public interest and respectfully requests that Administrative Law Judges Mark A. Hoyer and Katrina L. Dunderdale recommend, and the Commission approve, the terms and conditions contained in the Joint Petition of Non-Unanimous Settlement without modification.

Respectfully submitted,



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