

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2018-3001306
Gerry and Melissa Pindroh	:	C-2018-3001787
Office of Consumer Advocate	:	C-2018-3001841
Debra J. Simpson	:	C-2018-3002179
Tom and Shelley Conroy	:	C-2018-3002198
John Cupps	:	C-2018-3002468
David Oster	:	C-2018-3002470
Toni Gorenc	:	C-2018-3002480
David Brodland	:	C-2018-3002485
Robert and Katherine Bair	:	C-2018-3002587
Jerome and Barbara Cypher	:	C-2018-3002671
Jon and Nina Lewis	:	C-2018-3002701
Celeste Emrick	:	C-2018-3003020
Robert J. Kollar	:	C-2018-3003370
Hidden Valley Foundation, Inc.	:	C-2018-3003528

v.

Hidden Valley Utility Services, L.P. –
Water

Pennsylvania Public Utility Commission	:	R-2018-3001307
Office of Consumer Advocate	:	C-2018-3001843
Tom and Shelley Conroy	:	C-2018-3002200
John Cupps	:	C-2018-3002459
David Oster	:	C-2018-3002475
Toni Gorenc	:	C-2018-3002481
David Brodland	:	C-2018-3002487
Jerome and Barbara Cypher	:	C-2018-3002683
Jon and Nina Lewis	:	C-2018-3002698
Robert J. Kollar	:	C-2018-3003372
Hidden Valley Foundation, Inc.	:	C-2018-3003529

v.

Hidden Valley Utility Services, L.P. –
Wastewater

EXCEPTIONS TO RECOMMENDED DECISION
PENNSYLVANIA PUBLIC UTILITY COMMISSION ET AL.
V.
HIDDEN VALLEY UTILITY SERVICES, L.P. – WATER
HIDDEN VALLEY UTILITY SERVICES, L.P. – WASTEWATER
R-2018-3001306 ET AL.
R-2018-3001307 ET AL.

EXCEPTIONS REQUESTED BY: ROBERT J. KOLLAR
COMPLAINT NO. C-2018-3003370 (WATER) AND C-2018-3003372 (WASTEWATER)

I. INTRODUCTION

My name is Robert J. Kollar. I am a customer of Hidden Valley Utility Services, L.P. (Hidden Valley or the Company) and hereby file for consideration my Exceptions to the recommended ruling dated January 25, 2019 (corrected) in the aforementioned cases. Please note that I am not an attorney and therefore am unable to access regulations, legal rulings or cases; I am filing these exceptions based solely on my opinion and personal observations.

II. EXCEPTIONS REQUESTED

My requested exceptions to the recommended rulings in the aforementioned matters are discussed in the following sections, with reference to the specific recommendation listed in Part VII, Order, of the recommended ruling dated January 25, 2019.

Exception No. 1 – Opposition to the recommended rate increase in Part VII, Ordering paragraphs No. 4 and 5.

Ordering Paragraph No. 4 states:

That upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P. – Water, is authorized to file water tariffs, tariff supplements or tariff revisions containing

rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$206,112, which is an increase over present revenues of \$65,667.

Ordering Paragraph No. 5 states:

That upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P. – Wastewater, is authorized to file water tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$375,866 which is an increase over present revenues of \$82,227.

Discussion

It is clear from reading the recommended ruling that the judges struggled with reaching a decision for any recommended rate increase. The recommended increases equate to a 47% increase in water rates and a 28% increase in wastewater rates. Excerpts taken from the recommended ruling include the following:

“Judges agree with the OCA and the Foundation that the continuing quality of service issues necessitate a serious consideration into whether Hidden Valley should receive any increase at this time.” (Ruling, pg. 32)

“Hidden Valley has been given over thirteen years in which to correct the issues with its water and wastewater quality – and its failure to do so is deemed to be a refusal. The presiding officers are not persuaded by the testimony of Hidden Valley’s president that such large sums of money are needed to make the improvements required by the Commission in the *McCloskey Decisions*. Hidden Valley attempts to blame the Commission for Hidden Valley’s failure to meet its responsibilities as a certificated utility to provide quality service by evoking arguments that is due process rights will be adversely affected or that the facts herein somehow present a Catch-22 for Hidden Valley. If there is a “Catch-22” in this situation, it is felt by the customers of Hidden

Valley, not the utility itself, because they have suffered and endured for thirteen years with brown, murky water that, though potable, should not be forced on any customer.”

(Ruling, Pg. 33)

Given the findings in the *McCloskey* case, that Hidden Valley has failed to provide adequate and competent water and wastewater service, and the testimony of numerous Hidden Valley customers, it is difficult to understand a ruling that includes any recommended increase in water or wastewater rates for Hidden Valley. The effect of this recommended ruling for an increase in water and wastewater rates is to reward Hidden Valley for thirteen years of refusing to address the significant water and wastewater issues facing its customers. Additionally, the recommended ruling provides no requirements for the Commission to monitor how the additional revenues will be utilized by Hidden Valley once enacted. Considering Hidden Valley’s past performance, it is highly probable that the additional revenues generated from the recommended ruling (if implemented) will be utilized solely by Hidden Valley to retire related party indebtedness and/or for additional distributions to the owners of Hidden Valley and not to address the water and wastewater quality issues. The evidence is clear in both this matter and in the *McCloskey* case that despite the facts that Hidden Valley operates at a financial loss and has significant amounts of deferred maintenance, the owners of Hidden Valley chose to distribute almost all of the available cash flow from the business to themselves while ignoring the long-standing water and wastewater issues facing its customers.

Recommendations

1. Given the recent decision in the *McCloskey* case (dated January 17, 2019), I hereby request that any recommended increase in Hidden Valley water or wastewater rates be

denied and postponed until the final outcome of the hearing procedures outlined in the *McCloskey* case. The decision in the *McCloskey* case states:

“...we find that it would be appropriate to proceed to the hearing procedures set forth in the May 2018 Order. Adhering to the process outlined in our prior Orders is preferential to the amendments suggested by HVUS because the requested modifications would result in further delays without any assurance that subsequent compliance deadlines could be met or that proposed improvements could be adequately funded. Such an indeterminate approach would appear to be detrimental to the interest of the Company’s customers who have suffered from the long term water service problems.” (January 17, 2019 order, pg. 31).

Once the outcome of the Pa. C.S. Section 529 proceeding is complete, the Commission could implement all or part of the recommend rate increase which would provide a competent operator with additional revenues necessary to address the long-term water and wastewater issues that have been ignored by Hidden Valley.

2. If the Commission decides to implement the recommended rate increases, controls and periodic monitoring must be implemented to ensure that the additional revenues are used for operations and to address the long term water and wastewater issues and not for owner distributions or retirement of related party indebtedness. At a minimum, if a rate increase is granted, the Commission must require the following:
 - a. Complete prohibition of any owner distributions or payments on related party indebtedness until such time as all of the requirements of the *McCloskey* case have been addressed.

- b. Appointment of an independent receiver to take over all financial activities of the Company, including but not limited to making all bank deposits, making the payments of all necessary operating expenses, and all other financial affairs of the Company, until such time as all of the requirements of the *McCloskey* case have been addressed.
- c. In order to verify that Hidden Valley is not making distributions to its owners or making payments on related party indebtedness, the Company should be required to file with the Commission monthly financial reports, consisting of a Balance Sheet, Income Statement and a Statement of Cash Flows. Additionally, the Company should be required to file a Schedule of Cash Disbursements, listing all checks issued during the month including the date, check number, payee and amount. These financial reports shall be filed with the Commission by no later than 15 days after the end of the preceding month and shall be a matter of public record.

Exception No. 2 – Suggested revision to Part VII, Ordering Paragraphs 7 and 8, recommending submission of revised annual reports and assistance in preparing such reports.

Ordering paragraph No. 7 states:

“That within 90 days after the entry of the Commission’s final order in this proceeding, Hidden Valley Utility Services, L.P. shall submit to the Commission’s Secretary’s Bureau and Commissions Bureau of Technical Utility Services corrected annual reports for the years 2015 – 2018. These annual reports will be prepared by or reviewed by a rate consultant prior to submission to the Commission.

Ordering paragraph No. 8 states:

“That, during the period 2019 – 2023 or until its next rate case, whichever is earlier, Hidden Valley Utility Services, L.P. shall have its annual report prepared or reviewed by a rate consultant prior to submission to the Commission.

Discussion and Request

Hidden Valley has filed inaccurate Annual Reports with the Commission for years. Sadly, the Commission is partially to blame for this, as its own internal review procedures failed to detect these inaccurate filings. The purpose of requiring utility companies to provide these annual reports to the Commission is to ensure that the financial strength and viability of the utilities that it regulates is being monitored. I request that the wording of Paragraphs No. 7 and No. 8 be modified. The requirement to utilize a rate consultant will not solve the problem of inaccurate annual financial reports. The requirement should be modified to require that Hidden Valley use the services of a Certified Public Accountant (CPA) to ensure that its annual reports are prepared accurately and in accordance with Generally Accepted Accounting Principles (GAAP) applied on a consistent basis.

Exception No. 3 – Suggested revision to Part VII, Ordering Paragraph No. 9, requiring an independent financial audit of Hidden Valley for the years 2015 to 2018.

Ordering paragraph No. 9 states:

“That, within 120 days after the entry of the Commission’s final order in this proceeding, Hidden Valley Utility Services, L.P. shall cause to be conducted an independent financial audit of its records from 2015 to 2018 by an outside independent accounting firm or office which has not previously provided auditing services to Hidden Valley Utility Services, L.P. The Company

shall file a notice at this docket number and serve a copy of said notice on all parties to this proceeding, stating that the independent financial audit has been completed. The Company shall submit the independent audit to the Commission's Secretary's Bureau and the Commission's Bureau of Technical Utility Services."

Discussion and Recommendation

The requirement for an independent audit of the Company's financial statements is an important and welcome step. I request the following changes in the recommended ruling to enhance the effectiveness of this important step:

1. Clarify "independent financial accounting firm." The following wording is recommended: ... "by an outside independent Certified Public Accounting Firm which has not previously provided auditing or accounting services to Hidden Valley Utility Services, L.P., or to any business entity in which the owners of Hidden Valley have a financial interest, or to the individual owners of Hidden Valley. The firm selected shall have the necessary expertise in accounting and auditing of small utilities in order to perform the audit."
2. Require that notice be provided to the Commission and posted to the docket for this case by Hidden Valley upon selection of the auditing firm to complete the audits along with an estimated timetable for their completion.
3. The complete audit report, including financial statements and footnotes, shall be posted at the docket for this case in addition to being filed with the Commission's Secretary's Bureau and the Bureau of Technical Utility Services.

4. Within 60 days of receiving the audited financial statements, the Bureau of Technical Utility Services shall provide a report to the Commission which shall be posted at the docket for this case indicating the following:
 - a. its receipt of the audited financial statements;
 - b. that it has reviewed the audited financial statements and include a list of any concerns it has regarding the financial viability of Hidden Valley as a result of its review.
5. The audit requirement shall remain in effect until all requirements of the McCloskey case have been met.

Thank you for your consideration of these exceptions.

Respectfully submitted,

Robert J. Kollar

February 3, 2019