



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

February 8, 2019

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

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

Dear Secretary Chiavetta:

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

Copies are being served on all active parties of record, per the attached Certificate of Service. 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: Per Certificate of Service

**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 EXCEPTIONS
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
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-7998

Dated: February 8, 2019

I. INTRODUCTION

On April 28, 2018, Hidden Valley Utility Services, L.P. – Water and Hidden Valley Utility Services, L.P. – Wastewater (collectively, “Company” or “HVUS”) requested an increase to total annual operating revenues of \$150,629 and \$185,432, respectively.

The Bureau of Investigation and Enforcement (“I&E”) entered into a Joint Petition of Non-Unanimous Settlement (“Joint Petition” or “Settlement”) that closely aligned with the water and wastewater revenue requirements recommended in I&E’s Surrebuttal Testimony. I&E’s recommended a 0.00% equity recommendation given the Company’s ongoing service issues, which resulted in a primary revenue requirement recommendation of \$65,544¹ for water and \$82,236² for wastewater. 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 specific repairs, modifications and improvements to the wastewater system have been completed.

On January 15, 2019, the Secretary’s Bureau issued the Recommended Decision of ALJs Hoyer and Dunderdale, which approved the Settlement with modification. The RD recommended approval of the \$65,557 revenue increase proposed in Settlement for HVUS water operations and also recommended approval of the first step revenue increase of \$82,227 for HVUS wastewater operations. However, the RD rejected the

¹ I&E St. No. 1-SR (Water), p. 3.

² I&E St. No. 1-SR (Wastewater), p. 3.

proposed second wastewater step increase to \$145,842 stating that this Settlement modification “is in the public interest and justified because Hidden valley failed for over thirteen years to provide adequate water and wastewater services.”³

I&E filed exceptions on February 4, 2019 requesting that the Settlement be approved without modification. For the reasons contained in its Briefs and Exceptions, I&E continues to support the proposed Settlement rates as being in the public interest and will not restate those arguments herein. However, I&E files these Reply Exceptions to address the Office of Consumer Advocate’s (“OCA”) incorrect argument that the revenue increases contained in the Settlement and approved by the RD authorize a return on equity.

II. REPLY EXCEPTIONS

I&E Reply Exception No. 1: The Settlement revenue increases approved in the RD are closely aligned with I&E’s litigation position, which recommended 0.00% return on equity.

Simply put, the flaw in OCA’s argument is that it is referencing the wrong piece of I&E testimony. In Exceptions, OCA incorrectly argues that the revenue requirements proposed in Settlement give the Company a return on equity because they are higher than I&E’s litigation position; however, OCA erroneously cites to I&E’s litigation position in Direct Testimony rather than I&E’s updated litigation position presented in Surrebuttal Testimony:

³ RD at 49-50.

The OCA would note that the resulting rate of return is not provided with the Non-unanimous settlement, but the revenue increases permitted by the Non-unanimous settlement are higher than the revenue increases indicated by I&E's primary litigation position (0% return on equity). I&E's calculated revenue increases using a 0% return on equity were \$57,753 for water and \$69,175 for wastewater. I&E St. No. 1 (W) at 3; I&E St. NO. 1 (WW) at 3. Because the non-unanimous settlement allows for increases great than these it appear that the revenue requirements provide a positive return on equity for HVUS. OCA M.B. at 50.⁴

OCA first raised this issue in its Main Brief and I&E fully addressed the error of this argument in Reply Brief but will repeat those arguments here because the equity issue goes to the very foundation of the RD.

The amounts referenced in OCA's Exceptions of \$57,753 for water and \$69,175 for wastewater cite to I&E's Direct Testimony; however, after further discovery and responsive testimony from the Company, I&E revised a few of its operating expense adjustments in Surrebuttal Testimony as is commonly done in base rate proceedings. To be clear, I&E's litigation position in Surrebuttal Testimony continued to recommend 0.00% return on equity, but its overall revenue requirement recommendation increased because I&E removed some of its prior expense adjustments. Specifically, 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. Similarly, I&E's wastewater revenue

⁴ OCA Exceptions at 7.

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. Therefore, I&E's recommended 0.00% cost of common equity did not change from its Direct Testimony to its Surrebuttal Testimony, but its overall recommended revenue requirements increased because of changes made to the Company's operating expenses.

This issue is important because it goes to the very heart of the RD, which clearly intended to eliminate the Company's equity return. The RD stated:

A Commission-approved rate which does not allow for any return on equity is no small feat and, although permitted under the law, it is a rare case when the Commission exercises its discretionary authority to eliminate any return on equity to a utility. However, the presiding officers here recommend the Commission take this unusual step due to the plethora of poor quality service issues over the past 13 years for this public utility.⁵

The agreed upon Settlement increases for water (\$65,557) and wastewater (\$82,227) service that were approved in the RD achieve this goal as they are very closely aligned to I&E's revenue requirements in Surrebuttal Testimony (\$65,544 for water and \$82,263 for wastewater) that proposed 0.00% return on equity.

Accordingly, OCA's reliance on I&E's revenue requirements recommended in Direct Testimony to demonstrate that the Settlement rates approved in the RD authorize a return on equity is incorrect. While this is a black box settlement that does not specify a

⁵ RD at 51.

return on equity, it is evident that the Settlement rates approved in the RD closely mirror I&E's revenue requirement in Surrebuttal Testimony which recommended a 0.00% cost of common equity.

III. CONCLUSION

The Commission's Bureau of Investigation and Enforcement continues to support the Joint Petition of Non-Unanimous Settlement as being in the public interest and respectfully requests that the Commission approve the terms and conditions contained in the Settlement without modification.

Respectfully submitted,



Allison C. Kaster
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PA Attorney ID No. 93176

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Harrisburg, PA 17120
(717) 783-7998

Dated: February 8, 2019

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Exceptions** dated February 8, 2019, 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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