

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 Reply Exceptions 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 8<sup>th</sup> day of February 2019.

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

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	DOCKET NO. R-2018-3001306
v.	:	
	:	
HIDDEN VALLEY UTILITY	:	
SERVICES, L.P. – WATER	:	
	:	
PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	DOCKET NO. R-2018-3001307
v.	:	
	:	
HIDDEN VALLEY UTILITY	:	
SERVICES, L.P. – WASTEWATER	:	

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**REPLY EXCEPTIONS OF HIDDEN VALLEY FOUNDATION, INC.**

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## **I. INTRODUCTION**

Pursuant to 52 Pa. Code § 5.535, Hidden Valley Foundation, Inc. (the “Foundation”) files these Reply Exceptions to the Exceptions of the Bureau of Investigation and Enforcement (“I&E”) and the Exceptions of Hidden Valley Utility Services, L.P. (“HVUS” or the “Company”).

## **II. REPLY EXCEPTIONS**

### **A. REPLY TO I&E EXCEPTION 1 AND HVUS EXCEPTION 1.**

HVUS and I&E agree that the Non-Unanimous Settlement reached by HVUS and the Bureau of Investigation and Enforcement (“BIE”) in this matter (the “Settlement”) was improperly modified by the ALJs in the Recommended Decision issued on January 15, 2019 (“RD”) that approved the Settlement with modifications. The parties to the Settlement take issue with the ALJs’ decision to deny the second step of the two-step wastewater rate increase proposed by the Settlement. While the Company’s continuing inadequate service and failure to comply with the 2005 Settlement and the 2018 Complaint Case Orders require a denial of the proposed rate increases and the Foundation reiterates its objection to any increase at all in water or wastewater rates unless and until HVUS is found to be providing adequate service, something that the Foundation has no expectation will ever happen, the Foundation also believes that the modification of the Settlement set forth in the RD was not error on the part of the ALJs because the modification reflects the reality that HVUS continued to fail to provide adequate wastewater at the time of the RD and still continues to fail to provide adequate wastewater service after January 31, 2019. It is important to emphasize that this continued failure to provide adequate wastewater service is in direct violation of Ordering Paragraph 11 of the May 2018 Order in the *McCloskey* case:

**That Hidden Valley Utility Services shall comply with all recommendations from the engineer with regard to wastewater service in order to ensure that customers shall receive adequate and reasonable wastewater service, on or before January 31, 2019.**

January 31, 2019 has now come and gone and HVUS has yet again missed another deadline for providing its customers with adequate service.

Nonetheless, although both HVUS and I&E recognize the Commission's finding that the Company continues to fail to provide adequate wastewater service, they both choose to ignore the significance of that finding and essentially argue that the ALJs erred by not approving the Settlement in full because HVUS's wastewater service, although inadequate, is not nearly as bad as its much, much worse water service. Both parties argue that the Company's inadequate water service should not in any way affect the Company's wastewater rate increase. However, the Commission did not need to use the Company's inadequate water service to justify its decision to deny the second step of the wastewater increase proposed by the Settlement; there is plenty of evidence in the record about the inadequacy of the Company's wastewater service as well. As stated by the Commission:

**As of the date the hearing record closed in this proceeding, Hidden Valley had not implemented the totality of the wastewater improvements mandated by the Commission to be done.** Once those improvements have been made – and verified as having been made – then Hidden Valley may be able to justify the second step increase. However, the presiding officers disagree with Hidden Valley and BIE. **If Hidden Valley wants to realize the second step increase in wastewater revenue, then Hidden Valley needs to provide quality wastewater services.**

RD at p. 50. (Emphasis added.) Just as the Company had not completed the wastewater improvements mandated by the Commission as of the date the hearing record closed in this proceeding, it did not complete such improvements by the January 31, 2019 deadline imposed by Ordering Paragraph 11 of the May 2018 Order in the *McCloskey* case. Nor are those improvements complete today. HVUS is not entitled to any rate increase at all until they happen.

I&E also believes that the rates agreed to by HVUS and I&E in the Settlement are reasonable. They are not. The Foundation generally refers to its position on this issue in its Exceptions (pp. 4-6). I&E's only other justification for its Exception is that the Commission encourages settlement.

Here is a brief summary why the Foundation objects to the Settlement and, along with the OCA, did not join in a Settlement that is not in the best interests of the public generally or specifically the customers of HVUS, the ones left holding the bag at the end of the day (as they have for the last 13 plus years) if any rate increases at all are approved by the Commission.

1. Under the Non-Unanimous Settlement increase, customers would fact substantial increases: water rates would increase by 46.6% and wastewater rates would increase by 28% in Phase I and by an additional 49.7% under the Non-Unanimous Settlement.
2. The rates that are paid today, and have been paid since 2005, were set to reflect adequate water and wastewater service which customers **never** received at any time.
3. Finally, the rate increases are premised on customers receiving adequate service, which the record clearly establishes they are not receiving and will not receive in the future test year and beyond.

#### **B. REPLY TO HVUS EXCEPTION 2.**

The Company has unsurprisingly continued its dilatory tactics and pattern of requesting additional time whenever faced with a deadline, this time with respect to the recommendation by the ALJs that the Company file, within 120 days from the date of the Final Order in these proceedings, an independent financial audit of its records from 2015 through 2018 conducted by an outside independent financial accounting firm or office which has not previously provided auditing services to Hidden Valley. One the one hand, HVUS wants the Commission to believe


that its behavior will change after thirteen plus years of delinquent action and it will actually follow through on its promises this time, then on the other hand reveals that it is the same old HVUS, an organization that never met a deadline it could keep. HVUS says that it understands that the audit needs to be completed in a timely manner but then calls the 120-day deadline impossible to meet as a practical matter. The reality is that 60 or 90 days would be plenty of time to complete the audit. Moreover, HVUS knows that it has 120 days plus the time between now and when the Commission issues a Final Order in these proceedings. Assuming for argument's sake that the Final Order is issued a month from today, that gives the Company 5 months to complete the audit. By the time the audit is due in July under that scenario, tax season will be long behind us and any competent accounting firm will have been able to audit three years of data and draft an audit report.

The Commission should follow its recent denial of the Company's Second Petition for Amendment in the *McCloskey* case by applying the same rationale here. As first expressed by the Commission in its January 2018 *McCloskey* Order, the Commission has said that it views any further delays in complying with the deadlines in *McCloskey* as possibly indicative of the Company's lack of competency to operate and of its ability to provide reasonable and adequate service. Any further delays in complying with deadlines in this proceeding are similarly indicative of the Company's incompetency to operate and inability to provide reasonable and adequate service. For the Commission to now back off on a deadline after strictly enforcing the deadlines in *McCloskey* would send the message to the Company that its delay tactics are still working. For the benefit of the customers of HVUS, this must not happen.

### III. CONCLUSION

The Foundation continues its objection to the Joint Petition of Non-Unanimous Settlement as not being in the public interest or the interest of the Foundation's members and customers of HVUS and respectfully requests that the Commission modify its Recommended Decision to be consistent with the Exceptions of Hidden Valley Foundation, Inc.

Respectfully submitted,

  
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