

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 24, 2019

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

Re: Pa. Public Utility Commission  
v.  
Community Utilities of Pennsylvania Inc. -  
Water and Wastewater Division  
Docket Nos. R-2019-3008947  
R-2019-3008948

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Pre-Hearing Memorandum in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Very truly yours,

A handwritten signature in black ink that reads "Christine Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Enclosure:

cc: Honorable F. Joseph Brady, ALJ  
Certificate of Service

\*272811

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket Nos. R-2019-3008947  
Community Utilities of Pennsylvania Inc. - : R-2019-3008948  
Water and Wastewater Division :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Pre-Hearing Memorandum, 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 24<sup>th</sup> day of May 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Allison C. Kaster, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

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

Thomas J. Sniscak, Esquire  
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John R. Evans, Esquire  
Office of Small Business Advocate  
300 North Second Street  
Commerce Building, Suite 202  
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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: May 24, 2019  
\*273067

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2019-3008947
Office of Consumer Advocate	:	C-2019-3009591
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Water Division)	:	

Pennsylvania Public Utility Commission	:	Docket Nos. R-2019-3008948
Office of Consumer Advocate	:	C-2019-3009592
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Wastewater Division)	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned proceedings, the Office of Consumer Advocate (OCA) provides the following information:

**I. PROCEDURAL HISTORY**

On April 1, 2019, Community Utilities of Pennsylvania, Inc. (Community Utilities or the Company) filed Supplement No. 5 to Tariff Water - Pa. P.U.C. No. 1 (Supplement No. 5) with the Pennsylvania Public Utility Commission (Commission), to become effective June 1, 2019. The Company, by filing this tariff supplement, seeks Commission approval to consolidate the

rates of all customers in the service territories formerly known as Penn Estates Utilities, Inc. (Penn Estates) and Utilities, Inc. - Westgate (Utilities Westgate) and increase the level of rates that it charges for providing service to its water customers.

If the proposed tariff supplement becomes effective, the Company will recover an estimated annual increase in base rate revenues of \$362,019 (26.68%) from its water customers. Under the Company's proposal, a customer in the Penn Estates service territory, using 4,000 gallons of water per month, would experience a rate increase from \$42.29 to \$54.95 per month, or by 29%. A customer in the Utilities – Westgate service territory, using 4,000 gallons of water per month, would experience a rate increase from \$46.33 (excluding any charges related to the Purchased Water Adjustment Clause) to \$54.95 per month, or by 18.6%. The Company serves approximately 2,788 water customers in Stroud Township and Pocono Township, Monroe County, and portions of Hanover Township, Northampton County, Pennsylvania.

In combination with its rate increase request for its water operations, the Company also filed Supplement No. 3 to Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 3) to become effective June 1, 2019. Through this filing, the Company seeks to consolidate the rates of all wastewater customers in its service territories, formerly Penn Estates and Utilities Westgate. As proposed, the requested wastewater rate increase would increase the Company's annual wastewater operating revenues by approximately \$378,770, or 20.8%, over the Company's annual wastewater revenues at present rates.

If the proposed increase is approved, a residential customer in the Penn Estates division would experience a rate increase from \$46.56 to \$59.55 per month, or by approximately 27.9%. Similarly, a residential customer in the Utilities Westgate division would experience a rate increase from \$52.59 to \$59.55, or by approximately 13.2%. The Company serves approximately

3,259 wastewater customers in portions of Stroud Township and Pocono Township, Monroe County, West Bradford Township, Chester County, and portions of Hanover Township, Northampton County, Pennsylvania.

On May 1, 2019, the OCA filed a Formal Complaint, Public Statement, and Notice of Appearance in each proceeding. Subsequently, on May 9, 2019, the Commission issued two Suspension Orders initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increase requests, and suspended the effective date of the proposed Supplement No. 5 and Supplement No. 3 until January 1, 2019, by operation of law. The Commission assigned this proceeding to the Office of Administrative Law Judge and further assigned this proceeding to Administrative Law Judge (ALJ) F. Joseph Brady. ALJ Brady scheduled a telephonic Prehearing Conference for Tuesday, May 28, 2019.

The OCA filed Formal Complaints in these proceedings to protect the interests of the Company's customers. The OCA seeks to ensure that Community Utilities is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent the Company from collecting all alleged costs that cannot be justified, are unreasonable or unduly discriminatory, or otherwise violate the Public Utility Code. The OCA submits that the Company's current rates and the rates sought by the Company may be unjustifiable and unlawful based upon information filed by Community Utilities in support of its claims.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of the Company's filings, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the rate increase requests. While the OCA has been as thorough as possible, the OCA anticipates that additional issues may

arise after Community Utilities has responded to all discovery requests, the OCA has had the opportunity to review those responses, and the Company has filed its direct testimony.

The OCA submits that all aspects of the Company's requests must be justified, reasonable, and in accordance with sound ratemaking principles in order to protect the interests of the Company's customers. As such, the OCA will examine the reasonableness of the Company's proposals and ensure that the Company is seeking to recover through customer charges only those charges appropriately recovered through a monthly service charge. Furthermore, the OCA will investigate the Company's proposal to consolidate the customer rates and determine whether consolidation is appropriate at this time.

Additionally, the OCA will consider the following issues:

A. Rate of Return

1. Capital Structure: The OCA will examine whether the capital structure claimed by the Company is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

2. Embedded Cost of Debt: The OCA will examine the embedded cost of debt claimed by the Company.

3. Cost of Common Equity: The OCA will analyze the cost of common equity claimed by Community Utilities and carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim. The OCA will also perform an independent cost of common equity analysis.

4. Utility Specific Adjustments: The OCA will examine whether any adjustments proposed by Community Utilities are justified.

B. Rate Base/Measures of Value

1. The OCA will examine the reasonableness and accuracy of the projections of the Company related to the water and wastewater utility plant in service at the time relevant to this proceeding.

2. The OCA will review the appropriateness, reasonableness, and accuracy of the Company's claims for plant additions for the future test year ended December 31, 2019 and the fully projected future test year ended December 31, 2020.

3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will examine the Company's calculation and amount of cash working capital.

C. Revenues and Expenses

1. The OCA will examine whether the number of customers projected on the Company's system at the time periods relevant to this proceeding is reasonable and accurate.

2. The OCA will examine whether the Company's estimates of the volume of water to be sold during future periods is reasonable and accurate.

3. The OCA will examine whether the Company's projections of revenues in the future test year and fully projected future test year are reasonable and accurate.

4. The OCA will examine whether the salary and wage annualizations and increases included by the Company in the future test year and fully projected future test year are reasonable and accurate.

5. The OCA will examine the reasonableness of the Company's pro forma claims for purchased power.

6. The OCA will examine the reasonableness of the Company's pro forma claim for chemical expense.

7. The OCA will examine the reasonableness of the Company's pro forma claims for Contractual Services.

8. The OCA will examine the reasonableness of the Company's pro forma claims for Engineering Fees.

9. The OCA will examine the reasonableness of the Company's proposed normalization of Rate Case Expense.

10. The OCA will examine the reasonableness of the Company's pro forma claims for Materials, Supplies & Other Office Expenses.

D. Cost of Service/Rate Design

1. According to Company responses to data requests to the Bureau of Technical Utility Services, the Company's proposed rates are based on a cost of service study that the Company will provide when it files its direct testimony. The OCA will review and analyze the cost of service study.

2. The OCA will consider the impact of the Company's proposed consolidation of rates between the former Penn Estates and Westgate tariffs for both its water and wastewater operations.

3. The OCA will examine the reasonableness and appropriateness of Company's proposed tariff changes, as well as other terms and conditions of Company's tariff.



E. Quality of Service

1. The OCA will review the Company's quality of service to ensure that it is providing safe, adequate, and reliable service, including fire protection, and water that is usable for all household purposes.

F. Purchased Water

1. The OCA will examine whether the Company's purchased water adjustment clause for its Utilities Westgate service territory should continue.

2. The OCA will examine whether the Company has explored alternatives to purchased water from the City of Bethlehem to continue to provide its current and future customers with adequate, efficient, safe and reasonable service.

3. The OCA will examine whether the Company is operating its system in an efficient manner such that the need to purchase water is reduced by maximizing the use of its own resources.

**III. WITNESSES**

The OCA intends to present the direct, rebuttal and surrebuttal testimonies, as may be necessary, of the following witnesses in this proceeding:

**Revenue Requirement/Rate Design/Policy**

Stacy L. Sherwood  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Suite 300  
Columbia, MD 21044  
Telephone: (410) 992-7500  
Fax: (410) 992-3445  
E-mail: [sherwood@exeterassociates.com](mailto:sherwood@exeterassociates.com)

**Rate of Return**

Aaron L. Rothschild  
Rothschild Financial Consulting  
15 Lake Road  
Ridgefield, CT 06877  
Telephone: (203) 894-1028  
E-mail: [aaron@rothschildfinancial.com](mailto:aaron@rothschildfinancial.com)

**Cost of Service/Rate Design**

Jerome Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway

Suite 300  
Columbia, MD 21044  
Telephone: (410) 992-7500  
Fax: (410) 992-3445  
E-mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

The witnesses will present testimony in written format and may also attach various exhibits, documents and explanatory information, as necessary to assist in the presentation of the OCA's case. The OCA reserves the right to call additional witnesses. The OCA will inform the ALJ and the parties if it determines that additional witnesses are necessary.

#### **IV. EVIDENCE**

The OCA will rely on the direct, rebuttal and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

#### **V. PROPOSED SCHEDULE**

The OCA submits that the schedule should be extended due to the cost of service study being submitted at the time of the Company's testimony. The OCA's proposed litigation schedule is attached hereto as Appendix A but does not address the timing issue resulting from the filing of a cost of service study nearly two months after the original filing. If that is what the Company intends then the OCA submits that the suspension period and schedule should be extended to permit parties to address the additional filing submission.

## **VI. DISCOVERY**

The OCA has served two sets of discovery to date for both its water and wastewater operations. Responses to are due on May 28, 2019 and June 7, 2019. The OCA anticipates that it will serve more discovery in the coming days. Because the time-period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in these proceedings. The OCA, therefore, requests the following modifications to the discovery regulations:

A. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories;

B. Objections to interrogatories shall be communicated orally within three (3) calendar days of service; written objections will be served within five (5) calendar days of service of interrogatories;

C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions;

E. Rulings over such motions will be issued, if possible, within seven (7) days of filing of the motion.

F. Requests for admission shall be deemed admitted unless answered within ten (10) calendar days of service.

G. Answers to on-the-record data requests will be served in-hand within three (3) calendar days of the request.

H. Any discovery-related pleading such as objections, motions, or answers served after noon on either a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

## **VII. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Christine Maloni Hoover and Assistant Consumer Advocate Phillip D. Demanchick. Pursuant to 52 Pa. Code § 1.55, which provides that each party is limited to one entry on the service list, the OCA requests that the following name, address, telephone number, fax number and e-mail address be utilized for the OCA:

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
E-mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)  
[PDemanchick@paoca.org](mailto:PDemanchick@paoca.org)  
[LMyers@paoca.org](mailto:LMyers@paoca.org)

The OCA agrees to be served electronically by 4:30 pm if followed by service of two hard copies by first-class mail on the next business day.

## **VIII. SETTLEMENT**

The OCA is willing to participate in settlement discussions.


## **IX. PUBLIC INPUT HEARINGS**

The OCA requests that Public Input Hearings be held in Bethlehem, Northampton County, and East Stroudsburg, Monroe County, to receive comment from customers affected by the rate increase proposed by the Company. The OCA believes there is sufficient consumer

interest, along with the size of the proposed increase, particularly for customers in the service territory formally known as Penn Estates, to justify its request.

The OCA also requests that the Company, at a minimum, place advertisements within its service territory and publications in the newspaper and on the Company's website to make its consumers aware of these hearings. The OCA will work with the Parties to coordinate a public input hearing date and location acceptable to all participants and the Presiding Officer.

Respectfully Submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Phillip D. Demanchick  
Assistant Consumer Advocate  
PA Attorney I.D. # 324761  
E-Mail: [PDemanchick@paoca.org](mailto:PDemanchick@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: May 24, 2019  
\*271921

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2019-3008947
Office of Consumer Advocate	:	C-2019-3009591
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Water Division)	:	

Pennsylvania Public Utility Commission	:	Docket Nos. R-2019-3008948
Office of Consumer Advocate	:	C-2019-3009592
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Wastewater Division)	:	

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OFFICE OF CONSUMER ADVOCATE'S  
PROPOSED LITIGATION SCHEDULE

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Prehearing Conference	Tuesday, May 28, 2019
Company Testimony	Wednesday, June 5, 2019
Other Parties' Direct Testimony	Friday, June 28, 2019
Rebuttal Testimony	Friday, July 19, 2019
Surrebuttal Testimony	Friday, August 2, 2019
Outline of Expected Oral Rejoinder	Thursday, August 8, 2019 at Noon
Evidentiary Hearings	Tuesday-Thursday, August 13-15, 2019
Main Briefs	Friday, September 6, 2019
Reply Briefs	Monday, September 16, 2019