


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 29, 2019

Rosemary Chiavetta, Secretary  
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  
Docket Nos. R-2018-3001306  
R-2018-3001307

Dear Secretary Chiavetta:

Attached for electronic filing please find the Answer of the Office of Consumer Advocate to Hidden Valley Utility Services, L.P.'s Motion to Extend the Time Period for Completing an Independent Financial Audit in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Very truly yours,

A handwritten signature in blue 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)

Enclosures:

cc: Honorable Mark A. Hoyer  
Honorable Katrina L. Dunderdale  
Office of Special Assistants (e-mail only: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service

\*276616

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 Office of Consumer Advocate's Answer to Hidden Valley Utility Services, L.P.'s Motion to Extend the Time Period for Completing an Independent Financial Audit, 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 29<sup>th</sup> day of July 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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Dated: July 29, 2019  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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ANSWER OF THE OFFICE OF CONSUMER ADVOCATE  
TO  
HIDDEN VALLEY UTILITY SERVICES, L.P.'S MOTION  
TO  
EXTEND THE TIME PERIOD FOR COMPLETING  
AN INDEPENDENT FINANCIAL AUDIT

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Pursuant to 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) hereby files this Answer to Hidden Valley Utility Services, L.P.'s (HVUS) Motion to Extend The Time Period For Completing An Independent Financial Audit (Motion) in the above-captioned proceeding, that was filed on July 9, 2019. The Motion asks for an additional sixty days to meet the requirement in the Final Order in the above-captioned base rate proceeding that HVUS provide an independent financial audit to the Commission by July 29, 2019. Specifically, Ordering Paragraph 11 states:

11. That, within one hundred twenty (120) days after the date of entry of this Opinion and Order, Hidden Valley Utility Services, L.P. shall cause to be conducted an independent financial audit of its records from 2015 through 2018 by an outside independent financial accounting firm or office which has not previously provided auditing services to Hidden Valley Utility Services, L.P. Upon completion of the independent financial audit, Hidden Valley Utility Services, L.P. 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. Hidden Valley Utility Services, L.P. shall file the independent financial audit with

the Commission's Secretary's Bureau and the Commission's Bureau of Technical Utility Services.

March 29, 2019 Final Order at 91-92. As discussed below, the OCA submits that HVUS has not established grounds to support its Motion and it should be denied. The OCA submits this Answer in opposition to the Company's Motion.

HVUS' Motion requesting an additional sixty days is not reasonable because ensuring that it met the 120 day deadline was entirely within HVUS' control. HVUS' Motion does not establish that unforeseen circumstances developed regarding the audit that might support its request for an additional sixty days. Specifically, it is not clear that HVUS ensured that the accounting firm it hired had the necessary skills and resources to timely complete the audit of four years of financial data. Although HVUS states that it does not believe that the accounting firm will be able to complete the audit in time, (HVUS Motion at 6), HVUS should have ensured that the accounting firm was able to complete the audit within the time available before it retained the accounting firm. It is not known whether HVUS had compiled its books and records to ensure that the accounting firm would be able to begin work when retained. Even if the statements it makes in its Motion are accepted as true and correct, it has failed to take the necessary steps to comply with paragraph 11 of the Commission's Order.

HVUS has once again asked for additional time to complete a directive ordered by the Commission. In January 2019, the Commission entered an Order denying HVUS's Petition for Amendment related to the deadline for complying with an engineer's recommendation, that was required as part of the Orders in the McCloskey complaint proceedings. McCloskey v. Hidden Valley Utility Services, Docket Nos. C-2014-2447138 and C-2014-2447169 Order (January 17, 2019) (January 2019 Order). In the January 2019 Order, the Commission denied HVUS' Petition for Amendment, which sought additional time for meeting a deadline regarding

compliance with its engineer's report, and found that further delays in complying with the deadlines in the McCloskey complaint proceedings would be viewed as possibly indicative of the Company's lack of competency to operate. January 2019 Order at 31. The OCA submits that this request should be denied for the same reasons.

In addition, HVUS waited until July 9, 2019, twenty days before the deadline contained in Ordering Paragraph 11, to make its request for additional time. It is not known when HVUS first became aware that the accounting firm would not be able to complete the audit in time for HVUS to comply with the Order. However, this pattern of waiting until the deadline is approaching to ask for an extension has been addressed by the Commission in a prior Order where HVUS has asked for additional time to comply and waited until the deadline was near:

[W]e note that the Company did not file its Second Petition until October 18, 2018 – over five months after the issuance of the *May 2018 Order* and six months after the date of the engineer's report. It was incumbent upon the Petitioner to timely notify the Commission of any concerns with the one-year compliance deadline particularly in light of its apparent prior position that compliance would not be problematic. The delayed filing of its Second Petition is concerning and weighs against the Commission's exercising of its discretion to disturb the *May 2018 Order*.

January 2019 Order at 30.

The Commission also has addressed the issues presented by HVUS' delays in meeting compliance deadlines, as follows:

[D]ue to the extended time-period for compliance with the 2005 Settlement and the lack of resolution of the outstanding service problems, we believe there should be some mechanism for ensuring that further compliance deadlines are met. Any failure to further comply with the deadlines set forth in this Opinion and Order could be indicative of the Company's lack of competency to operate and of the ability to provide reasonable and adequate service.

It is apparent that the Company's customers have been suffering from poor water quality and unreasonable service for years. Any subsequent delays in failing to remediate the problems due to the failure to meet compliance deadlines would be unacceptable. The one-year deadline for implementing the corrective measures established in the engineer's report sets an objective guideline for compliance.

McCloskey v. Hidden Valley Utility Services, Docket Nos. C-2014-2447138 and C-2014-2447169 Order at 31 (Jan. 18, 2018) (January 2018 Order). It is important to note that the January 2018 Order followed a 2005 Settlement Agreement that was meant to resolve the quality of service issues. In the January 2018 Order, the Commission cited to the ALJ's findings that ten years after the 2005 Settlement Agreement, HVUS had not complied with requirements to: (1) submit a report to the Commission and all parties reassessing the need, size and cost of treatment plant to permanently solve the problems caused by iron and manganese, (2) replace 2,500 feet of mains serving troubled areas of the system and (3) the holding of semi-annual customer meetings. January 2018 Order at 9-10.

In addressing the Exceptions filed by HVUS in these rate proceedings, the Commission also addressed the import of further delays and stated:

As the Foundation pointed out, in our *January 2019 McCloskey Order*, we reiterated our position that further delays in complying with the deadlines set forth in the *McCloskey* proceedings would be viewed as possibly indicative of the Company's lack of competency to operate. Our same reasoning applies here in rejecting HVUS's request for a longer period of time to file corrected annual reports.

March 29, 2019 Final Order at 88 (citations omitted). Similarly, in its current Motion, HVUS' request to extend the time to file the audited financial reports evidences its ongoing lack of competency and inability to comply with the Commission's Orders. The Motion should be denied.

The OCA's Answer to the specific paragraphs of HVUS' Motion are set forth below:

1. Admitted
2. Admitted
3. Admitted

4. Admitted
5. Admitted to the extent that the recitation of Ordering Paragraph 11 is accurate.
6. Admitted
7. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 7 and strict proof is demanded thereof.
  - a. The OCA admits that HVUS made a filing on April 16, 2019.
  - b. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 7.b. and strict proof is demanded thereof.
  - c. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 7.c. and strict proof is demanded thereof.
8. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 8 and strict proof is demanded thereof.
9. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 9 and strict proof is demanded thereof.
10. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 10 and strict proof is demanded thereof.
11. Paragraph 11 is a legal conclusion to which no answer is required.
12. Paragraph 12 is a legal conclusion to which no answer is required.
13. Paragraph 13 is a legal conclusion to which no answer is required.
14. Paragraph 14 is a legal conclusion to which no answer is required.
15. Paragraph 15 is a legal conclusion to which no answer is required.
16. Paragraph 16 is a legal conclusion to which no answer is required.
17. Paragraph 17 is a legal conclusion to which no answer is required.



18. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 18 and strict proof is demanded thereof.

19. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 19 and strict proof is demanded thereof.

20. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 20 and strict proof is demanded thereof.

21. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 21 and strict proof is demanded thereof.

22. Admitted

23. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 23 and strict proof is demanded thereof.

24. Admitted and denied. Admitted that HVUS is requesting a 60 day extension. Denied to the extent that the 60 day extension is described as “brief” and as “only” 60 days. The OCA also denies that the requested extension is reasonable because it would result in a time for compliance that is half of the additional time period that HVUS requested in its Exceptions to the Recommended Decision in this proceeding, given that the Exception was denied.

25. The OCA is without sufficient knowledge to admit or deny the statements in paragraph 25 and strict proof is demanded thereof.


26. Denied. By way of further answer, the OCA submits that the Commission’s requirement that HVUS provide a completed financial audit of the 2015-2018 financial reports is an important component of reviewing HVUS’ financial capability which is an important component in assessing its ability to provide safe, adequate, and reliable water and wastewater service pursuant to Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501



27. Paragraph 27 is a legal conclusion to which no answer is required. By way of further answer, the OCA denies that compliance with deadlines is “punishment” or that future Commission action related to non-compliance is “punishment”.

WHEREFORE, the Office of Consumer Advocate respectfully submits, for the reasons stated above, that Hidden Valley Utility Services’ Motion be denied.

Respectfully Submitted,



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