

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PA 17120

The Indian Springs Water
Company

Public Meeting held August 8, 2019
3011972-TUS
Docket No. M-2019-3011972

STATEMENT OF VICE CHAIRMAN SWEET

The Commission's action today is to appoint a receiver and to direct Pennsylvania American Water Company to take over the daily operations of a certificated water company. This is a drastic action that should not be taken lightly, and it should never be taken without having first provided the utility with its due process rights of advance notice and a meaningful opportunity to be heard. The Commission Order here reads as if it is an emergency order issued under the Commission's emergency order provisions. The Order places Indian Springs into receivership, but without the protection of an immediate hearing and the possibility of relief from the terms of the emergency order, and no emergency has been established.

In this instance, due process has not been afforded to the utility.¹ By beginning the Section 529 proceeding here instead of investigating whether to begin a Section 529 proceeding, we have not provided Indian Springs Water Company with the opportunity to rectify whatever shortcomings may exist. With the appointment of a receiver, any further actions by Indian Springs are barred. Further, it creates the appearance that this matter has been pre-judged before a single piece of evidence has been admitted to the record.

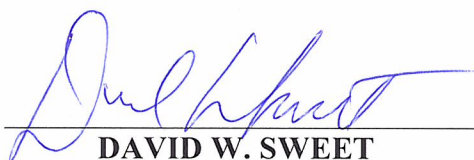
This action is not consistent with either the Commission's normal provision of due process rights, in which the entitlement to the remedy is litigated prior to enactment of that remedy, nor with the terms of the emergency relief regulations. Here, the remedy is imposed in the order that starts the proceeding.

This small water company has been under a "Do Not Consume" order from the Department of Environmental Protection since February and customers have been receiving potable water from another source since that time. That condition is undoubtedly a huge inconvenience, but no complaints have been received, and no reason to abrogate the due process rights of the company has been presented.

Placing a utility into receivership is a major step and one that should not be taken lightly. Here, there is no underlying complaint or case or Commission directive which would have placed this utility on notice that it was in danger of losing its ability to operate its company. The proper action here is to refer the matter to the Commission's Bureau of Investigation & Enforcement for its consideration. Without this vital step absent a showing of a clear and present danger to life or property, the act of directing another utility to operate this one is not justified.

Accordingly, I dissent from this action.

Date: August 8, 2019



DAVID W. SWEET
VICE CHAIRMAN

¹ I recognize that the company will be given an opportunity to participate in the proceeding which will determine whether or not the action the Commission takes today is permanent pursuant to Section 529, but this will happen after the Company is removed from its present management and owners, 66 Pa. C.S. § 529.