


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 6, 2019

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

Re: Pennsylvania Public Utility Commission
v.
City of Lancaster – Sewer Fund
Docket No. R-2019-3010955

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "H. Breitman".

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Enclosures:

cc: Honorable Joel H. Cheskis
Certificate of Service
*278400

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility :
Commission : Docket No. R-2019-3010955
v. :
City of Lancaster – Sewer Fund :

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 6th day of September 2019.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Shelby A. Linton-Keddie, Esquire
Office of Small Business Advocate
300 North Second Street
Suite 202
Harrisburg, PA 17101

John J. Gallagher, Esquire
City of Lancaster
711 Forrest Road
Harrisburg, PA 17112

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
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555 Walnut Street
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Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: September 6, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	Docket Nos. R-2019-3010955
OFFICE OF SMALL BUSINESS ADVOCATE	:	C-2019-3011834
OFFICE OF CONSUMER ADVOCATE	:	C-2019-3012096
	:	
	:	
v.	:	
	:	
CITY OF LANCASTER – SEWER FUND	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. §333 and in response to the Prehearing Conference Order issued by presiding Administrative Law Judge (ALJ) Joel H. Cheskis on September 3, 2019 in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. HISTORY OF THE PROCEEDING

On July 19, 2019, the City of Lancaster – Sewer Fund (City) filed Supplement No. 39 to Tariff Sewer - Pa. P.U.C. No. 7 to become effective September 17, 2019, containing proposed changes in rates, rules, and regulations calculated to produce \$646,727 in additional annual revenues, a 46.7% increase in present rates for its customers who reside outside the City. Under the City’s proposal, the proposed metered usage rates would increase from \$52.25 to \$75.66 per quarter, or by 44.8% for the average residential customer using 12,000 gallons of water per quarter.

The City serves 3,385 customers (3,124 residential, 235 commercial, and 8 industrial) outside of the City in a portion of the Townships of East Lampeter, East Hempfield, Lancaster, Manheim, and Manor in Lancaster County, Pennsylvania.

On July 29, 2019, the OCA filed a Formal Complaint against the proposed increase in rates. On August 5, 2019, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in this case. On August 8, 2019, the Office of Small Business Advocate (OSBA) filed a Formal Complaint against the proposed increase in rates. On August 29, 2019, the Commission issued an Order initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rates in Supplement No. 39 to Tariff Sewer - Pa. P.U.C. No. 7, and suspending the effective date until April 17, 2020 by operation of law.

The Commission assigned the case to Administrative Law Judge Joel H. Cheskis and notified the parties. A Prehearing Conference is scheduled for September 9, 2019.

II. ISSUES

The OCA has identified the list of issues set forth below, which will be analyzed and presented, as appropriate, by the OCA with the assistance of the OCA's expert witnesses. Additional issues may arise once all responses to interrogatories have been received and reviewed. The OCA reserves the opportunity to present such additional issues at that time. The OCA anticipates that any informal discovery meetings and settlement discussions will help focus the range of issues and any additional information requests. The OCA will review discovery and the City's direct testimony and then file its direct testimony setting forth specific issues as to the case.

A. Rate of Return

1. Capital Structure: The OCA will examine whether the capital structure claimed by the City 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 City.

3. Cost of Common Equity: The OCA will perform a detailed analysis of the cost of common equity claimed by the City. Also, the OCA will carefully examine the City's methodologies and supporting data used to develop its final cost of common equity claim.

4. Utility Specific Adjustments: The OCA will examine whether any adjustments proposed by the City are justified, including, but not limited to, the proposed adjustments to the cost of equity capital for the personal tax rate, leverage, and small size.

B. Rate Base/Measures of Value

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

2. The OCA will review the City's claim for plant additions through the fully-projected future test year to determine if the City has demonstrated that all such costs are reasonable and prudent.

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

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

5. The OCA will examine the reasonableness and accuracy of the City's claimed valuation of its investment.

C. Revenues and Expenses

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

2. The OCA will examine whether the City's estimates of the volume of effluent to be discharged during future periods is reasonable and accurate.

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

4. The OCA will examine the appropriateness of the City's pro forma claims for operating expenses.

D. Rate Structure/Cost of Service/Rate Design/Tariffs

1. The OCA will examine the reasonableness of the City's proposed allocation of costs between inside-City and outside-City (PUC-jurisdictional) customer groups.

2. The OCA will examine reasonableness of the City's cost of service study—including the methodology used and the specific allocation factors utilized—with particular regard to appropriate and Commission-approved methods.

3. The OCA will examine the reasonableness of the City's proposed distribution of the revenue increase among customer classes.

4. The OCA will examine the reasonableness of the City's proposed rate design, particularly for its effects on residential customers and its ability to reflect the cost to serve different classes of customers.

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

E. Quality of Service

1. The OCA will examine whether the City's tariff rules and regulations are applied and enforced in a fair and equitable manner.

2. The OCA will examine whether the City is providing its current and future customers with adequate, efficient, safe, and reasonable service.

3. The OCA will examine the City's compliance with the Consent Decree entered into by the City, the Department of Environmental Protection (DEP), and the Environmental Protection Agency (EPA).

F. Other Issues

The OCA will investigate to ensure that the City is complying with all prior orders.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, which will assist the OCA's presentation of its case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the expert witness responsible for that area of the case, as well as mailing a copy to counsel for the OCA.

Rate of Return:

Aaron Rothschild
Rothschild Financial Services
15 Lake Road
Ridgefield, CT 06877
203-894-1028 (phone)
203-403-2021 (fax)
aaron@rothschildfinancial.com

Rate Design/Cost of Service/
Cost Allocation:

Scott J. Rubin
333 Oak Lane
Bloomsburg, PA 17815
570-387-1893 (phone)
570-387-1894 (fax)
Scott.J.Rubin@gmail.com

Revenues/Expenses/Revenue
Requirement:

Ashley E. Everette
Regulatory Analyst
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
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Telephone (717) 783-5048
Fax (717) 783-7152
AEverette@paoca.org

Quality of Service:

Terry L. Fought
780 Cardinal Drive
Harrisburg, PA 17111
TLFEngr@aol.com

The OCA specifically reserves the right to call additional witnesses and expand the scope of its witnesses' testimony, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will notify all parties of record.

IV. SERVICE ON THE OCA

Senior Assistant Consumer Advocate Christine Maloni Hoover and Assistant Consumer Advocates Harrison W. Breitman and Phillip D. Demanchick represent the OCA in this case. The OCA has created a group email address provided below, and this is the only email address that is required for service on the OCA. All documents and correspondence provided electronically through the group email address will be delivered to all members of the OCA team, including the consultants listed above. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover
Senior Assistant Consumer Advocate

Harrison W. Breitman
Assistant Consumer Advocate

Phillip D. Demanchick
Assistant Consumer Advocate

Laura J. Antinucci
Law Clerk

Office of Consumer Advocate
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Telephone: (717) 783-5048
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V. PUBLIC INPUT HEARINGS

The OCA is not requesting a public input hearing at this time, however, if the OCA determines that a public input hearing is necessary, the OCA will notify the ALJ and the parties and make the request.

VI. PROPOSED LITIGATION SCHEDULE

The OCA's proposed Procedural Schedule is attached hereto as Appendix A. The OCA proposes that the schedule dates be "in-hand" and that electronic service on the due date will satisfy the "in-hand" requirement, where a hard copy is sent by first-class mail no later than the next business day.

VII. DISCOVERY

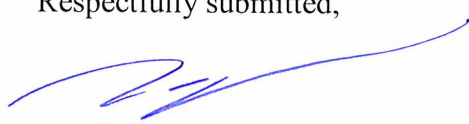
To date, the OCA has served six (6) sets of interrogatories on the City and is reviewing the responses that have been provided. As soon as the OCA determines whether additional discovery, including informal discovery, is needed, the OCA will issue the discovery.

In order to effectively investigate and adequately develop a record in this matter, the OCA requests a modification of the Commission's procedural rules regarding discovery on a going-forward basis, as set forth below:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service, rather than the fifteen (15) provided for in 52 Pa. Code § 5.342(d).
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories.
3. Motions to compel the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
4. Answers to motions to compel shall be filed within three (3) calendar days of service of such motions.
5. Ruling over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.
6. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within seven (7) calendar days.
7. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
8. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.
9. Discovery served after 12 noon on a Friday will be deemed to have been served on the following business day for purposes of tracking due dates.

10. Due dates are “in-hand” and that electronic service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent by first-class mail.

Respectfully submitted,



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For:
Tanya J. McCloskey
Acting Consumer Advocate

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DATED: September 6, 2019

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION : Docket Nos. R-2019-3010955
OFFICE OF SMALL BUSINESS ADVOCATE : C-2019-3011834
OFFICE OF CONSUMER ADVOCATE : C-2019-3012096
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v. :
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CITY OF LANCASTER – SEWER FUND :

PROPOSED PROCEDURAL SCHEDULE
OF THE
OFFICE OF CONSUMER ADVOCATE

Prehearing Conference	September 9, 2019
Due Date for the filing and in-hand service of the prepared Direct Testimony of other Parties	October 17, 2019
Due Date for the filing and in-hand service of Rebuttal Testimony	November 14, 2019
Due Date for the filing and in-hand service of other Parties' Surrebuttal Testimony	November 25, 2019
Rejoinder Outline	December 3, 2019
Evidentiary Hearings in Harrisburg	December 4-6, 2019
Close of Record	December 9, 2019
Due Date for the filing and in-hand service of Main Briefs	January 3, 2020
Due Date for the filing of Reply Briefs	January 13, 2020
End of Suspension Period	April 17, 2020