



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

September 19, 2019

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission v.  
Twin Lakes Utilities, Inc.  
Docket No. R-2019-3010958  
**I&E Prehearing Memorandum**

Dear Secretary Chiavetta,

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** in the above-captioned proceeding.

Copies are being served on all active parties of record as evidenced in the attached Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Erika L. McLain".

Erika L. McLain  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney I.D. No. 320526  
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ELM/ac  
Enclosure

cc: Honorable Marta Guhl (*ALJ, PUC Philadelphia*)  
Per Certificate of Service



## **I. INTRODUCTION**

On July 23, 2019, Twin Lakes Utilities, Inc. filed Supplement No. 8 to Tariff Water-Pa. P.U.C. No. 4 (“Supplement No. 8”) to become effective September 19, 2019. On July 29, 2019 I&E filed a notice of appearance and on July 30, 2019 the Office of Consumer Advocate (“OCA”) filed a formal complaint and public statement. Additionally, several Formal Complaints and informal oppositions have been filed with the Secretary’s Bureau in this matter.

The Commission suspended the proceedings until April 19, 2020 by Opinion and Order dated August 29, 2019. A telephonic Prehearing Conference is now scheduled for Monday, September 23, 2019, at 10:00 am, before Administrative Law Judge Marta Guhl (“ALJ Guhl”). The Bureau of Investigation and Enforcement, in accordance with the Prehearing Conference Order issued by ALJ Guhl on September 5, 2019, now respectfully submits this prehearing memorandum.

## **II. ISSUES**

The following list represents I&E’s preliminary determination of the potential issues in this case. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise. The issues are as follows:

- Rate Base:
  - Utility Plant in Service;
  - Working Capital;
  - Materials & Supplies;
  - Accumulated Depreciation;
  - Acquisition Adjustment; and
  - Annual Depreciation Expense

- Revenue:
  - Present Rate Revenue;
  - Miscellaneous Revenue;
  - Rate Structure;
  - Cost Allocation;
  - Proposed Rates;
  - Customer Charge;
  - Average Gallonage of Usage;
  - Volumetric Charge;
  - Phase-in of Rates; and
  - Lost and Unaccounted for Water
- Rate of Return:
  - Capital Structure;
  - Cost of Debt;
  - Cost of Equity; and
  - Overall Rate of Return
- Operation and Maintenance Expense Claims including:
  - Rate Case Expense;
  - Federal Income Taxes;
  - State Income Taxes;
  - Purchased Power;
  - Maintenance Supplies;
  - Bad Debt Expense; and
  - Cash Working Capital

### III. WITNESSES

It is currently expected that I&E may call the following expert witnesses without being limited thereto:

- Esyan Sakaya, *Fixed Utility Valuation Engineer*
- Christopher Henkel, *Fixed Utility Financial Analyst*
- John Zalesky, *Fixed Utility Financial Analyst*

I&E witnesses may be contacted through the information listed above for Prosecutor McLain. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding.

Accordingly, I&E reserves the right to call additional witnesses or withdraw the name of the witnesses listed above as appropriate.

#### **IV. EVIDENCE**

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

#### **V. SCHEDULE**

The parties have not yet agreed to a mutually acceptable schedule. I&E proposes the following procedural schedule:

Company Direct	September 27, 2019
Non-Company Direct	November 1, 2019
Rebuttal	November 20, 2019
Surrebuttal	December 10, 2019
Rejoinder Outline	December 17, 2019
Hearings	December 18-20, 2019
Main Briefs	January 7, 2020
Reply Briefs	January 15, 2020

Nevertheless, I&E is committed to cooperating with all parties to finalize an acceptable litigation schedule. Further, as hearings in this proceeding will likely require

the involvement of various Commission employees from I&E, including at minimum the I&E prosecutor and three technical witnesses, all of whom are based out of the Commission's Harrisburg office, I&E requests that hearings be held in Harrisburg.

To the extent that public input hearings are deemed necessary in this proceeding, I&E advocates for the use of Smart Hearings where possible.

## **VI. DISCOVERY**

I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.
3. Motion to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) days of service of such motions.
5. Discovery served after 12:00 noon on a Friday or after 12:00 p.m. on any business day preceding a state holiday will be deemed to be served on the next business day.

## VII. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs, I&E will accept electronic delivery of documents with a follow-up hard copy provided by regular first-class mail.

## VIII. SETTLEMENT

I&E is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully Submitted,



Erika L. McLain

Prosecutor

PA Attorney I.D. No. 320526

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Dated: September 19, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Twin Lakes Utilities, Inc.

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Docket No. R-2019-3010958

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated September 19, 2019, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Served via First Class and Electronic Mail**

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