



THOMAS, NIESEN & THOMAS, LLC

*Attorneys and Counsellors at Law*

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February 10, 2021

*Via Electronic Filing*

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

In re: Docket No. R-2020-3019612, *et al.*  
Pennsylvania Public Utility Commission, *et al.* v. Reynolds Disposal Company

Dear Secretary Chiavetta:

We are counsel for Reynolds Disposal Company in the above matter and are submitted, via electronic filing with this letter, the Company's Reply to Questions / Objections of Customer Complainant concerning the Joint Petition for Settlement of Rate Investigation. Copies of the Reply are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)  
Bradley R. Gosser, CPA (via email, w/encl.)  
Dennis Kalbarczyk (via email, w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|  |   |                |
|--|---|----------------|
| Pennsylvania Public Utility Commission | : | R-2020-3019612 |
| Stephanie Myers                        | : | C-2020-3020950 |
| Ryan Foust                             | : | C-2020-3020951 |
| Margaret Foust                         | : | C-2020-3020952 |
| Vickie Mabry                           | : | C-2020-3020953 |
| Bess Mowery                            | : | C-2020-3020954 |
| Michele Walter                         | : | C-2020-3020955 |
| Stephanie Probst                       | : | C-2020-3020956 |
| Dillon Sarcinella                      | : | C-2020-3020957 |
| James Vessella                         | : | C-2020-3020958 |
| Office of Consumer Advocate            | : | C-2020-3021049 |
| Steve Bertolasio                       | : | C-2020-3021165 |
| Amanda Hughes                          | : | C-2020-3021166 |
| William and Janine Taylor              | : | C-2020-3021372 |
| Roderick Daugherty                     | : | C-2020-3021373 |
| Theresa Taranto                        | : | C-2020-3021374 |
| Sean DeCiancio                         | : | C-2020-3021375 |
| Carol Laverty                          | : | C-2020-3021377 |
| Natalie McCloskey                      | : | C-2020-3021400 |
| Wilma Brandt                           | : | C-2020-3021404 |
| Beth Erdman                            | : | C-2020-3021405 |
| Julie Griswold                         | : | C-2020-3021515 |
| Karen Nestor                           | : | C-2020-3021636 |
| Donna Vigus                            | : | C-2020-3021779 |
| Kevin Pierce                           | : | C-2020-3021804 |
| Sue Mathieson                          | : | C-2020-3021805 |
| Sean and Michele Belback               | : | C-2020-3021807 |
| Daniel A. Frazier                      | : | C-2020-3021927 |
| Joe Buhovecky                          | : | C-2020-3022059 |
|  | : |                |
| v.                                     | : |                |
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| Reynolds Disposal Company              | : |                |

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**REPLY OF REYNOLDS DISPOSAL COMPANY  
TO QUESTIONS / OBJECTIONS OF CUSTOMER COMPLAINANT**

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## I. INTRODUCTION

Reynolds Disposal Company (“RDC”) is a Pennsylvania public utility that provides wastewater service to 685 customers in Pymatuning, Delaware and Hempfield Townships, Mercer County, Pennsylvania.

On June 30, 2020, RDC filed Supplement No. 5 to Tariff Sewage-Pa. P.U.C. No. 4 (“Supplement No. 5”) to become effective September 1, 2020. If approved, Supplement No. 5 would increase RDC’s annual wastewater revenue by \$215,646 based on a future test year ending December 31, 2020.

By Order entered August 27, 2020, the Commission suspended Supplement No. 5 and instituted an investigation into the reasonableness of the proposed rates. RDC consented to use the mediation process to try to resolve the rate investigation. Mediation sessions were held on October 2, 14 and 30, 2020.

On January 22, 2021, RDC, the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”)<sup>1</sup> filed a Joint Petition for Settlement of Rate Investigation (“Settlement”) proposing, *inter alia*, to replace the proposed annual revenue increase of \$215,646 with a reduced annual increase of \$135,000. The increase is to be implemented in three Phases.

Timely Questions / Objections to the Settlement<sup>2</sup> were submitted by Complainant Margaret Foust on February 1, 2021.<sup>3</sup> Ms. Foust’s Complaint is docketed at C-2020-3020952.

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<sup>1</sup> RDC, I&E, OCA and OSBA are sometimes referred to herein, collectively, as the “Settling Parties.”

<sup>2</sup> Judge DeVoe’s Interim Order Setting Deadlines for Filing of Settlement and Objections to Settlement, dated December 14, 2020, provided for the filing of written comments or objections no later than February 3, 2021, with the opportunity to submit written replies to objections by February 10, 2021.

<sup>3</sup> Ms. Foust is the only customer complainant to comment on the Settlement. Additionally, although labeled as “questions/objections,” Ms. Foust does not object to the Settlement.

RDC replies herein to Ms. Foust's Questions / Objections.

## **II. Replies to Questions / Objections of Complainant Margaret Foust**

### **Foust Comment #1**

**Why aren't the Phases contingent upon the completion of the proposed needed projects? This has been past practice in the PUC negotiations with Reynolds Utilities (i.e., 2018 water rate increase). I would like to propose that completion of the outlined projects be required before Phase 1, Phase 2 and Phase 3 take effect. The following are the projects needed as stated by Brad Gosser in writing to Pymatuning Township supervisor, Jim Rowe:**

**1,200' 8" line- estimated cost \$63,000**

**3,000 ' 18' slip line which is 20' deep or deeper... estimated cost \$238,000**

**Automated meter system \$68,000**

**\$12,000 of miscellaneous smaller projects**

### **RDC Reply:**

The settlement in the 2018 Reynolds Water Company rate proceeding has no precedential value and no probative value on the approach to be taken in this settlement of a Reynolds Disposal Company proceeding. A writing of Mr. Gosser<sup>4</sup> to Mr. Rowe, moreover, is not part of the record of this proceeding.

The phased increases are not contingent upon the completion of the needed projects. The Settling Parties did not negotiate completion dates as conditions precedent to any of the phased increases. RDC points out that the Phase I increase is related solely to the repayment of an existing Pennvest Loan and, therefore, unrelated to any planned system projects.

The automated meter system at a cost of \$68,000 is completed as is a substantial portion of the \$12,000 of miscellaneous smaller projects. The two major construction projects of \$63,000 for the 8-inch line and \$238,000 for the 18-inch slip line are planned for the upcoming 2021 summer period and will take less than one month to complete. The in-service dates for these two projects are

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<sup>4</sup> Mr. Gosser is Executive Director and Vice President of RDC.

timed to coincide, roughly, with financing for those projects. The anticipated grant (see reply to Foust comment #2) for a substantial portion of the cost related to the 18-inch slip line project is projected to be received in July 2021, and, significantly, Phases II and III of the Settlement will not become effective until July 1, 2021 and January 1, 2022, respectively.

Perhaps, more importantly, Ms. Foust's comment seems to suggest that the need for the rate increase is solely due to the planned construction projects. It is not. RDC has a *net income loss* of \$110,598 and a *negative* return of 13.364% at present rate levels irrespective of any new plant investment. RDC is increasing its rates to bring its operating income to a reasonable level. This circumstance must be addressed. Although the need for rate relief is immediate, RDC, in settlement, has agreed to Phase II and Phase III increases that will not take effect for many months.

The Settling Parties submit that the Settlement is a just and reasonable resolution of RDC's revenue needs. The request of Ms. Foust to modify the Settlement would not be acceptable to RDC and should not be allowed. The Commission encourages settlement of rate proceedings.

#### **Foust Comment #2**

**I'm very pleased that the Reynolds Disposal Company is expecting to receive a grant in July 2021 for \$231,000 (per phone call w Brad Gosser on December 10, 2020). Exactly how has this grant impacted the proposed rate increase? I would expect it to decrease \$231,000 of the \$380,000 needed to recover the loss of the projects listed above.**

#### **RDC Reply:**

Ms. Foust's phone call with Mr. Gosser is not part of the record of this proceeding. Nevertheless, in reply to Ms. Foust's Comment, the Settlement does not address how the grant impacts the proposed rate increase or the Settlement. The Settlement is "black box," meaning that Settling Parties did not negotiate each and every revenue and expense line item individually but rather agreed upon a final revenue number based on their individual revenue and expense analyses.

The Commission has recognized that “black box” settlements are an important aspect in the process of delivering timely and cost-effective regulation.<sup>5</sup>

The Commission has recognized that “black box” settlements can serve an important purpose in reaching consensus in rate cases:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. (citation omitted)<sup>6</sup>

Each of the Settling Parties considered the impact of a possible grant in evaluating the Settlement which ultimately included a three-Phase increase in rates necessary to produce the total overall revenue increase agreed upon, except Phase-1 which is directly related to the Pennvest Surcharge. They did not agree as to the impact of the anticipated grant or any other revenue requirement claims, if any, on the total overall revenue increase. Further explanation is not possible given the parameters of a “black box” settlement.

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<sup>5</sup> See *Pa. P.U.C. v. Buck Hill Water Company*, Docket No. R-2019-3007103, Recommended Decision of Administrative Law Judge F. Joseph Brady dated May 29, 2019, mimeo at 11, and cases cited therein.

<sup>6</sup> *Pa. P.U.C., et al. v. Philadelphia Gas Works*, Docket No. R-2020-3017206, Opinion and Order entered November 19, 2020, mimeo at 14.

**Foust Comment #3**

**Are the “sewage only” customers getting an increase in their rates? Christine Hoover had stated in our phone conference negotiations (Oct. 2, I believe) that these particular customers are already paying a higher rate (\$249 quarterly) and therefore would be excluded from the increase.**

**RDC Reply:**

The discussions during the telephonic mediation conference on October 2, 2021, are confidential and not part of the record of this proceeding. The Settlement ultimately achieved by the Settling Parties through mediation provides for increases to “sewage only” customers (flat rate customers) as part of the Phase II and Phase III increases at rates less than originally requested but not as part of the Phase I increase.

**Foust Comment #4**

**Has the phone number on the NOTICE OF PROPOSED RATE CHANGES been rectified? For more information, customers are told to call the PUC at 1-800-692-7830. This number is a telemarketing promotional offer. Please correct the phone number for the PUC to read 1-800-692-7380.**

**RDC Reply:**

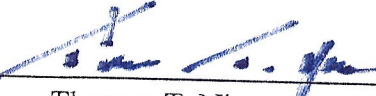
RDC will use the correct phone number in future customer notices.

### III. Conclusion

The Settlement proposes the resolution of all issues in this rate proceeding. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest.<sup>7</sup> The Settlement is consistent with the public interest. To the extent Ms. Foust is objecting to the Settlement or proposing that it be modified, her Questions / Objections should be denied.

Respectfully submitted,

By

  
Thomas T. Niesen, Esquire  
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Harrisburg, PA 17101

*Attorneys for  
Reynolds Disposal Company*

Dated: February 10, 2021

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<sup>7</sup> *Pa. P.U.C. v. The Newtown Artesian Water Company*, Docket No. R-2011-2230259, Recommended Decision of Administrative Law Judge Barnes dated September 20, 2011, mimeo at 9, citing *Pa. P.U.C. v. CS Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991) and *Pa.P.U.C. v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).



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|  | : |                |
| v.                                     | : |                |
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 10<sup>th</sup> day of February, 2021, served a true and correct copy of the foregoing Reply of Reynolds Disposal Company to Questions / Objections of Customer Complainant, upon the persons and in the manner indicated below:

**VIA ELECTRONIC MAIL**

The Honorable Emily I. DeVoe  
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