



April 5, 2024

VIA E-FILING

Jonathan P. Nase

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

Re: McCloskey v. Hidden Valley Utility Services, L.P. (Water and Wastewater Divisions) and Pennsylvania Public Utility Commission v. Hidden Valley Utility Services, L.P. (Water and Wastewater Divisions); Docket Nos. C-2014-2447138, C-2014-2447169, R-2018-3001306 and R-2018-3001307

Motion of Hidden Valley Utility Services, L.P. for an Extension of Time

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the above-referenced Motion. Copies of this filing have been served as shown on the enclosed Certificate of Service.

Thank you for your attention to this matter. Please contact me if you have any questions or concerns about this filing.

Respectfully submitted,

COZEN O'CONNOR

By: Jonathan P. Nase
Counsel for *Hidden Valley Utility Services, L.P.*

JPN

Enclosures

cc: Kimberly Hafner, Director - Office of Special Assistants (ra-OSA@pa.gov)
Per Certificate of Service
James Kettler, President, HVUS

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanya J. McCloskey, Acting Consumer Advocate	:	
	:	
v.	:	Docket Nos. C-2014-2447138 and C-2014-2447169
	:	
Hidden Valley Utility Services, L.P. (Water and Wastewater Divisions)	:	
AND		
	:	
Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2018-3001306 and R-2018-3001307
	:	
Hidden Valley Utility Services, L.P. (Water and Wastewater Divisions)	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Motion of Hidden Valley Utility Services, L.P. for an Extension of Time** upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL:

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DATED: April 5, 2024

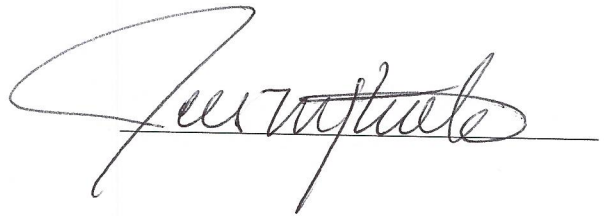


Jonathan P. Nase, Esquire
Counsel for *Hidden Valley Utility Services, L.P.*

VERIFICATION

I, JAMES KETTLER, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: April 5, 2024

A handwritten signature in cursive script, appearing to read "James Kettler", written over a horizontal line.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanya J. McCloskey, Acting Consumer Advocate :
:
v. : Docket Nos. C-2014-2447138,
:
Hidden Valley Utility Services, L.P. – Water : C-2014-2447169

AND

Pennsylvania Public Utility Commission :
:
v. : Docket Nos. R-2018-3001306,
:
Hidden Valley Utility Services, L.P. – Wastewater : R-2018-3001307

NOTICE TO PLEAD

TO: Parties at Docket Nos. C-2014-2447138, C-2014-2447169, R-2018-3001306 and R-2018-3001307

Pursuant to 52 Pa. Code §§ 1.15(a)(1) and 5.103, you are hereby notified that Hidden Valley Utility Services, L.P. (“HVUS”) has filed a Motion for Extension of Time at the above-referenced dockets, to which you may file an answer within twenty (20) calendar days. Your failure to answer will allow the Commission to rule on the Motion for Extension of Time without a response from you, thereby requiring no other proof. All pleadings such as an Answer to this Motion for Extension of Time must be filed with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the undersigned counsel for HVUS.



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Dated: April 5, 2024

Counsel for *Hidden Valley Utility Services, L.P.*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanya J. McCloskey, Acting Consumer Advocate :
 :
 v. : Docket Nos. C-2014-2447138,
 : C-2014-2447169
 Hidden Valley Utility Services, L.P. – Water :

AND

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-2018-3001306,
 : R-2018-3001307
 Hidden Valley Utility Services, L.P. – Wastewater :

**MOTION OF HIDDEN VALLEY UTILITY
SERVICES, L.P. FOR AN EXTENSION OF TIME**

AND NOW COMES Hidden Valley Utility Services, L.P. (“HVUS”), pursuant to 52 Pa. Code §§ 1.15(a)(1) and 5.103, to file this Motion for an Extension of Time to comply with one provision of the Opinion and Order entered in these matters on December 21, 2023 (the “December 2023 Order”). Specifically, the December 2023 Order approved a settlement agreement that included a requirement that HVUS have an outside independent Certified Public Accounting firm that has not previously provided any services to HVUS conduct an independent audit of its financial statements for 2020-2022 within 120 days. For good cause, HVUS requests an extension of time to comply with this requirement.

In support whereof, HVUS avers as follows:

I. Procedural History

A. HVUS's 2018 Base Rate Cases

1. On April 27, 2018, HVUS filed a water base rate case, which received Docket No. R-2018-3001306. On that same day, HVUS filed a wastewater base rate case, which received Docket No. R-2018-3001307. These two proceedings will be referred to herein as “HVUS’s Base Rate Cases.”

2. On January 25, 2019, Administrative Law Judges Mark A. Hoyer and Katrina L. Dunderdale issued a Recommended Decision. Among other things, the Recommended Decision required HVUS to complete an independent financial audit of its records from 2015 through 2018 within 120 days of entry of the Commission’s final order. R.D. Ordering Paragraph 9.

3. On March 29, 2019, the Commission entered an Opinion and Order (the “March 2019 Order”) which, among other things, required HVUS to complete an independent financial audit of its records from 2015 through 2018 within 120 days of entry of the Commission’s final order. March 2019 Order Ordering Paragraph 11.

B. The Complaint Cases

4. On October 9, 2014, Tanya J. McCloskey, the then-Acting Consumer Advocate, filed a Formal Complaint against HVUS regarding water service at Docket No. C-2014-2447138 and a Formal Complaint regarding wastewater service at Docket No. C-2014-2447169. The Commission consolidated these Complaints for hearing and adjudication.

5. Administrative Law Judge Jeffrey A. Watson issued an Initial Decision on September 9, 2016 sustaining both the water and the wastewater Complaints and ordering HVUS to complete certain tasks by specific deadlines.

6. On January 18, 2018, the Commission issued an Opinion and Order (the “January 2018 Order”) adopting the Initial Decision, as modified.

7. On February 5, 2018, HVUS filed a Petition for Clarification, Reconsideration and Amendment (“Petition for Reconsideration”).

8. On May 3, 2018, the Commission issued an Opinion and Order (the “May 2018 Order”) granting the Petition for Reconsideration in part, denying it in part, and modifying the January 2018 Order. Among other things, the May 2018 Order required HVUS to obtain a report from a licensed engineer concerning the adequacy of its water system, including recommendations to eliminate the rust or brown-colored water provided to residents. HVUS was required to comply with those recommendations within one year from the date of the engineer’s report.

9. On April 18, 2018, HVUS filed a report from a licensed engineer concerning the adequacy of its water system.

10. On October 18, 2018, HVUS filed a Petition for an Amendment of the Opinion and Order Entered May 3, 2018 (“Petition for Amendment”). HVUS stated that the engineer’s report concerning the adequacy of its water system contained four options for eliminating the rust or brown-colored water provided to residents. The engineer’s report estimated that implementing any of these options would require more than one year. HVUS requested that the Commission modify the one-year deadline for implementing the recommendations in the engineer’s water report.

11. On January 17, 2019, the Commission issued an Opinion and Order denying the Petition for Amendment (the “January 2019 Order”).

12. On February 19, 2019, HVUS filed a Petition for Review with the Commonwealth Court of Pennsylvania (the “Commonwealth Court”), seeking review of the January 2019 Order.

13. On April 2, 2019, the Commission moved to quash HVUS's appeal on the grounds that the January 2019 Order was not a final order of the Commission.

14. In a Memorandum Opinion dated May 15, 2019, the Commonwealth Court quashed HVUS's appeal and remanded the case to the Commission for a hearing regarding the sufficiency of: (a) the one-year deadline in the May 2018 Order, and (b) HVUS's engineer's report regarding the water system.

15. On February 27, 2019, the Secretary's Bureau served HVUS with a Complaint filed by Sharon Howard-Frieri at Docket No. C-2019-3008093. The Howard-Frieri Complaint and the two OCA Complaints are collectively referred to herein as the "Complaint Cases."

16. On June 4, 2019, HVUS filed a motion asking that Ms. Howard-Frieri's Complaint be held in abeyance until it could be consolidated with the OCA's Complaints because they presented related questions of fact and law.

17. On remand from the Commonwealth Court, the proceedings were assigned to Administrative Law Judge Katrina L. Dunderdale (the "ALJ").

18. A prehearing conference was held on February 25, 2020. At the Prehearing Conference, the ALJ consolidated Ms. Howard-Frieri's Complaint with the OCA's Complaints.

19. By e-mail dated April 18, 2023, the Parties notified the ALJ that they had reached a settlement in principle to settle the Complaint Cases, in their entirety.

20. The Joint Petitioners filed a Joint Stipulation for the Admission of Additional Evidence on May 19, 2023.

21. On May 25, 2023, the Joint Petitioners filed a Joint Petition for Approval of Unanimous Settlement of All Issues (the "Settlement"). Among other things, the Settlement provided:

a. HVUS would conduct an independent audit of its financial statements from 2020 through 2022 within 120 days following entry of the Commission’s final order approving the settlement. Settlement ¶ 41.

b. Since HVUS had not completed the independent audit of its financial statements required by the Commission’s March 2019 Order, HVUS could file a Petition to Amend the March 2019 Order so that the order in HVUS’s Base Rate Cases, and the Order approving the settlement in the Complaint Cases, would contain virtually identical provisions requiring the completion of an independent audit of HVUS’s financial statements. Settlement ¶ 43.

22. On October 6, 2023, the ALJ issued her Initial Decision on Remand, which approved the Settlement.

23. On October 31, 2023, HVUS filed a Petition for Amendment of the March 2019 Order asking the Commission to modify that order so that the order in HVUS’s Base Rate Cases, and the order approving the settlement in the Complaint Cases, would contain virtually identical provisions requiring the completion of an independent audit of HVUS’s financial statements.

24. On December 21, 2023, the Commission issued the December 2023 Order that consolidated HVUS’s Base Rate Cases with the Complaint Cases. In pertinent part, the December 2023 Order approved the Settlement and the Petition for Amendment, and ordered HVUS to complete an independent audit of its financial statements for the years 2020 through 2022 within 120 days of the entry of the Commission’s order. December 2023 Order Ordering Paragraphs 1 and 3.

II. Legal Standard

25. 52 Pa. Code § 1.15(a)(1) provides:

Except as otherwise provided by statute, whenever under this title or by order of the Commission, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

26. The 120-day period for HVUS to complete the independent financial audit expires on April 19, 2024. Since this Motion is being filed before the expiration of the period as originally prescribed or as previously extended, the applicable legal standard is good cause for the extension.

III. HVUS Has Good Cause to Request an Extension

27. In comments submitted on the Settlement, the President of the Hidden Valley Foundation, Inc. asked who would monitor HVUS's compliance with the Settlement. In response, HVUS made a commitment that, if it believes an extension of time is necessary to meet any deadline in the Settlement, it would file a motion pursuant to 52 Pa. Code § 1.15(a)(1) in advance of the deadline; HVUS would not let the deadline pass and place the burden on the other Parties to the Settlement to file an enforcement action. By this Motion, HVUS is honoring this commitment.

28. HVUS has good cause for requesting a brief extension to complete the independent financial audit:

a. Until the Commission issued its December 2023 Order, the scope of the required audit was uncertain. The March 2019 Order required a financial audit to be completed for the years 2015 through 2018. The Settlement proposed a financial audit for the years 2020 through 2022. As a result, it was unclear whether HVUS would be required to complete an audit of its financial statements covering four years, three different years, or all seven years. HVUS was

reasonably reluctant to enter into a contract with an accounting firm until it knew the scope of the required audit.

b. The independent financial audit will be funded by a loan.¹ Closing did not occur on the loan until February, 2024.

c. In February 2024, outside independent Certified Public Accounting firms who had not previously worked for HVUS were unwilling to perform the audit due to other commitments, such as completing tax returns and year-end financial reports for established clients.

d. HVUS is in the process of moving its offices, including its financial records.

29. As of this date, HVUS does not know how long an outside Certified Public Accounting firm, which has not previously performed work for HVUS, will need to complete an audit of its financial statements for the years 2020-2022.

30. HVUS requests that the Commission grant it an extension of time to comply with the independent audit required by the December 2023 Order. Specifically, HVUS requests that the Commission grant it 60-90 days to engage an outside independent Certified Public Accounting firm that has not previously provided any services to HVUS to complete the independent financial audit. By the end of that extension period, HVUS will file a status report with the Commission identifying the firm that will complete the audit and the estimated time necessary to complete and file the audit.

IV. Conclusion and Request for Relief

WHEREFORE, for all of the foregoing reasons, HVUS respectfully requests that the Commission:

¹ The loan is due upon demand, rather than having a fixed maturity date. Consequently, HVUS is not required to register the security with the Commission. 66 Pa. C.S. § 1901(b)(5).

(a) grant HVUS an extension of time to comply with the independent audit required by the December 2023 Order;

(b) grant HVUS 60-90 days to engage an outside independent Certified Public Accounting firm that has not previously provided any services to HVUS to complete the independent financial audit; and

(c) direct HVUS to file a status report with the Commission, by the end of the above extension period, identifying the firm that will complete the audit and the estimated time necessary to complete and file the audit.

Respectfully submitted,



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Date: April 5, 2024