

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

September 28, 2009

Honorable Ky Van Nguyen  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
801 Market Street  
Philadelphia, PA 19107

Re: Pa. Public Utility Commission  
Birch Acres Water Works, Inc.  
Docket No. R-2009-2110093  
C-2009-2120624

Dear Judge Nguyen:

Enclosed please find an original and one copy of the Prehearing Memorandum of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in cursive script that reads "Christine Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #50026

Enclosures  
cc: Certificate of Service  
118136.doc

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
v.	:	Docket No. R-2009-2110093
	:	C-2009-2120624
BIRCH ACRES WATER WORKS, INC.	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the prehearing conference order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information.

**I. ISSUES**

On June 26, 2009, Birch Acres Water Works, Inc. (Birch Acres or Company) filed a request to increase its annual base rate revenues by \$15,804 or 74%. Under the Company's request, the typical residential quarterly water bill (for 15,000 gallons per quarter) would increase from \$133.98 to \$234.59 per quarter, or 74%, or \$402.44 per year. Birch Acres serves approximately 46 customers in portions of Smithfield Township, Monroe County.

The OCA is prepared to engage in mediation. In the event the Company's rate request is not resolved through mediation, after receipt of the Company's direct testimony, and responses to any remaining discovery, the OCA will file direct testimony

that will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations. Generally, the OCA is reviewing issues related to rate of return, accounting, rate design and quality of service.

## **II. WITNESSES**

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witness in this proceeding. The OCA's witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information that will assist in the presentation of the OCA's 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, as well as mailing a copy to counsel for the OCA.

### General Accounting, Financial And Ratemaking Issues

Marilyn Kraus  
Senior Regulatory Analyst  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923

Telephone (717) 783-5048  
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The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

### **III. SERVICE ON THE OCA**

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate

Christine Maloni Hoover. One copy of all documents should be served on the OCA as follows:

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923

Telephone (717) 783-5048  
Fax (717) 783-7152

### **IV. DISCOVERY**

The OCA is reviewing the Company's responses to the OCA initial discovery. As soon as the OCA determines whether additional discovery, including informal discovery, is needed, the OCA will move forward with that.

### **V. PUBLIC INPUT HEARINGS**

The OCA is aware of one formal complaint and 6 objections/comments filed at the PUC. The OCA submits that the size of the increase, the consumer complaints, objections, and contacts to OCA, establish sufficient public interest to hold a public input hearing in the service territory. The OCA will work with the ALJ and the parties to find a convenient date and location.

### **VI. SCHEDULE**

The OCA will cooperate with the Company and other parties to develop a schedule for the submission of testimony, hearings and briefs. At this time, the OCA

submits that it may be appropriate to delay establishing a litigation schedule until the parties have an opportunity to participate in mediation.

Respectfully submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street, Forum Place, 5th Floor  
Harrisburg PA 17101-1923  
(717) 783-5048

DATED: September 28, 2009

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission  
v.  
Birch Acres Water Works, Inc.  
Docket No. R-2009-2110093  
C-2009-2120624

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

Dated this 28th day of September 2009.

SERVICE IN PERSON

Adeolu Bakare, Esquire  
Charles Daniel Shields, Esquire  
Office of Trial Staff  
Pa. Public Utility Commission  
400 North Street  
Harrisburg, PA 17105

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Tad Berger, Esquire  
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2104 Market Street  
Camp Hill, PA 17105-3265

Richard Rouzer  
Linda Rouzer  
139 Birch Acres  
East Stroudsburg, PA 18301

*Christine Maloni Hoover*

Christine Maloni Hoover  
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