

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

October 6, 2009

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

Re: Pa. Public Utility Commission
v. Newtown Artesian Water Company
Docket No. R-2009-2117550
C-2009-2122003

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 "Jennedy S. Johnson".

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. #203098

Enclosures
cc: Certificate of Service
118494

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2009-2117550
	:	
NEWTOWN ARTESIAN WATER COMPANY	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Notice of Prehearing Conference and Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, the Office of Consumer Advocate (OCA) provides the following:

I. BACKGROUND

Newtown Artesian Water Company (NAWC or Company) provides water service to approximately 10,086 customers in Newtown Borough and portions of the Townships of Newton and Middletown in Bucks County, Pennsylvania. On July 1, 2009, NAWC filed Supplement No. 68 to Tariff Water - Pa. P.U.C. No. 9, to become effective August 31, 2009. The Company, by filing this tariff supplement, seeks Commission approval of a Purchased Water Adjustment Clause (PWAC) in the Company's tariff. The Company will not be able to utilize the PWAC until September 1, 2010, consistent with the stay-out in the Company's recent general rate case (Docket No. R-2008-2042293).

If the proposed Purchase Water Adjustment Clause were permitted to become effective as proposed, the Company would be able to charge all retail customers a surcharge to recover the amounts expended to purchase water from the Bucks County Water and Sewer Authority (BCWSA) in excess of purchased water amounts allowed for ratemaking purposes in

its most recent base rate case. The surcharge would be implemented on the effective date of a change in BCWSA's rates charged to NAWC for purchased water, but not on less than forty-five days' notice. The purchased amounts supplement Newtown Artesian's current source of supply from its own wells. The Company purchases approximately 57% of its water supply from the BCWSA.

On July 23, 2009, the OCA filed a Formal Complaint against the proposed rate increase. In that Formal Complaint, the OCA submitted that a preliminary examination of the Company's proposed Purchased Water Adjustment Clause indicates that the PWAC may be unjust, unreasonable and in violation of the Public Utility Code, 66 Pa.C.S.A. §1301, et seq. The proposal may allow the Company an opportunity to recover an excessive rate of return on its utility property investment or rate base. The proposal may also be contrary to sound ratemaking principles and public policy.

II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Dianne E. Dusman and Assistant Consumer Advocate Jennedy S. Johnson. Two copies of all documents should be served in the OCA as follows:

Dianne E. Dusman
Senior Assistant Consumer Advocate
Jennedy S. Johnson
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
Harrisburg PA 17101-1923

Telephone (717) 783-5048
Telecopier (717) 783-7152
Email: ddusman@paoca.org
jjohnson@paoca.org

III. DISCOVERY

The OCA proposes no changes to the Commission's discovery regulations.

IV. PROPOSED SCHEDULE

The OCA's will work with the other parties to arrive at a mutually agreeable procedural schedule.

V. WITNESS

The OCA intends to present the direct testimony of Marilyn J. Kraus, CPA, Senior Regulatory Analyst at the Office of Consumer Advocate. Her contact information is as follows:

Marilyn J. Kraus, Senior Regulatory Analyst
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
Harrisburg PA 17101-1923
Telephone (717) 783-5048
Telecopier (717) 783-7152
Email: mkraus@paoca.org

To the extent necessary, Ms. Kraus will present testimony regarding the issues described below. The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness or witnesses is necessary for any portion of its case, it will notify all parties of record immediately.

VI. ISSUES AND EVIDENCE

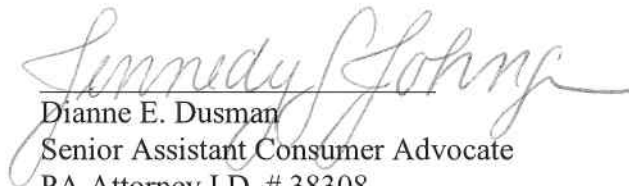
Regarding issues that may be developed and subsequently contested, the OCA questions the legality of the PWAC as it may be unjust and unreasonable and may allow the Company an opportunity to recover an excessive rate of return on its utility property investment or rate base. In addition, the OCA is investigating the quality of service provided by the Company.

Should it be necessary to proceed to litigation, the OCA will be able to set forth and quantify its specific recommendations in its direct testimony, after it has reviewed the Company's discovery responses and informally discussed issues of concern with the Company and reviewed NAWC's direct testimony. All testimony will be supported by exhibits and explanatory schedules.

VII. PUBLIC INPUT HEARINGS

There have been no formal complaints nor any rate protests filed with the Commission in this matter. If the OCA becomes aware of substantial public interest, the OCA will promptly notify ALJ Nguyen and the parties and request that a public input hearing be scheduled.

Respectfully submitted,



Dianne E. Dusman
Senior Assistant Consumer Advocate
PA Attorney I.D. # 38308
E-Mail: ddusman@paoca.org
Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. #203098
E-Mail: jjohnson@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
(717) 783-7152(fax)
DATED: October 6, 2009
118456

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Newtown Artesian Water Company
Docket No. R-2009-2117550
C-20092122003

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 6th day of September 2009.


SERVICE IN PERSON

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

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

William R. Lloyd, Jr., Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Thomas T. Niesen, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500


Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. #203098

Email: JJohnson@paoca.org

Dianne E. Dusman
Senior Assistant Consumer Advocate
PA Attorney I.D. #38308
Email: DDusman@paoca.org

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
115628