

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

July 6, 2010

Honorable David A. Salapa  
PA Public Utility Commission  
400 North Street  
Harrisburg, PA 17101

Re: Pa. Public Utility Commission  
v.  
The York Water Company  
Docket No. R-2010-2157140

Dear Judge Salapa:

Enclosed please find an original and one copy of the Prehearing Memorandum of the Office of Consumer Advocate.

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

Sincerely yours,

A handwritten signature in black ink, appearing to read "Shaun A. Sparks".

Shaun A. Sparks  
Assistant Consumer Advocate  
PA Attorney I.D. #87372

Enclosures

cc: Secretary's Office of the PUC  
Certificate of Service  
129629.doc

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2010-2157140
	:	
YORK WATER COMPANY	:	
	:	
OFFICE OF CONSUMER ADVOCATE COMMISSION	:	
	:	
v.	:	Docket No. C-2010-2178038
	:	
YORK WATER COMPANY	:	

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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 the Prehearing Notice of Administrative Law Judge (ALJ) David A. Salapa issued on June 23, 2010, the Office of Consumer Advocate (OCA) provides the following:

**I. INTRODUCTION**

On May 14, 2010, York Water Company ("York" or "the Company") filed Supplement No. 94 to Tariff-Water Pa. P.U.C. No. 14 at Docket No. R-2010-2157140 to become effective July 14, 2010. In Supplement 94 to Tariff-Water Pa. P.U.C. No. 14, the Company requests that the Commission approve an annual 15.9 % increase in base rates – an approximately \$6.22

million revenue increase -- charged to York ratepayers. York is a water utility that serves an estimated population of 156,000 people in York County.

The OCA filed a Formal Complaint along with a Public Statement against the proposed increase on May 25, 2010. Since that time, the OCA has actively engaged with York in matters concerning the rate increase request.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of York's base rate filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of York's rate increase request. While the OCA has been as thorough as possible, the OCA anticipates that discovery responses may raise additional issues.

The OCA has informally met with York regarding the rate request and information related to it. The Company and the OCA are working cooperatively on OCA discovery. When the Company has responded to all interrogatories requested through formal discovery, and OCA has had the opportunity to review York's responses, the OCA anticipates that settlement discussions may take place. The OCA will also be better able to quantify its specific recommendations after its discovery is completed and it files direct testimony.

The OCA will analyze and present testimony on the list of issues and sub-issues set forth below with the assistance of OCA's expert witnesses.

### **A. Rate of Return**

1. **Cost of Common Equity:** The OCA will perform a detailed analysis of the cost of common equity claimed by York. The OCA will examine York's barometer group of companies to assess the Company's claimed cost of common equity. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim. The OCA will show that the various upward adjustments sought

by York are without merit.

2. Capital Structure: The OCA will examine whether the capital structure claimed by York is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

3. Embedded Cost of Debt and Preferred Stock: The OCA will examine the embedded cost of debt and preferred stock claimed by York.

4. Interest Coverage Ratios: The OCA will perform an analysis of the reasonableness of the interest coverage ratios as a test for rate of return recommendations.

B. Rate Base/Measure of Value

1. The OCA will examine the reasonableness and accuracy of the projections of York related to the water utility plant in service at the time relevant to this proceeding including, but not limited to, whether the test year plant will be completed as claimed and whether retirements are accurately reflected.

2. The OCA will review the Company's claim for plant additions during the future test year to determine if the Company has prudently incurred all such costs.

3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer advances for construction and contributions in aid of construction.

5. The OCA will examine the Company's claim for materials and supplies.

6. The OCA will examine the Company's calculation and amount of cash working capital.

7. The OCA intends to examine the reasonableness and accuracy of the Company's claimed valuation of its investment.

C. Revenues And Expenses

1. The OCA will examine whether the number of customers projected on the Company's system at the times relevant to this proceeding is reasonable and accurate.

2. The OCA will examine whether the Company's estimates of the volume of water to be sold during future periods is reasonable and accurate.

3. The OCA will examine whether the Company's projection of revenues in the future test year is reasonable and accurate.

4. The OCA will examine whether the salary and wage annualizations and increases included by the Company in the pro forma test year are reasonable and accurate including, but not limited to, whether the Company will fill vacancies and new positions as claimed.

5. The OCA will review the costs associated with the accrual of retirement benefits other than pensions for the Company's employees.

6. The OCA will examine whether the Company's general inflation adjustment is just and reasonable.

7. The OCA intends to examine the appropriateness of the Company's pro forma claim for rate case expense.

8. The OCA will examine the reasonableness of the Company's projected price increases for electric power purchased.

9. The OCA will evaluate the miscellaneous other expense items which appear to be based upon company projections of future price levels.

10. The OCA will review the Company's request for depreciation expenses to determine whether it is just and reasonable.

D. Taxes

The OCA may raise issues related to the calculation of taxes including, but not limited to, calculation of federal and state income taxes and the amount of those taxes included as expenses for ratemaking purposes, including an adjustment for consolidated tax savings.

E. Rate Structure/Cost of Service/Rate Design

1. The OCA will examine York's proposed distribution of the revenue increase among customer classes and ratemaking regions.

2. The OCA will examine whether the rate design changes proposed by York are reasonable and appropriate.

3. The OCA will examine York's cost of service study, including the methodology used and the reasonableness of the allocation.

4. The OCA will examine the reasonableness and appropriateness of the Company's proposed tariff changes.

F. Quality of Service

1. The OCA will examine whether York's main extension and other quality of service rules and regulations are enforced and applied in a fair and equitable manner.

2. The OCA will examine whether York is providing its current and future residential customers with adequate, efficient, safe and reasonable service, including fire protection.

G. Other Issues

1. The OCA will examine any low-income customer assistance program.

1. The OCA will examine any low-income customer assistance program.
2. The OCA will examine any relevant environmental issues that arise because of the Company's operations.
3. The OCA will investigate to ensure that the Company is complying with prior Commission orders.

### III. WITNESSES

The OCA intends to present direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses. Each witness will present testimony in written form and will attach various exhibits, documents, and explanatory information. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed and/or emailed directly to the expert witness(es) responsible for the particular area of the case, as well as to counsel for the OCA.

Accounting/Regulatory Policy: Michael Bleiweis  
243 Banks Road  
Easton, CT 06612-1627  
Office: (203) 445-9669  
Email: [mikeblei@optonline.net](mailto:mikeblei@optonline.net)

Rate of Return: Aaron Rothschild  
Rothschild Financial Consulting  
15 Lake Road  
Ridgefield, CT, 16877  
Telephone: 203-241-7824  
Email: [alr2103@gmail.com](mailto:alr2103@gmail.com)

Rate Design/Cost of Service: Glenn Watkins  
Technical Associates, Inc.  
1051 East Cary Street, Suite 601  
James Center III  
Richmond, VA 23219  
804-644-4000  
[watkinsg@tai-eco.com](mailto:watkinsg@tai-eco.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. If the

OCA determines that additional witness or witnesses will be necessary for any portion of its case, it will notify all parties of record immediately.

**IV. EVIDENCE**

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

**V. DISCOVERY AND RELATED MATTERS**

The OCA has served two sets of interrogatories to date. Due to the need to obtain additional discovery within the timeframe of the anticipated procedural schedule, however, the OCA requests modifications to the discovery rules as set forth in Appendix A.

**VI. SERVICE ON THE OFFICE OF CONSUMER ADVOCATE**

Senior Assistant Consumer Advocate Dianne E. Dusman and Assistant Consumer Advocate Shaun A. Sparks will represent the OCA in this matter. In addition to electronic copies of documents to the address below (which includes all OCA consultants), Parties should serve one set of hard copies of all documents on the OCA as follows:

Shaun A. Sparks, Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
[YORK2010-EXTERNAL@paoca.org](mailto:YORK2010-EXTERNAL@paoca.org)

**VII. PUBLIC INPUT SESSIONS**

The OCA will continue to monitor the level of interest in this case to determine whether

scheduling public input hearings may be justified. The OCA believes that a range of dates for public input hearings should remain in the schedule at this time.

**VIII. PROPOSED SCHEDULE**

The OCA will work with the Parties to coordinate a litigation schedule acceptable to all participants and the Presiding Officer.

Respectfully submitted,



Dianne E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #38308

Shaun A. Sparks  
Assistant Consumer Advocate  
PA Attorney I.D. #87372

For:  
Irwin A. Popowsky  
Consumer Advocate

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

DATED: July 6, 2008  
129682

## APPENDIX A

### **OCA Proposed Order For Expedited Discovery**

Discovery must be conducted according to the Commission's rules and regulations, subject to the following modifications for an expedited discovery period. Because the time period for discovery is limited, a shortened discovery response time is appropriate in this proceeding. Therefore, the following modifications will apply:

- A. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories will be communicated orally within three (3) days of service; written objections will be served within five (5) days of service.
- C. Motions to dismiss objections and/or direct the answering of interrogatories will be filed with the ALJ within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) days of service of such motions.
- E. Rulings over such motions will be issued, if possible, within seven (7) days of filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within ten (10) calendar days.
- G. Requests for admission will be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
- H. Answers to on-the-record data requests will be served in-hand within three (3) calendar days of the request.

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission  
v.  
The York Water Company  
Docket No. R-2010-2157140

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 July 2010.

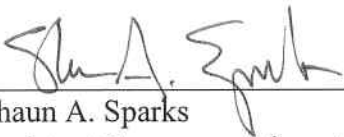
SERVICE IN PERSON

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

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Steven C. Gray  
Assistant Small Business Advocate  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Michael W. Hassell, Esquire  
Anthony D. Kanagy, Esquire  
Post & Schell, P.C.  
17 North 2<sup>nd</sup> Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601

  
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Shaun A. Sparks  
Assistant Consumer Advocate  
PA Attorney I.D. #87372  
SSparks@paoca.org

Dianne E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #38308

Email: [DDusman@paoca.org](mailto: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  
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