

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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

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

April 30, 2015

Honorable Jeffrey Watson
Office of Administrative Law Judge
301 Fifth Avenue
Suite 220, Piatt Place
Pittsburgh, PA 15222

Re: Hidden Valley Utility Services, L.P.
Water and Wastewater
Docket Nos. C-2014-2447138
C-2014-2447169

Dear Judge Watson:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lauren M. Burge".

Lauren Burge
Assistant Consumer Advocate
PA Attorney I.D. 311570
E-Mail: LBurge@paoca.org

Enclosure

cc: Rosemary Chiavetta, Secretary
Certificate of Service

206093

CERTIFICATE OF SERVICE

Tanya J. McCloskey, Acting Consumer Advocate

v.

Hidden Valley Utility Services, L.P. -

Water and Wastewater

Docket Nos. C-2014-2447138

C-2014-2447169

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, 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 30th day of April 2015.

SERVICE BY E-MAIL ONLY

Edward G. Lanza, Esquire
P.O. Box 61336
Harrisburg, PA 17106-1336

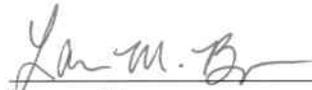
SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Alice Johnston
Obermayer Rebmann
Maxwell & Hippel LLP
BNY Mellon Center, Suite 5240
Pittsburgh, PA 15219

Paige Macdonald-Matthes
Obermayer Rebmann
Maxwell & Hippel LLP
Suite 400
200 Locust Street
Harrisburg, PA 17101-1508

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

James Kettler, President
Hidden Valley Utility Services, L.P.
811 Russell Avenue, Suite F
Gaithersburg, MD 20879



Lauren Burge
Assistant Consumer Advocate
PA Attorney I.D. 311570
E-Mail: LBurge@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org
206102

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

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 Wastewater	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the March 26, 2015 Prehearing Conference Order issued in the above-captioned proceeding, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

Hidden Valley Utility Services, L.P. (HVUS or the Company) provides water and wastewater service to approximately 1,168 customers in Hidden Valley, Pennsylvania. Hidden Valley is a resort community with part time and full time residents, and Hidden Valley Resort (Resort). Customers have contacted the OCA and the Pennsylvania Department of Environmental Protection (DEP) to report concerns regarding the quality of service provided by the Company.

A. Background Information

In February 2004, HVUS submitted applications to the Commission seeking approval to begin to offer, render, furnish or supply water and wastewater service to the public in Hidden Valley, Pennsylvania. The OCA and a number of other parties (collectively, Joint Petitioners)

filed protests in those proceedings. After lengthy negotiations, a settlement agreement (2005 Settlement Agreement) was reached which required HVUS to make a variety of improvements to its water and wastewater systems.

On March 15, 2007, the Commission sent a set of information requests to HVUS relating to the Company's compliance with items included in the 2005 Settlement Agreement. The Company's responses indicated that some issues had been addressed while others remained unaddressed.

In an Order issued on June 3, 2010, the Commission granted a request to withdraw joint applications of HVUS and a potential purchaser after the sale of the systems was not finalized. The Commission noted in its Order that some requirements of the 2005 Settlement agreement had not yet been fulfilled, and expressed particular concern as to the quantity of unaccounted-for water reported by HVUS.

On February 14, 2014, the Hidden Valley Foundation (HVF or the Foundation), the homeowners' association in Hidden Valley and a party to the 2005 Settlement Agreement, sent a letter to HVUS seeking to obtain information regarding the status of upgrades required in the 2005 Settlement Agreement and the Company's financial health, and expressing concern about the lack of system maintenance and other quality of service issues experienced by customers. The Foundation also sent a follow-up letter on May 13, 2014 requesting a response. The Foundation had not received a response from HVUS as of the date on which the Formal Complaints in the current proceedings were filed, although HVUS claims in its Answers to these Complaints that it attempted to meet with the Foundation to discuss these issues.

B. OCA Petitions for Emergency Relief

On May 28, 2014, HVUS received shut-off notices for two of its accounts with Pennsylvania Electric Company (Penelec). On June 3, 2014 the OCA filed a Petition for the Issuance of an Emergency Order Against Hidden Valley Utility Services (Emergency Petition). In the Emergency Petition, the OCA asked the Commission to issue an emergency order requiring HVUS to pay all current and overdue electric bills, remain current on its electric bills, and allow the OCA to access its current and historical billing and payment information. Prehearing Conferences were held in this matter on July 25, 2014 and September 3, 2014 with Administrative Law Judge Katrina L. Dunderdale. The parties filed a proposed settlement agreement on September 26, 2014, which addresses the matters raised in the OCA's Petition. The parties are currently awaiting the ALJ's disposition of this settlement agreement.

C. OCA Formal Complaints Against HVUS

The OCA filed Formal Complaints against HVUS on October 9, 2014. Based on information provided by customers and the OCA's preliminary investigations, which are detailed in the affidavits attached to the complaints, the OCA avers in its complaints that HVUS is failing to provide "adequate, efficient, safe, and reasonable service and facilities" pursuant to 66 Pa. C.S. § 1501. The OCA asked the Commission to order the following relief:

1. Require Hidden Valley Utility Services Co. to take the most cost-effective action to eliminate the discolored water experienced by the customers and provide water quality and quantity that is suitable for all household purposes consistent with Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501.
2. Require Hidden Valley Utility Services Co. to furnish and maintain adequate, efficient, safe and reasonable water and wastewater service and facilities and promptly make all necessary repairs, changes and improvements to service and facilities, in compliance with Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501.

3. If the Commission determines that Hidden Valley Utility Services is not capable of providing water and wastewater service in compliance with the Public Utility Code or Commission regulations and Orders, initiate a Section 529 investigation to transfer this utility to more financially, managerially and technically capable ownership.

HVUS filed Answers to the OCA's complaints on October 29, 2014. The parties have proceeded with discovery, and the OCA has currently served eight sets of interrogatories on HVUS and engaged in informal discovery. The proceedings were assigned to Administrative Law Judge Jeffrey Watson, and a Prehearing Conference has been scheduled for Monday, May 4, 2015.

II. ISSUES AND SUB-ISSUES

The Consumer Advocate filed its complaints in order to investigate concerns raised by HVUS customers about their water and wastewater service, specifically relating to water quality, water pressure, fire protection, maintenance and condition of the system, compliance with prior Commission Orders, financial viability, and customer service. The OCA seeks to ensure that HVUS fulfills its obligation to provide safe, adequate and reliable water and wastewater service to its customers.

The OCA anticipates that its testimony will address the following subjects:

A. Water and Quality of Service Issues

The OCA will present evidence regarding issues with water quality and the quality of service provided by HVUS, which may include: discolored water and use of water for household purposes, customer's replacement of appliances and fixtures, treatment of iron and manganese, unaccounted-for-water and leaks, and main replacement.

B. Wastewater System Issues

The OCA will present evidence regarding issues with HVUS's wastewater system and the quality of service provided, which may include: adequacy of maintenance and replacement, sewage odors and sewage overflows.

C. Financial and Managerial Issues

The OCA will present evidence regarding financial and managerial issues that bear on the utility's ability to provide adequate, efficient, safe, and reasonable service and facilities to its customers, which may include: adequacy of financial resources, management of utility revenue, reporting and billing, customer service and complaint handling.

The OCA specifically reserves the right to raise additional issues as discovery is received and its investigation continues. Other and more specific issues may arise and be pursued once answers to all of the OCA's interrogatories have been received and analyzed.

III. WITNESSES

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written or oral form and will also provide various exhibits, documents and explanatory information that will assist in the presentation of the OCA's case. The OCA reserves the right to call additional witnesses and will inform the ALJ and the parties if it determines that an additional witness(es) will be necessary. The OCA's witnesses are:

Accounting and Regulatory Policy: Ashley E. Everette
Regulatory Analyst
Pennsylvania Office of Consumer Advocate
555 Walnut St., 5th Floor
Harrisburg, PA 17101-1923
E-mail: aeverette@paoca.org

Quality of Service/Operations

Terry L. Fought
780 Cardinal Drive
Harrisburg, PA 17111
tlfengr@aol.com

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. As described above, the OCA's witnesses will present testimony in the following areas: accounting, regulatory policy, and quality of service.

V. PUBLIC INPUT HEARINGS

Because of the public interest in these proceedings, the OCA respectfully requests that public input sessions be held at appropriate times in HVUS's service territory. The OCA suggests that the hearings be held during the week of June 22, 2015, in the afternoon and evening.

The OCA also requests that the Commission direct the Company to extensively advertise these public input hearings. In addition, the OCA requests that the other parties involved in these proceedings be permitted to review and comment on these public input hearing announcements prior to their publication and distribution. Also, all parties should have input as to in which publications such advertisements will be placed.

VI. PROPOSED SCHEDULE

The Prehearing Order requests that the parties propose a litigation schedule with reply briefs filed on or about July 10, 2015. For the reasons discussed below, the OCA respectfully requests additional time to develop the record in this proceeding and proposes an alternative schedule.

The OCA filed its complaints on October 9, 2014. The OCA served eight sets of formal interrogatories on HVUS between October and January addressing the Company's water and wastewater operations. HVUS is still working on but has not provided complete responses to four sets of interrogatories. When those responses are received, the OCA may have follow-up questions. The parties are also engaged in informal discovery, which is ongoing. Further, the parties have are waiting for final disposition of a proposed settlement regarding the OCA's Emergency Petitions, which were filed in June 2014. If the proposed settlement agreement proposed in that case is approved, the OCA will receive additional information that is relevant to the Company's provision of safe and adequate water and wastewater service.

A number of HVUS customers provided affidavits in support of the OCA's complaints, who should have an opportunity to update the information provided, given the time that has elapsed since the OCA's complaints were filed. In addition, the OCA requests that public input hearings be scheduled in advance of the OCA's direct testimony, so that the OCA can investigate and address that information. Evidentiary hearings and public input hearings should be scheduled with adequate notice for those customers to participate. As Hidden Valley has a number of part-time residents, many residents will have to make work and travel arrangements in advance, in order to attend.

The OCA submits that because these are complaint cases, there is no statutory deadline for their disposition. While the OCA appreciates the interest in moving these cases forward expeditiously, a July 10, 2015 deadline for reply briefs will severely impair the OCA's ability to present its case. Given the circumstances of this case and in recognition of conflicts with other Commission proceedings, the OCA respectfully requests that ALJ Watson consider the schedule

proposed below. The OCA is willing to work with the parties and the Administrative Law Judge to further develop a schedule for this proceeding.

The OCA notes that the proposed spacing of testimony affords time for the parties to conduct discovery in response to testimony filed, which may help to narrow the scope of litigation.

Prehearing Conference	May 4, 2015
Public Input Hearing in the Service Territory	During the week of June 22
OCA Direct Testimony	July 8, 2015
Rebuttal Testimony	August 5, 2015
Surrebuttal Testimony	September 2, 2015
Written Rejoinder	September 16, 2015
Evidentiary Hearings in Pittsburgh	September 30-October 2, 2015
Main Brief	20 days after Evidentiary Hearing Transcripts are received by all parties that request them.
Reply Brief	14 days after service of Main Brief

The OCA proposes that the schedule dates be “in-hand” and that electronic service on the due date will satisfy the “in-hand” requirement.

VII. SERVICE ON THE OCA

The OCA will be represented in this case by Christine Maloni Hoover, Erin L. Gannon, and Lauren M. Burge. Two copies of all documents should be served on the OCA as follows:

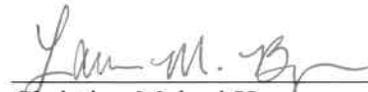
Christine Maloni Hoover
 Senior Assistant Consumer Advocate
 Office of Consumer Advocate
 555 Walnut Street, 5th Floor, Forum Place
 Harrisburg, PA 17101-1923
 Telephone: (717) 783-5048

Fax: (717) 783-7152
E-mail: CHoover@paoca.org
EGannon@paoca.org
LBurge@paoca.org

VIII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-mail: CHoover@paoca.org

Erin L. Gannon
Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-mail: EGannon@paoca.org

Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. # 311570
E-mail: LBurge@paoca.org

Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: April 30, 2015
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