

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

September 3, 2015

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Tanya J. McCloskey, Acting Consumer Advocate
v.
Hidden Valley Utility Services, L.P. - Water
Docket No. C-2014-2447138

Tanya J. McCloskey, Acting Consumer Advocate
v.
Hidden Valley Utility Services, L.P. - Wastewater
Docket No. C-2014-2447169

Dear Secretary Chiavetta:

Attached for filing is the Office of Consumer Advocate's Motion to Admit into Evidence Certain Documents in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully,

A handwritten signature in black ink that reads "Lauren M. Burge".

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

Attachment
cc: ALJ Jeffrey A. Watson
Certificate of Service
211878

CERTIFICATE OF SERVICE

Re: Tanya J. McCloskey, Acting Consumer Advocate

v.

Hidden Valley Utility Services, L.P. - Water
Docket No. C-2014-2447138

Tanya J. McCloskey, Acting Consumer Advocate

v.

Hidden Valley Utility Services, L.P. - Wastewater
Docket No. 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 Motion to Admit into Evidence Certain Documents, 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 3rd day of September 2015.

SERVICE BY E-MAIL ONLY

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

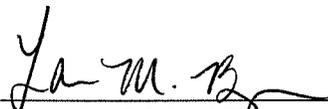
SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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

Robert J. Kollar and Kellie A. Kuhleman
1374 Langport Drive
Pittsburgh, Pa 15241



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

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

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

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

211879

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	:	

MOTION OF THE OFFICE OF CONSUMER ADVOCATE
TO ADMIT INTO EVIDENCE CERTAIN DOCUMENTS
PURSUANT TO 52 PA. CODE § 5.407

Pursuant to 52 Pa. Code § 5.407, the Office of Consumer Advocate (OCA) hereby moves to admit into evidence in the above-captioned proceedings documents from the record in another proceeding before the Commission. As discussed below, the OCA asks that certain portions of the record from a prior case be admitted in this record. The prior case was In the Matter of: Application of Hidden Valley Utility Services, LP – Water; Application of Hidden Valley Utility Services, LP – Wastewater (collectively, HVUS), for Approval to Offer, Render, Furnish, or Supply Water and Wastewater Services to the Public in Hidden Valley, PA (Docket Nos. A-210117 and A-230101) (2004 Application). The OCA asks that the following portions of the record in the 2004 Application proceeding be admitted into evidence:

- Public Input Hearing transcript, pages 62 through 138, and
- Joint Petition for Settlement of Separate Water and Wastewater Application Proceedings.

Section 5.407 of the Commission's regulations provides that:

- (a) When a portion of the record in another proceeding before the Commission is offered into evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 5.409 (relating to copies and form of documentary evidence), unless both of the following occur:
 - (1) The party offering the record agrees to supply, within a period of time specified by the Commission or the presiding officer, the copies at his own expense, if any, when so required.
 - (2) The portion is specified with particularity so as to be readily identified, and upon motion is admitted into evidence by reference to the records of the other proceedings.

52 Pa. Code § 5.407.

The portions of the record the OCA seeks to admit are the Public Input Hearing transcript (2004 Transcript) and the Joint Petition for Settlement of Separate Water and Wastewater Application Proceedings (2005 Settlement). Pages 62 through 138 of the 2004 Transcript contain testimony from a Public Input Hearing held on October 7, 2004 in the HVUS service territory. Counsel for HVUS participated in the hearing and cross-examined customers. The 2004 testimony addresses many of the same quality of service issues raised in the current proceedings, including customers' ability to drink, cook, shower, and launder clothes and the effect on appliances and fixtures. The 2004 testimony also addresses the prolonged existence of water quality issues in Hidden Valley and provides additional information and background regarding the installation of individual home filtration systems.

The 2004 Transcript, and specifically pages 62 through 138, are part of the official record in the HVUS application proceedings at Docket Numbers A-210117 and A-230101. This document is available for review in the Commission's file room in Harrisburg, and can also be accessed electronically via the Commission's website: www.puc.state.pa.us/pcdocs/1226488.pdf.

The OCA has not attached a copy to this Motion because the document at issue is a transcript but

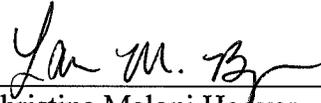
the OCA will comply with any alternative directions by Administrative Law Judge Watson. For identification purposes, the OCA proposes that the 2004 Transcript be referenced as OCA Exhibit 1.

The 2005 Settlement provides the commitments made by HVUS regarding distribution system modifications and improvements, water quality and water pressure improvement activities, and customer service improvements. In addition to addressing many of the same quality of service issues raised in the current proceedings, the 2005 Settlement is relevant and material because the Company's failure to comply with its requirements is addressed in the current proceeding by customer, OCA, and HVUS witnesses. The OCA and HVUS were both signatories to the 2005 Settlement. The 2005 Settlement is part of the official record in the HVUS application proceedings at Docket Numbers A-210117 and A-230101. A true copy of this document is attached to this Motion as OCA Exhibit 2. OCA Exhibit 2 does not include the attachments to the original 2005 Settlement (proof of revenues, tariffs, notices, and statements in support); however, the OCA will supply copies of the attachments if required.

The portions of the 2004 Transcript identified above are relevant and material to the instant proceedings, have been specified with particularity so as to be readily identified, and the OCA is willing to provide copies if directed to do so. The 2005 Settlement is relevant and material to the instant proceedings and a copy is attached hereto as OCA Exhibit 2. As such, the requirements of 52 Pa. Code § 5.407 have been met, and the OCA submits that its motion to admit portions of the 2004 Transcript and 2005 Settlement should be granted and these documents should be admitted to the record in these proceedings.

WHEREFORE, the OCA respectfully moves that transcript pages 62 through 138 of the October 7, 2004 Public Input Hearing Transcript and the Joint Petition for Settlement of Separate Water and Wastewater Application Proceedings in Docket Nos. A-201007 and A-230101 be admitted to the record in these complaint proceedings.

Respectfully Submitted,



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

Erin L. Gannon
Senior 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: September 3, 2015

211833

**OCA Exhibit 2, Joint Petition for Settlement of
Separate Water and Wastewater Application Proceedings (2005 Settlement)**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Hidden Valley Utility :
Services, L. P. for approval to begin :
to offer, render, furnish or supply : Docket No. A-00210117
water service to the public in Hidden :
Valley, Pennsylvania :

Application of Hidden Valley Utility :
Services, L. P. for approval to begin :
to offer, render, furnish or supply : Docket No. A-00230101
wastewater service to the public in :
Hidden Valley, Pennsylvania :

**JOINT PETITION FOR SETTLEMENT
OF SEPARATE WATER AND WASTEWATER
APPLICATION PROCEEDINGS**

TO ADMINISTRATIVE LAW JUDGE JOHN H. CORBETT:

All the parties to the two instant proceedings involving the separate water and wastewater Applications of Hidden Valley Utility Services, L.P. ("HVUS" or "Company"), which include the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), Hidden Valley Resort, L.P. ("HVR"), Hidden Valley Foundation, Inc. ("HVF"), Edwin C. Miller, Jack Mautino Jr., Douglas Brown, John Fiesta, Richard Brown and Edward Mackenzie ("Group Protestants"), and H. David Boyter and Angela M. Boyter ("Boyers") hereby submit this Joint Petition for Settlement ("Joint Petition" or "Settlement").

The Company, OTS, OCA, HVR, HVF, the Group Protestants and the Boyters are collectively referred to herein as the "Joint Petitioners" and constitute all active parties to these two water and wastewater application proceedings.

Joint Petitioners note that this single Joint Petition is filed seeking a complete resolution of both the water application and initial rate proceeding docketed at A-00210117 and the wastewater application and initial rate proceeding docketed at A-00230101.¹

Joint Petitioners respectfully submit that the terms and conditions of this Joint Petition represent a comprehensive settlement which resolves all issues presently raised or otherwise pending in each proceeding. The Joint Petitioners further aver that this comprehensive settlement is in the public interest and therefore request that the Commission (1) approve, without modification, the proposed settlement as set forth in the Joint Petition; (2) approve the respective tariff supplements necessary to implement the proposed settlement as appended hereto; and (3) issue an individual Certificate of Public Convenience to the Company for water service at Docket No. A-00210117 and another for wastewater service at Docket No. A-00230101.

In support of this request, the Joint Petitioners respectfully state as follows:

¹ The parties sought and received approval from the presiding Administrative Law Judge to file one Settlement Petition to attempt to resolve both application proceedings.

I. BACKGROUND

1. On February 12, 2004, HVUS filed the two applications captioned above with the Pennsylvania Public Utility Commission (“Commission”) for approval to begin to offer, render, furnish or supply water and wastewater service to the public in Hidden Valley, Pennsylvania.²

2. Timely Protests were filed by the OTS, OCA and the Group Protestants (“Group Protest”), individually or collectively. The Boyters filed a timely Petition to Intervene. HVUS did not object to the Protests of OTS and OCA or to the Boyters’ Petition to Intervene. On June 22, 2004, HVUS filed an Answer with New Matter with a Motion to Dismiss the Group Protest. On July 1, 2004, the Group Protestants filed an Answer to HVUS’ Motion. On July 14, 2004, Administrative Law Judge John H. Corbett (“ALJ Corbett”) issued an Initial Decision granting HVUS’ Motion dismissing the Group Protest.

3. On August 5, 2004, ALJ Corbett held a Prehearing Conference with all then active parties present.³ The parties present at the Prehearing Conference agreed on a litigation schedule.

4. The then active parties consented to the use of the Commission’s mediation process to attempt to resolve the issues in both proceedings.

5. On August 18, 2004, OCA filed Motions to Join HVR and HVF as indispensable parties to these proceedings, which were unopposed and subsequently granted by ALJ Corbett.

6. The Commission’s Office of Administrative Law Judge assigned Mediator Herbert R. Nurick (“Mediator Nurick”) to the proceedings and he conducted a first mediation

² The filing of the water and wastewater service applications was required by the terms and conditions of a settlement entered into by OTS, separate Complainants Angie and David Boyter, and the present Applicant on June 19, 2003. The Commission’s Order entered November 14, 2003, at Docket Nos. C-20028823 and C-20039320, approved said settlement as submitted to the presiding Administrative Law Judge. As noted on page 4 of the Order, the settlement required the applicant to file separate applications for certificates of public convenience to provide water and wastewater service within ninety days of the entry of a final Order approving the Settlement Stipulation.

³ As noted below, HVR, HVF and the Group Protestants became parties later in the proceedings.

session on Monday, August 30, 2004, with all the present Joint Petitioners except for the Group Protestants participating. On August 31, 2004, the Boyters filed Answers in Support of OCA's Motions to join HVR and HVF. On September 1, 2004, the ALJ issued a Third Interim Order granting OCA's Motions. On October 6, 2004, the Commission entered an Opinion and Order reversing the July 28, 2004 Initial Decision and remanding the Group Protest for disposition as part of the instant proceeding.

7. All of the present Joint Petitioners participated in a second mediation session with Mediator Nurick on September 21, 2004.

8. On September 22, 2004, due to the orderly progression of mediation proceedings, HVUS with the consent and agreement of all parties except the Boyters, requested that ALJ Corbett suspend the litigation schedule established in the August 5, 2004 Prehearing Order pending completion of the mediation process. ALJ Corbett suspended the litigation schedule on September 24, 2004.

9. A Public Input Session was held on October 7, 2004 in the Summit Highlands Room at Hidden Valley Resort, Hidden Valley, Pennsylvania, to solicit input from individuals to be served by the Company if properly certificated by the Commission. Twelve (12) individuals who are current customers of HVF/HVR and future customers of the proposed regulated entity, HVUS, presented testimony at that session.

10. Six weeks after the Public Input Session on December 21, 2004, the Joint Petitioners participated in a third and final mediation session.

11. As a result of the extensive discussions at the mediation sessions, and extensive formal and informal discovery, the Joint Petitioners have agreed to the full Settlement detailed below regarding the water and wastewater Applications of HVUS. Although the parties have not

sought to identify, nor would they have been able to agree upon, the specific adjustments that support their respective conclusions underlying their agreement to these terms, they are in full agreement that the Joint Petition is in the interest of HVUS' customers and HVUS and respectfully submit this Joint Petition for Settlement as further detailed below.

II. TERMS AND CONDITIONS OF SETTLEMENT OF THE WATER AND WASTEWATER APPLICATIONS

Subsections A, B & C herein provide the agreed upon specific terms and conditions for water service. The remaining subsections D, E, F & G generally relate to both water and wastewater service unless provided otherwise. The entire content of the specific agreed-upon terms of this Settlement, are organized in the aforementioned subsections A through G, for which the Joint Petitioners seek approval by ALJ Corbett and the Commission, and are set forth below.

A. Water Distribution System Modifications and Improvements

12. HVUS will replace the 2-inch galvanized pipe serving Lakeview Drive with a 6-inch main prior to December 1, 2007.

13. Beginning on the entry date of a Commission Order approving this Settlement and initial rates proposed herein⁴ ("Effective Date"), HVUS will install blow-off valves on all dead-ends and at all low points in roads and stream or swale crossings at a rate of three valves per year until completed.

14. If the Effective Date of this Settlement occurs prior to June 30, 2005, the Company will replace the existing 3-inch line running approximately 1,600 feet along Gardner Road between Hightop Drive and Highland Drive with a new 6-inch supply main located at the rear of the properties prior to December 31, 2005. This new main will be installed at the appropriate depth to prevent freezing. If the Effective Date of this Settlement occurs on or after

⁴ In accordance with Paragraph 41 below.

June 30, 2005, the Company will complete its obligations under this paragraph by December 31, 2006.

15. Prior to December 1, 2006, the Company will connect the 6-inch main currently serving the Ski Lodge with the 3-inch main on Parke Drive.

16. Within ten (10) years of the Effective Date, the Company will replace all mains smaller than 6-inch with 6-inch or larger pipe, with the following exceptions: lines less than 250 feet long at cul-de-sacs, lines with the sole purpose of looping dead ends and lines that serve structures that are (or can be) within 500 feet of fire hydrant(s) on 6-inch or larger main(s). Within six (6) months of the Effective Date, and every year thereafter, HVUS will prepare, and submit to the Commission's Bureau of Fixed Utility Services ("FUS") and Joint Petitioners, a schedule ("Replacement Schedule") that forecasts which mains will be replaced within the next two (2) years. This Replacement Schedule is provided for planning purposes only and is not binding upon HVUS. The Joint Petitioners recognize that unforeseen events could alter the start/completion dates for the portion of the main replacement described on the Replacement Schedule.

B. Water Pressure Improvement Activities

17. Within one (1) month of the Effective Date, the Company will advise customers in Snowfield Court and on Powder Ridge Road, in writing, copied to the FUS and all parties, that pressure problems may be improved by the replacement/repair of in-home booster pumps.

C. Water Quality Improvement Activities

18. Within two (2) months of the Effective Date, using a bill insert or a repeated line item on water bills, the Company will advise all customers, copied to FUS and all parties, that setting hot water heaters to a temperature less than 140 degrees may reduce the settling of iron

and manganese, to help reduce tea-colored water problems. Prior to distribution, the Company will provide a draft of the bill insert or line item to the OCA for review.

19. Beginning on the Effective Date, the Company will use its smaller capacity pump inside the water supply pumphouse to reduce the number of on/off cycles on its larger pump.

20. With its next rate filing, but in no case later than two (2) years from the Effective Date, the Company will submit a report to FUS and all parties reassessing the need, size and cost of treatment plant to permanently solve the problems caused by the levels of iron and manganese in its water.

21. Beginning on the Effective Date and until the Company submits the report required by paragraph 20 above, the Company will test its source water for iron and manganese levels three times per year. Each set of test results will be submitted promptly to FUS and all parties.

22. Within two (2) years of the Effective Date, the Company will find and reduce its unaccounted-for water levels to 20%. For purposes of this Settlement, unaccounted-for water levels will exclude water loss attributed to system flushing. Leaks will be found as soon as possible and prioritized so that larger leaks are repaired first. In January 2006 and January 2007, the Company will provide a report to FUS and all parties stating the level of unaccounted-for water and listing the date and location of leaks that have been repaired in the previous twelve (12) months.

23. Beginning on the Effective Date, leak detection will be performed on the entire system at least once each year.

24. Within three (3) months of the Effective Date, the Company will submit to FUS and all parties a written recommendation from its consulting engineer detailing the proper

procedure for flushing the system, including but not limited to which hydrants and blow off valves should be flushed in what sequence and for what length of time. The Company will also request its consulting engineer to estimate how much water should be used to comply with the flushing recommendation and include that estimate in the written recommendation. Within four (4) months of the Effective Date, the Company will fully implement the flushing procedures recommended by its consulting engineer, subject to any changes by FUS and the parties. In the interim, HVUS will continue HVR's current flushing practices.

25. The engineering recommendation pursuant to item 24 will include and address the requirement that the Company flush the 3-inch Valley View Road line every other month when the quarry is in operation. If more or less frequent flushings are needed on that line (based on the condition of the water noted when flushing is performed and customer complaints), the Company will provide a report to FUS and all parties explaining the basis for the change.

26. Beginning on the Effective Date, the Company will measure and record how much water is flushed from each hydrant and blow off valve. The Company will include those measurements with the water test results reported to FUS and all parties pursuant to item 21.

27. Beginning on the Effective Date, the Company will advise all customers in advance of all scheduled flushings, by posting and by either bill insert or a line item on the water bill. The Company will also advise the Hidden Valley Foundation, Inc. in advance of all scheduled flushings, in writing.

D. Rates for Both Water and Wastewater Service

28. The Company will file a proof of revenues with this Joint Petition that reflects rates designed to recover annual revenues of \$392,000 for wastewater operations and \$182,500 for water operations, as provided in Appendix A. All wastewater customers will pay a \$27 per

quarter customer charge and a \$15.60 volumetric charge up to 30,000 gallons and \$12.52 volumetric charge over 30,000 gallons. All water customers will pay a \$12 per quarter customer charge and \$6.97 per thousand gallons volumetric charge up to 30,000 gallons and \$5.75 volumetric charge over 30,000 gallons. "Availability customer" will be defined as the owner of a lot with no structures connected to the water or wastewater system, to whom the Company's water or wastewater service line, respectively, is available. Water availability customers will pay \$9.00 per quarter and wastewater availability customers will pay \$15.00 per quarter.

E. Water and Wastewater Stay Out Provision

29. The Company will not file for a rate increase for an eighteen (18)-month period beginning on the Effective Date.

F. Water and Wastewater Refunds

30. Beginning on the Effective Date, the Company will refund \$4 per quarter per current water customer for three (3) years and \$4 per quarter per current wastewater customer for three (3) years. For refund purposes, the term "customer" excludes all properties owned by HVR, HVUS, or any availability customer. The payment of these refunds is not an admission by HVUS or HVR of any violation of any law, including but not limited to the Public Utility Code, or of any Commission Regulation. Conversely, the level of refunds is not a concession by any Joint Petitioner that the law does not entitle customers to a greater level of refunds.

G. Additional Terms Applicable to Water and Wastewater Services

31. Within 60 days of the Effective Date, the Company will file an affiliated interest agreement between HVUS and HVR. In the future, HVUS will continue to comply with the requirements of the Public Utility Code with regard to affiliated interest agreements.

32. Beginning on the Effective Date, utility bills will be due thirty (30) days from the date the utility puts the bill in the mail to customers; late payment charges will apply only to payments received five (5) or more days after the due date. Late charges will apply only to portions of bill that are overdue, consistent with 52 Pa. Code § 56.22.

33. Beginning on the Effective Date, the Company will establish a call center to assist its customers in the event of an emergency. The call center shall have at least one person answering the phone at all times as well as an automated answering system so that customers can report any problems or emergencies to the Company. The call center shall have the capacity to contact field repair personnel to report service disruptions, outages or any other emergency. Call center personnel shall disclose to customers the nature of known problems as well as an estimated time for service restoration, if available.

34. Final proposed water and wastewater tariffs are attached to this Settlement as Appendices B and C respectively.

35. Consistent with 52 Pa. Code § 53.54, at least 60 days prior to the Effective Date, the Company will file a water and wastewater tariff supplement incorporating the proposed initial rates for availability customers. The effective date of the proposed availability rates contained in the tariff supplements will be the Effective Date of this Settlement. On the same date the tariff supplements are filed with the Commission, the Company will mail a written notice to all availability customers of the proposed initial rates, which contains the language specified by 52 Pa. Code §§ 53.54 and 53.45. The Company will consult with the OCA regarding the content of the notice prior to service. A copy of the notice and proof of service are attached to this Settlement as Appendix D.

36. Within seven (7) days of the Effective Date, the Company will mail a notice to all customers, in writing at their billing address, of their new, Commission-approved rates. The notice will list the rates and advise customers that they can call the Company, the Office of Consumer Advocate or the Commission's Bureau of Consumer Services with any questions and provide contact information for customers to contact the OCA.

37. Beginning on the Effective Date and continuing until such time the Company fulfills its obligations under Paragraph 16 of this Joint Petition, each spring and fall, one or more Company representatives with authority and knowledge to speak and answer questions on behalf of the Company will participate in a meeting, held in the service territory and open to all customers. At least thirty (30) days in advance of the meeting, the Company will notify all customers of the date, time and location of the meeting using a bill insert or a line item on water bills. The Company will also advise HVF at least thirty (30) days in advance of all such scheduled meetings, in writing.

38. This Settlement shall be deemed to constitute full and complete satisfaction by the Company of its obligations with respect to these Applications. The Joint Petitioners acknowledge and agree that this Settlement shall have the same force and effect as if they fully litigated this proceeding.

39. This Settlement reflects significant compromises between the Joint Petitioners and (a) is proposed solely for the purpose of settling the present proceedings, (b) is made without any admission by any party hereto as to any matter of fact or law, and (c) is without prejudice to any position advanced by any Joint Petitioner on the record in these proceedings or that might be adopted by any Joint Petitioner during subsequent litigation. Notwithstanding the foregoing, however, if this Settlement is approved and implemented, the Joint Petitioners shall not in any

subsequent proceeding take any action or advocate any position inconsistent with the terms of this Settlement.

40. If ALJ Corbett recommends that the Commission adopt this Settlement in its totality without modification, the Joint Petitioners agree to waive their rights to file exceptions to that Initial Decision. The Joint Petitioners do not waive their rights to reply to exceptions, if any, filed by any other individual or organization.

41. This Joint Petition and the Settlement is conditioned upon the Commission's approval of all of the Settlement terms. If the Commission modifies or fails to approve any of the Settlement terms, upon written notice to the Commission and all parties within five (5) business days, any Joint Petitioner may elect to withdraw from the Settlement. The Joint Petitioners reserve their respective rights to resume litigation regarding their respective positions. The Joint Petitioners claim the privilege reserved in 52 Pa. Code § 5.231 that no part of an unaccepted settlement shall be admissible in evidence at any time against any Joint Petitioner. No adverse inference shall be drawn against any Joint Petitioner as a result of any matter set forth herein. It is the position of OTS that any required further hearing in this proceeding would constitute a modification to the Settlement.

42. The Joint Petitioners may enforce this Joint Petition through any appropriate action before the Commission or through any other available remedy in law, equity or otherwise.

43. The Joint Petitioners agree that this Settlement may be executed in one or more counterparts each of which shall be deemed an original and all of which taken together constitute one and the same agreement.

44. It is expressly understood and agreed between the Joint Petitioners that this Settlement constitutes a negotiated resolution solely of the proceedings referenced above.

45. If this Settlement is not approved by the Commission for any reason, the Joint Petitioners reserve their respective rights to present, among other things, additional testimony, cross-examination, briefing and argument on all issues addressed by this Settlement and any others needed to complete these proceedings.

46. The Joint Petitioners shall utilize their best efforts to support this Joint Petition and Settlement and to secure its approval by the Commission.

III. PUBLIC INTEREST CONSIDERATIONS

47. The Joint Petitioners submit that this Settlement is in the public interest and should be approved in full for the following reasons:

(a) The Settlement results in the formation of a Commission regulated utility in the Company's designated service area providing both water and wastewater service through separate tariffs on file with the Commission.

(b) The Settlement provides a refund to customers for a portion of the rates charged by HVR for water and wastewater service without Certificates of Public Convenience.

(c) Substantial litigation and associated costs will be avoided by this Settlement. This Settlement resolves a number of important and contentious issues fairly, by balancing the interests of HVUS and its ratepayers.

(d) This Settlement is consistent with the Commission's policies promoting negotiated settlements. The Joint Petitioners arrived at this Settlement after a number of meetings, discussions, formal and informal discovery and mediation proceedings. The Settlement's terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (52 Pa. Code §§ 5.231, 69.391, 69.401).

statement in support, OTS represents that the fixed signature of the OTS Prosecutor fully evidences the OTS' position that: (1) the rates identified herein are fair, just and reasonable; (2) the terms and conditions of this settlement are just, reasonable and appropriate; and (3) full and complete approval by both the ALJ and Commission are in the public interest.

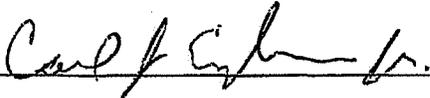
IV. CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that ALJ Corbett recommend that the Commission:

- (a) approve the Settlement set forth herein in its entirety without modification;
- (b) approve and authorize the Company to file the applicable tariff supplements attached to this Joint Petition to become effective within fifteen (15) days after the entry of a final Commission order not subject to appeal or other legal challenge;
- (c) terminate these proceedings and mark the record closed; and
- (d) issue an individual Certificate of Public Convenience for water service at Docket No. A-00210117 and another for wastewater service at Docket No. A-00230101.

IN WITNESS WHEREOF, the Joint Petitioners bind themselves to the terms and conditions set forth herein, as evidenced by the signature of themselves or their attorneys, each of whom has authority to execute this Joint Petition.

HIDDEN VALLEY UTILITY SERVICES, L.P.
AND HIDDEN VALEY RESORT, L.P.



By: Carl J. Engleman Jr., Esquire
RYAN, RUSSELL, OGDEN & SELTZER LLP
1105 Berkshire Boulevard, Suite 330
Wyomissing, Pennsylvania 19610-1222
(610) 372-4761

OFFICE OF TRIAL STAFF

By: Prosecutor Charles Daniel Shields

OFFICE OF CONSUMER ADVOCATE

By: Christine Maloni Hoover, Esquire
Senior Assistant Consumer Advocate
Erin L. Gannon, Esquire
Assistant Consumer Advocate

HIDDEN VALLEY FOUNDATION, INC.

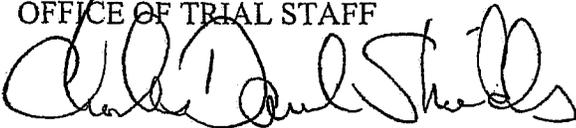
By:

IN WITNESS WHEREOF, the Joint Petitioners bind themselves to the terms and conditions set forth herein, as evidenced by the signature of themselves or their attorneys, each of whom has authority to execute this Joint Petition.

HIDDEN VALLEY UTILITY SERVICES, L.P.
AND HIDDEN VALEY RESORT, L.P.

By: Carl J. Engleman Jr., Esquire
RYAN, RUSSELL, OGDEN & SELTZER LLP
1105 Berkshire Boulevard, Suite 330
Wyomissing, Pennsylvania 19610-1222
(610) 372-4761

OFFICE OF TRIAL STAFF



By: Prosecutor Charles Daniel Shields

OFFICE OF CONSUMER ADVOCATE

By: Christine Maloni Hoover, Esquire
Senior Assistant Consumer Advocate
Erin L. Gannon, Esquire
Assistant Consumer Advocate

HIDDEN VALLEY FOUNDATION, INC.

By: