

ROBERT J. KOLLAR
1374 LANGPORT DRIVE
PITTSBURGH, PA 15241

January 21, 2016

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

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JAN 21 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Tanya J. McCloskey, Acting Consumer Advocate

v.

Hidden Valley Utility Services, L.P.—Water and Wastewater

Docket Nos. C-2014-2447138

Docket Nos. C-2014-2447169

Dear Secretary Chiavetta,

Attached is a copy of the Brief of Robert J. Kollar and Kellie A. Kuhleman in the above-referenced proceeding. Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,



Attachments

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

TANYA J. MCCLOSKEY, ACTING
CONSUMER ADVOCATE

vs.

Docket No. C-2014-2447138

HIDDEN VALLEY UTILITY SERVICES LP
(Water)

TANYA J. MCCLOSKEY, ACTING
CONSUMER ADVOCATE

vs.

Docket No. C-2014-2447169

HIDDEN VALLEY UTILITY SERVICES LP
(Wastewater)

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BRIEF ON BEHALF OF INTERVENORS.

ROBERT J. KOLLAR AND KELLIE A. KUHLEMAN

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

Background

This Brief is being filed by Intervenors Robert J. Kollar and Kellie A. Kuhleman (husband and wife) as part of the complaints filed against Hidden Valley Utility Services, L.P. (HVUS or the Company) at Docket No. C-2014-2447138 (water services) and Docket No. C-2014-2447169 (wastewater services).

Intervenor Kollar has reviewed all of the written testimony, reports, judge's orders, etc. as part of this proceeding, provided written testimony in this matter, and participated in the hearing held on this matter in Pittsburgh on Tuesday, November 17, 2015.

Mr. Kollar and Ms. Kuhleman are not attorneys and have not retained the services of legal counsel to represent them in this matter. Intervenors request that this fact be taken into consideration when reviewing this brief.

Procedural History

Petitioners Kollar and Kuhleman submitted their petition to intervene in this matter on July 9, 2015. The petition to intervene in this matter was granted by Interim Order entered on September 8, 2015.

Summary of Argument

The existing ownership and management of HVUS has operated the Company in a manner that has resulted in poor water quality to the customers of HVUS and created a significant risk to the real estate values of homeowners in the Hidden Valley community. Additionally, due to the manner in which the Company has been operated, there is a real possibility that customers could be without water service for significant periods of time due to no fault of their own. Additionally, certain residents of the Hidden Valley community have properties located in an area that does not have working fire hydrants because of the Company's failure to comply with the requirements of the 2004 Agreement with the PUC and other parties.

The Company's poor operational and financial management has been demonstrated throughout this proceeding and documented in the testimony and sub-rebuttal testimony, the public hearings, and HVUS's non-compliance with the requirements of the 2004 Agreement (the 2004 Agreement) entered into by the Company, PUC, OCA, Hidden Valley Foundation, Inc. and other individual parties. Following are examples of the more egregious actions by HVUS that demonstrate the poor manner in which the Company has been operated:

1. Failure to comply with significant requirements of the 2004 Agreement—Section 16 of the Agreement required HVUS to replace a variety of water lines throughout the community. Witnesses Brown (pgs. 260-261, Nov. 17, 2015) and Johnston (pgs. 308 and 309, Nov. 17, 2015 hearing) indicated that at no time could they recall receiving a copy of the required replacement schedule of when such water lines would be replaced. Witness Brown, a long-time and full-time resident of Hidden Valley, also indicated in his testimony that the only water lines replaced in the community, to the best of his knowledge, were “the lines to the Lakeview town homes and the line from Lake Road to serve the five houses that are serviced from Brown’s Run.” Witness Johnston also indicated that a portion of the Hidden Valley community known as “The Heights” currently does not have a fire hydrant. She indicated that the reason the Heights does not have a fire hydrant is because one cannot be installed until the water line in that community is replaced (pg. 300, Nov. 17, 2015 hearing). The agreement was dated in 2004 and provided HVUS with ten years to complete certain improvements to the existing water lines and related infrastructure. In 2015, a significant portion of this work remains incomplete, which demonstrates the Company’s failure to specifically comply with a regulatory order.
2. Filing of incorrect Annual Reports—Intervenor Kollar indicated in his original direct testimony that the Company’s annual reports filed with the PUC for years 2009 to 2013 contained numerous errors. Respondent indicated in his testimony that “the reports, over the years, were done by five different individuals.” (pg. 388, Nov. 17, 2015 hearing). A public utility has a responsibility to file accurate and timely financial reports with the PUC so that the regulatory agency can be satisfied as to the financial stability of the

utility. Utilizing five different individuals makes it extremely difficult to prepare accurate and consistently prepared financial statements.

3. Filing of 2014 Annual Report late—The Annual Report for public utility companies is to be filed with the PUC by April 30 of the year immediately following the Company's year-end. HVUS did not file its 2014 Annual Report with the PUC until November 6, 2015 (reference the time stamp of the PUC on the filed copy of the 2014 Annual Report), over six months after the required filing date. This, coupled with the accuracy of Annual Reports discussed in point #2 preceding, raises serious questions about the Company's *willingness to comply with laws and regulations*.

4. Poor water quality—numerous HVUS customers testified at the public hearing held in June 2015 at Hidden Valley reported incidents of discolored, brown, or "ice-tea" colored water. This has resulted in many residents being limited in their uses of water supplied by HVUS for laundry and other purposes. This has also resulted in additional costs to HVUS customers, because many commented that they "flush" their lines to remove the discolored water, install filters, have replaced hot water tanks earlier than needed, etc.

5. Lack of proper equipment to repair damaged water lines—witness Alice Sachs Johnston (pgs. 291 - 292, Nov. 17, 2015 hearing) testified that the Hidden Valley Foundation, Inc., (of which she is a member of the Board of Directors) a customer of HVUS and the master homeowner's association for the Hidden Valley community, purchased a backhoe (which it had not planned to purchase) and would make it available at an arms-length rental rate to HVUS if there was a water line break, so that service could be provided uninterrupted for members of the Foundation. This was in response to concerns that HVUS personnel were forced to address water main repairs by hand. Witness Douglas Brown also testified to this same fact (pgs. 313 – 315, Nov. 27 hearing) indicating that at times "I've been in the ditch with them" (referring to HVUS personnel) voluntarily assisting them with water line repairs in very cold weather prior to the purchase of the backhoe.

6. HVUS lack of financial stability and poor financial management practices—Intervenor Kollar testified (pgs. 323 – 327, Nov. 17, 2015 Hearing) that based on his review of the HVUS 2014 Annual Reports (that had not been filed with the PUC until November 6, 2015) that HVUS was insolvent, a conclusion consistent with his previous testimony. He based this assessment on several items, including the Company's current ratio being significant below the benchmark of 1.0 and the Company's continuing net losses. Additionally, in response to a question from Kollar about the Company's pattern of making cash distributions to its partners equal to approximately 80% of the Company's free cash flow for the past several years, despite continuing losses and a deficient current ratio, the owner of HVUS replied that the distributions were made "because I had a capital investment of millions of dollars and wanted to get a little return on my money." (pg. 394 – 395, Nov. 17, 2015 Hearing). These owner distributions have significantly weakened the financial condition of the Company and directly impacted its ability to comply with aspects of the 2004 Agreement.

Conclusions

Based on the arguments previously discussed, the following actions should be taken to ensure that a safe, clean and uninterrupted supply of drinking water can be provided to the customers of HVUS:

1. HVUS should be immediately placed into receivership and an independent receiver appointed to direct the Company's operations. The existing owner should be immediately removed from all aspects of operational and financial decision-making and all distributions to owners should be suspended.
2. A full audit of the Company's financial statements as of the most recent year-end (December 31, 2015) should be performed by an independent CPA firm, so that a clear and accurate assessment of the Company's financial position and results of operations can be obtained.

3. Effective immediately, the Company should be required to submit monthly financial statements to the Commission, including: a balance sheet, income statement, statement of cash flows, and statement of changes in partner's capital. These statements will be used to monitor the Company's financial condition, and to ensure that all owner distributions (as suggested in point #1) have been suspended. Copies of these financial statements should be provided within thirty days following the end of a given month to all parties in this matter.

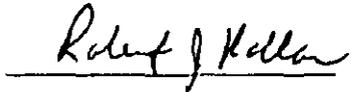
4. An engineering study, paid for by HVUS, should be immediately ordered to evaluate the cost and effectiveness of treated water from the Quemahoning River (also referred to as "Q" water) from Bakersville and connecting it to the HVUS water and wastewater system. This suggestion was made by engineer Terry Fought in his written testimony in this proceeding (pg. 20, Terry Fought testimony, July 8, 2015). This has the added benefit of providing an alternative source of water supply to the customers of HVUS, and *does not require the purchase of filtration equipment to address the issues of discolored water.*

5. An engineering study, paid for HVUS, should be immediately ordered to specifically determine the remaining parts of the 2004 Agreement that have not been completed. Cost estimates should be obtained to complete this work, and a specific timeline developed to replace any and all existing water lines that were to be replaced under the provisions of the 2004 Agreement that have still not been replaced.

6. The Company should be ordered to immediately replace the water line that affects the Heights section of the Hidden Valley community so that water hydrants can be finally installed in this area. This is extremely important to protect the safety of the residents of the Heights and their properties.

7. The Company should be prohibited from filing for any requests for any water or wastewater rate increases until all of the aforementioned steps have been completed.

Respectfully submitted by,

A handwritten signature in cursive script, reading "Robert J. Kollar", is written over a horizontal line.

Robert J. Kollar

January 20, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

Via electronic mail:

Christine Maloni Hoover
Erin Gannon
Lauren M. Burge
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
choover@paoca.org
egannon@paoca.org
lburge@paoca.org

Hon. Jeffrey A. Watson, ALJ
PA Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222
jeffwatson@pa.gov

Paige Macdonald-Matthes, Esq.
Obermayer Rebmann Maxwell & Hippel
200 Locust Street, Suite 400
Harrisburg, PA 17101-1508
PMMa@Obermayer.com

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

Edward G. Lanza, Esquire
P.O. Box 61336
Harrisburg, PA 17106-1336
Ed@LanzaFirm.com

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January 20, 2016



Robert J. Kollar

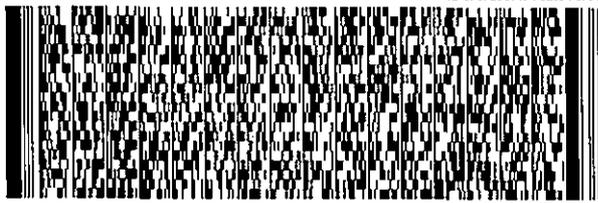
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ROBERT KOLLAR
1374 LANGPORT DRIVE
PITTSBURGH, PA 15241
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PA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BLDG
400 NORTH STREET
HARRISBURG PA 17120

(412) 221-8185 REF: RJK - HV UTILITY SVCS
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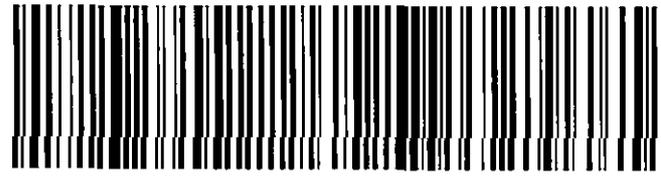
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