

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Consumer Advocate	:	
	:	
v.	:	Docket Nos. C-2014-2447138
	:	C-2014-2447169
Hidden Valley Utility Services, L.P.	:	

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**EXCEPTIONS OF RESPONDENT  
HIDDEN VALLEY UTILITY SERVICES, L.P. TO  
INITIAL DECISION**

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## **I. INTRODUCTION**

Pursuant to Section 5.533 of the Commission's regulations, 52 Pa. Code § 5.533, Respondent Hidden Valley Utility Services, L.P. hereby submits these Exceptions to the Initial Decision of Administrative Law Judge Jeffrey A. Watson issued on September 9, 2016 ("ID" or "Decision"). In his Decision, ALJ Watson improperly found violations of the Public Utility Code with regard to the HVUS wastewater system and failed to take into consideration practical considerations in establishing deadlines for implementation of measures recommended in the ID.

For the reasons set forth in these exceptions, Respondent urges the Commission to reject a number of ALJ Watson's findings and recommendations and to clarify and modify provisions in the Initial Decision regarding the deadlines contemplated by the Presiding Officer for HVUS to make improvements to the system. HVUS also requests that the Commission reject the ALJ's finding of violations of the Public Utility Code with regard to the wastewater operations. The Commission should address these issues in the Initial Decision and issue a Final Order that is consistent with these Exceptions.

## **II. EXCEPTIONS**

### **A. Exception No. 1: The ALJ Erred in Failing to Link Customer Meetings with the Completion of Improvement Projects**

In his Initial Decision, ALJ Watson ordered that Respondent comply with the 2005 Settlement, the violation of which was the basis for the OCA's Complaints, in a number of respects. More specifically, ALJ Watson ordered that HVUS "shall replace 1,500 feet of 3-inch line to the 'Heights' neighborhood, as well as 1,000 feet of 2-inch line to the 'Valley View' neighborhood in Hidden Valley." ID at 39 (Ordering paragraph 3(a)). In conjunction with this directive, Judge Watson also orders that HVUS "shall schedule and conduct semi-annual

customer meetings, to be held at least every six months.” Id. (Ordering paragraph 3(b)).

Although the directive to replace the lines set forth in the decision are clear, and the Company has agreed to undertake that work, the interplay between the line replacement work to be done and the customer meetings is less clear.

A clear link between the replacement work and the customer meetings existed in the 2005 Settlement and the same should be preserved going forward. The 2005 Settlement provided that semi-annual meetings with customers be held in the service territory “until such time [as] the Company fulfills its obligations under Paragraph 16 of this Joint Petition.” 2005 Settlement at 11 (para. 37) (Paragraph 16 provided that the Company would replace lines under 6 inches). The Initial Decision fails to maintain the continuity of the connection between the work to be completed and semi-annual meetings with customers to inform them about the projects. The Commission should modify the Order to explicitly state that the semi-annual meetings should be held until the work contemplated by Ordering Paragraph 3(a) is completed.

In the alternative, the Commission should establish a link between the semi-annual customer meetings and the work to be completed based on the engineering report recommended by ALJ Watson in his Initial Decision. Semi-annual meetings should be held until such time as the Company completes the projects necessary to comply with the Commission’s Final Order. In this regard it should be noted that the Company welcomes the opportunity to meet with customer to discuss ongoing improvements. However, in the past, scheduled meetings had to be discontinued because of poor attendance. ID at 14. It would make more sense to have the meetings be held during a period when customers would be more interested in the meeting, that is, when the projects are in the process of being completed. Once the projects are finished, it

would be reasonable to expect that customer interest would decline and the meetings would be undesirable and unnecessary.

The ALJ's decision with regard to this issue is unclear and the Commission should modify its Order to maintain the connection between the work to be completed and the semi-annual customer meetings contemplated under the ID.

**B. Exception No. 2: The ALJ Erred in Establishing Arbitrary and Possibly Unrealistic Deadlines for the Completion of Projects to Improve the HVUS System**

In his Initial Decision, ALJ Watson ordered that HVUS obtain and file a licensed engineer's report regarding the water distribution system, HVUS's water source and the wastewater system with recommendations for improvements. ID at 39-41. Based on the decision, the engineer's study should include an implementation schedule for completion of any projects, from design to start of operations. *Id.* The report is to be submitted within 90 days from the date of the Commission's Final Order. Ordering Paragraphs 4 and 7. Although HVUS has no issue with the requirement to produce an engineer's report, there may be an issue with the deadlines recommended by ALJ Watson for completion of the projects.

HVUS urges the Commission to modify the deadlines for completion of the projects identified in the engineering report to align with the engineer's implementation schedule and to reject ALJ Watson's deadlines. In Ordering Paragraph 6, ALJ Watson establishes a deadline of one year for the completion of any recommended improvements in the engineer's report with regard to the water system, and specifically, the discolored water issues. HVUS respectfully submits that there is no basis on the record for what appears to be an arbitrary one-year deadline. There is a reference in the testimony of Mr. Fought to the effect that it may take 4-5 months to get a DEP permit approved. TR. 337. However, Mr. Fought's speculative comments are prefaced by an admission that the permitting process takes "a considerable period of time" (TR.

338), and that he is not aware of what other permitting or zoning requirements may be necessary to complete water improvement projects. TR. 336-337.

Based on prior experience, HVUS respectfully submits that the time period for the procurement of all the required permits and approvals may be significantly longer than estimated by the OCA's witness. It would be prudent for the Commission to tie the deadline to complete any contemplated projects to the recommendations and implementation schedules in the engineer's report, rather to establish an artificial deadline that may not be realistic or bear any relationship to real-world experience with the permitting process. The Judge correctly determined that the engineer's report should address the implementation timeline for the projects, but he erred in setting a one-year deadline based on scant and questionable record evidence. The Commission should modify the ID to condition the deadlines in the Final Order to the engineer's timeline recommendations to avoid arbitrary and unrealistic deadlines.

**C. Exception No. 3: The ALJ Erred in Finding Violations of the Public Utility Code in HVUS Wastewater Operations**

In his decision, ALJ Watson found that HVUS failed to provide adequate wastewater service in violation of Section 1501 of the Public Utility Code. ID at 38. Respondent objects to this finding and the remedies recommended in the ID with regard to the wastewater system because the record shows that there are not outstanding issues with the wastewater system. The Commission's Final Order should reflect the fact that HVUS has brought its wastewater system into compliance and implemented Complainant's recommendations for system improvements.

The Presiding Officer's own factual findings reveal that the wastewater system is in compliance. ALJ Watson found that the pumping stations and alarms are in working order (No. 40), new grinders were installed (No. 41), blowers, equalization tanks and the communitors are working properly (No. 42), and the tank painting and cleaning have been completed (No. 43).

These are the issues that the OCA raised and they all have been addressed prior to the decision in this case. ID at 11. In addition the record shows that customers did not have any complaints about their wastewater service. ID at 20. The record indicates clearly that, to the extent that issues have been raised about the wastewater system, the same have been addressed and purported violations no longer are a concern.

For the reasons set forth above, the Commission should reject the Presiding Officer's findings regarding the violations of the Public Utility Code on the wastewater side. Consequently, the Commission should modify the Initial Decision and reverse the remedies recommended by ALJ Watson with regard to the wastewater system.

### **III. CONCLUSION**

For the reasons set forth above, Respondent Hidden Valley Utility Services, LP respectfully requests that the Commission grant these exceptions and issue a Final Order that rejects the ALJ's September 9, 2016, in relevant part, and modifies the relevant recommendations consistent with these Exceptions.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

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

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