

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-00061390

And

Betty and Al Gratrix : C-0001
Vilma Hernandez : C-0002
William and Sharon Moesch : C-0003
Kenneth T. and Catherine Green : C-0004
Benjamin T. Ahern : C-0005
Stefano Dimaiolo : C-0006
Cynthia Turner : C-0007
Dale M. and Joanne Finnigan : C-0008
Oliver Brig : C-0009
Nicholas Barbella : C-0010
Donna O' Grady : C-0011
Thomas O' Grady : C-0012
Jack Reustle : C-0013
David T. Richardson : C-0014
Helen Schankereli : C-0015
Harry Rahner : C-0016
Carole Tacheo : C-0017
Rudolph & Lita Domino : C-0018
Mark and Rachel Meola : C-0019

Stephen Sutter : C-20065909
Rita Hopler : C-20065917
William G. Brown : C-20065947
Mary and Richard Hanel : C-20065948
Helen and Erwin Schankereli : C-20065982
Theresa Dimeo : C-20066050

And

Office of the Consumer Advocate :

v.

Clean Treatment Sewage Company :

DOCUMENT
FOLDER

FOURTH SCHEDULING AND BRIEFING ORDER

Pursuant to the provisions of 66 Pa. C. S. § 333(a) and 52 Pa. Code §§ 5.221-5.224, an Initial Prehearing Conference was held in the above captioned matter at 10:00 a.m. on Wednesday May 31, 2006, at the Public Utility Commission's (PUC or Commission) hearing room in Scranton, Pennsylvania. At the Prehearing Conference CTSC explained that their request for a rate increase related to the issue of who would bear the burden of purchasing, installing and maintaining grinder pumps on customer lines. It was determined during the telephone conference that CTSC would make a determination whether they wished to continue with the requested rate increase or withdraw the request. On June 21, 2006, CTSC voluntarily suspended the application of the rate request increase to February 15, 2007. On June 21, 2006, CTSC voluntarily suspended the application of the rate request increase to May 17, 2007. On October 13, 2006, CTSC voluntarily suspended the application of the rate request increase to August 14, 2007. On January 8, 2007, counsel for CTSC informed the undersigned ALJ that the company continues to explore ways to minimize or eliminate cost of grinder pumps to its customers. To pursue that effort, CTSC again requested permission to suspend the application of any rate increase to November 14, 2007, i.e., ninety days. In the interest of allowing time for CTSC to pursue options other than a rate increase, but recognizing that this matter has been pending since early 2006, I advised counsel for CTSC that I would allow a final ninety-day extension, but that this would be the final rescheduling. CTSC customers are entitled to closure of this issue, and of course, the Commission does not like to carry a Docket interminably.

In addition, CTSC must provide a status report to the parties (with a copy to the undersigned ALJ) stating with specificity what efforts are being made and with whom regarding the costs of grinder pumps.

The scheduled below has been adjusted to reflect the new suspension date.

THEREFORE,

IT IS ORDERED:

1. That CTSC shall file a status report by February 1, 2007, to the parties (with a copy to the undersigned ALJ) stating with specificity what efforts are being made and with whom regarding the costs of grinder pumps.

2. That each formal complainant is a party and must respond to discovery requests such as interrogatories, requests for documents, and be subject to depositions. A party is expected to attend scheduled hearings, sponsor and present witnesses, respond to motions and/or petitions, and file Main and Reply Briefs. Parties receive all documents and must serve all other parties with all documents filed in the case or submitted to the presiding administrative law judge (ALJ). Formal complainants who do not wish to participate as described above may withdraw their formal complaint in writing to the undersigned ALJ and work with the Office of the Consumer Advocate (OCA) toward resolution of the issue(s) in their formal complaint. This is your personal choice. Your voice may be heard using either mechanism, that is, by your direct involvement as a party, or through your involvement in the OCA's case; and

3. That pursuant to 66 Pa. C.S. § 332(f), 52 Pa. Code § 5.222 (e) and 52 Pa. Code § 5.245(a)(1) a party who fails to appear at a scheduled conference or hearing after being duly notified may be deemed to have waived their opportunity to participate; and

4. That all parties are directed to comply with stipulations entered into in previous cases to the extent that these stipulations preclude a party from using a prior settlement against another litigant in a subsequent proceeding; and

5. That all parties are directed to comply with the provisions of 52 Pa. Code § 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the party's case-in-chief or which substantially varies from the

party's case-in-chief, unless the evidence is introduced in support of a proposed settlement; and

6. That the following schedule dates reflect the November 14, 2007 suspension date:

April 30, 2007 - Written Direct Testimony due

May 14, 2007 - Written Rebuttal Testimony due

May 21, 2007 - Written Surrebuttal Testimony due

May 22, 2007 - Second Prehearing (Settlement) Conference (Telephonic)

May 29, 30, 2007 - Hearings for formal complainants followed by hearings for technical witnesses. Expedited transcript due June 13, 2007. Receipt of transcript signals the Close of the Record

July 11, 2007 - Main Briefs due

July 25, 2007 - Reply Briefs due

September 13, 2007 - Recommended Decision

7. No requests for a public input hearing have been made, therefore, none are scheduled; and

8. That all Briefs shall comply with the requirements of 52 Pa. Code §§ 5.501 and 5.502 and, in addition to the mandatory contents set forth in 52 Pa. Code § 5.501(a), all Main Briefs shall contain:

- a. A table of contents.
- b. A statement of the questions involved.
- c. Proposed findings of fact with references to transcript pages or exhibits where supporting evidence appears.
- d. A summary sentence, in the form of a proposed

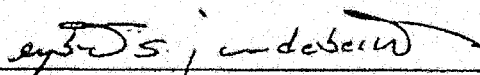
holding, at the end of each issue discussed.

- e. Proposed conclusions of law with references to supporting statute or regulation provisions or supporting case law citation.
- f. Proposed ordering paragraphs specifically identifying the relief sought.

Attached to my First Scheduling Order dated August 8, 2006, was a copy of the Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings and attachments thereto. The parties shall prepare and present their respective evidence so that the applicable and required information is included, and so that Briefs, Tables, and Exceptions (if any) conform to the requirements contained in the Special Instructions and attachments. Penalties for non-compliance include disregarding your brief.

An original and nine (9) copies of all Briefs shall be filed in accordance with 52 Pa. Code § 5.502(a), one (1) copy shall be served on the presiding ALJ, and three (3) copies shall be served on each party. Additionally, the presiding ALJ shall be served with a copy of each Brief on computer disk in Microsoft Word, or a compatible format. A Brief not filed and served on or before the date fixed will not be accepted for filing, except by special permission of the presiding administrative law judge.

Date: January 9, 2007


Ember S. Jandebear
Administrative Law Judge

COMMONWEALTH OF PENNSYLVANIA



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IRWINA POPOWSKY
Consumer Advocate

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January 31, 2007

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

ORIGINAL

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2007 JAN 31 PM 3:59
PA PUBLIC
UTILITY
COMMISSION
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission v. Clean Treatment Sewage Co., Docket No. R-00061390, *et al*; John & Vera Armona v. Clean Treatment Sewage Co., Docket No. C-20062904; Stephen Sutter v. Clean Treatment Sewage Co., Docket No. C-20065909; Rita Hopler v. Clean Treatment Sewage Co., Docket No. C-20065917; William G. Brown v. Clean Treatment Sewage Co., Docket No. C-20065947; Mary & Richard Hanel v. Clean Treatment Sewage Co., Docket No. C-20065948; Helen Schankereli v. Clean Treatment Sewage Co., Docket No. C-20065982; Theresa Dimeo v. Clean Treatment Sewage Co., Docket No. C-20066050

**DOCUMENT
FOLDER**

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer in Support of Praccipe for Withdrawal of Tariff Supplement in the above-captioned proceedings.

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

Sincerely,

Erin L. Gannon
Assistant Consumer Advocate
PA Attorney I.D. # 83487

Enclosures

cc: Honorable Ember Jandebour, ALJ (via Electronic Mail, Facsimile & First Class Mail)
All parties of record

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : R-00061390, *et al*
Clean Treatment Sewage Company :

RECEIVED
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PA PUC BUREAU
SECRETARY'S

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF PRAECIPE
FOR WITHDRAWAL OF TARIFF SUPPLEMENT

DOCUMENT
FOLDER

Pursuant to Section 5.61(a) of the Pennsylvania Public Utility Commission (PUC or Commission) regulations, 52 Pa. Code §5.61, the Office of Consumer Advocate (OCA) hereby files this Answer in support of the Praecipe for Withdrawal of Tariff Supplement filed by Clean Treatment Sewage Company (CTSC or Company) on January 23, 2007. In support of its Answer, the OCA submits as follows:

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I. INTRODUCTION

On March 17, 2006, CTSC filed Supplement No. 6 to Tariff Wastewater - Pa. P.U.C. No. 2 (Tariff Supplement 6) to become effective May 17, 2006, which proposed to make customers responsible for purchasing, installing and maintaining individual grinder pumps.¹ Initial estimates indicated that the cost of purchase and installation for each customer required to install a grinder pump would be approximately \$5 to \$6 thousand dollars. Approximately 25 customers filed Formal Complaints against the proposed rate increase.

¹ On March 10, 2006, CTSC filed Supplement No. 5 to Tariff Wastewater - Pa. P.U.C. No. 2 (Tariff Supplement 5), which proposed the same rate and tariff changes as Tariff Supplement 6 but was to be effective on one day's notice. The filing was docketed as R-00061372. Subsequently, Tariff Supplement 6 was filed with an appropriate notice period and docketed as R-00061390. On April 4, 2006, CTSC formally withdrew Tariff Supplement 5.

The OCA filed a Notice of Intervention on May 31, 2006. The same day, a Prehearing was held, during which the Company agreed to advise the presiding Administrative Law Judge (ALJ) within two weeks if it intended to withdraw its filing, if not, a procedural schedule would be set. On June 15 and 21, 2006 and on August 11, 2006, CTSC filed three additional tariff supplements extending the effective date to May 16, 2007. On September 30, 2006, CTSC held a customer meeting in its service territory. On October 12, 2006, the Company filed a fourth tariff supplement suspending the proposed effective date of the tariff to August 14, 2007.

Throughout this time, ALJ Jandebour periodically established procedural schedules for litigation to reflect the filing suspension dates. Most recently, on January 9, 2007, ALJ Jandebour issued a Fourth Scheduling and Briefing Order, establishing a final litigation schedule and requiring the Company to provide all parties with a status report "stating with specificity what efforts are being made and with whom regarding the costs of grinder pumps" by February 1, 2007.

On January 23, 2007, CTSC filed a Praecipe to Withdraw Tariff Supplement and a separate status report. The Company served both documents on the OCA and attorney James Fareri, however, the Certificates of Service indicate that the customer complainants who are not represented by Mr. Fareri were not served.

II. OCA COMMENTS AND RECOMMENDATIONS

In its Praecipe and status report, the Company indicates that it is pursuing regulatory approvals from Delaware Township and the Pennsylvania Department of Environmental Protection (DEP) that are necessary for CTSC to perform necessary upgrades to its system. Specifically, CTSC has submitted a summary sewage facilities planning module to

the Delaware Township Planning Commission, which is preliminary to additional approvals. The Company notes that completion of the upgrades are a precondition to the DEP's removal of a moratorium on construction of additional residences in the territory served by CTSC. The Company also notes that the approval process is lengthy. For these reasons, CTSC has determined not to pursue the rate increase and tariff changes contained in Tariff Supplement 6. CTSC indicates that it will reevaluate the terms and conditions of the tariff supplement if it decides to initiate a future proceeding regarding the cost or responsibility for grinder pumps.

The OCA supports the Company's request for PUC approval to withdraw Tariff Supplement 6. As indicated by the ALJ in her Fourth Scheduling and Briefing Order, "CTSC customers are entitled to closure of this issue, and of course, the Commission does not like to carry a Docket interminably." Order at 2. The OCA recognizes, however, that withdrawal of the filing does not resolve the underlying issues, which include the need for improvements to the wastewater system and the DEP moratorium on new connections. These issues will need to be addressed by the Company and, during that process, the OCA strongly encourages CTSC to improve the quality and frequency of communication with its customers.

As noted, in the current proceeding, CTSC did not serve each of the individual Formal Complainants with a copy of the Praecipe to Withdraw Tariff Supplement or the status report. These documents should have been served on all parties pursuant to 52 Pa. Code § 5.94(a)² and the Fourth Scheduling and Briefing Order. Order at 2, 3. The OCA submits,

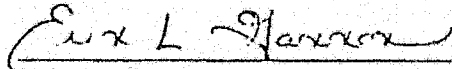
² The OCA notes that the Praecipe to Withdraw Tariff Supplement was filed pursuant to Section 5.61 of the Commission's regulations, entitled "Applications generally." 52 Pa. Code § 5.11. While the pleading is an application for permission, the OCA submits that the applicable regulation is Section 5.94, which provides for withdrawal of pleadings in a contested proceeding. 52 Pa. Code § 5.94. Section 5.94(a) provides that "a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission...".

however, that the documents should have been provided to all customer complainants – if not all customers even if the Company were not obligated to do so. Increased communication between CTSC and its customers will serve everyone's interests.

III. CONCLUSION

With the clarifications set forth above, the OCA recommends that the Commission grant the CTSC Praecipe for Withdrawal of Tariff Supplement. The Formal Complainants should receive assurance that the matter is closed and that they do not have to comply with the most recent litigation schedule, which establishes testimony and hearing dates in April and May 2007.

Respectfully Submitted,



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Dated: January 31, 2007

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CERTIFICATE OF SERVICE

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I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Answer in Support of Praeipie for Withdrawal of Tariff Supplement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 154 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 31st day of January, 2007.

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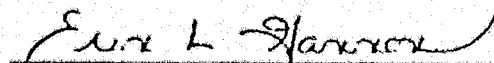
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