

PLEASE DOCKET

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-00061390
And		
John and Vera Armona	:	C-20065904
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
Betty and Al Gratrix	:	C-0001
Vilma Hernandez	:	C-0002
William and Sharon Moesch	:	C-0003
Kenneth T. and Catherine Green	:	C-0004
Benjamin Ahern	:	C-0005
Stefano Dimaiolo	:	C-0006
Cynthia Turner	:	C-0007
Dale and Joanne Finnigan	:	C-0008
Oliver Brig	:	C-0009
Nicholas Darbella	:	C-0010

And
Office of the Consumer Advocate
Statutory Intervener

v.

Clean Treatment Sewage Company

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FOLDER

DOCKETED
JAN 18 2007

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 case at 10:00 a.m. on Wednesday May 31, 2006, at the Public Utility Commission's (PUC or Commission) hearing room in Scranton, Pennsylvania. In attendance were James Melia, Esq. for Clean Treatment

Sewage Company (CTSC), Erin Gannon, Esq. on behalf of the Office of Consumer Advocate, James Ferrari, Esq. on behalf of Cynthia Turner, and the following formal complainants: William G. Brown, Theresa Dimeo, Stefano Dimaiolo, Oliver Brig, Kenneth T. and Catherine Green, Stephen Sutter, Vilma Hernandez, Benjamin T. Ahern, Rita Hopler, Erwin and Helen Schankereli, Dale M. and Joanne Finnigan and the undersigned administrative law judge (ALJ). The following formal complainants failed to appear Betty and Alfred Gratrix, William and Sharon Moesch, John Jr. and Vera Armona, Mary and Richard Hanel, and Nicholas Darbella.

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. CTSC has not withdrawn the rate increase request and therefore this matter must be scheduled.

THEREFORE,

IT IS ORDERED:

1. That the above docketed rate request and formal complaints are consolidated for purposes of hearing and disposition; and
2. That all formal complainants are required to fully participate as a party, which means they must respond to discovery requests such as interrogatories, requests for written documents, depositions, and must attend scheduled hearings, sponsor and present witnesses, 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 choose to withdraw their formal complaint in writing to the undersigned ALJ and work with the Office of the

Consumer Advocate (OCA) toward resolution of their issues. This is a personal choice. The deadline to withdraw and proceed with your issues through OCA is August 25, 2006. Any formal complainant who has not withdrawn in writing by that date will be treated as a party; 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) any party who fails to appear at a scheduled conference or hearing after being duly notified shall be deemed to have waived their opportunity to participate. Your complaint will be dismissed; 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 pre-submitted written testimony will not be used; and

7. That the following schedule is established.

- a. September 8, 2006 - Discovery finished
- b. September 14, 2006 - Hearing for Formal Complainants and OCA
- c. September 15, 2006 - Hearing (continuation) CTSC
- d. September 29, 2006 - Transcripts due
- e. October 20, 2006 Main Briefs due
- f. November 3, 2006 Reply Briefs due

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

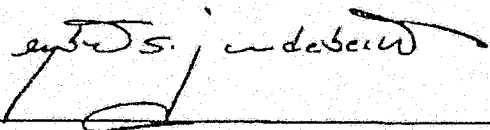
Briefs shall contain:

- 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 this Order, and incorporated herein by reference as though set forth in full, is a copy of the Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings and attachments thereto. All 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 could include disregarding of a participant's adjustment and/or position.

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: August 8, 2006



Ember S. Jandebaur
Administrative Law Judge

Special Instructions for Briefs and Exceptions
in Major General Rate Increase Proceedings

1. Each brief shall follow the general organization shown in the attached standardized format.
2. Each brief shall contain a table of contents with page references to a summary of argument and to each topic addressed in the argument.
3. Adjustments contained in each brief shall:
 - a. be based on a specific test year, to be selected before the close of the record,
 - b. be complete and self contained, include accurate reference to the appropriate record sources, be on a before income-tax basis (never on a net income or revenue requirement basis) and be on a consistent jurisdictional basis (if record support cannot be located, the adjustment may/will be rejected);
 - c. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references (once again, if the record support cannot be located for the necessary steps, the adjustment may/will be rejected);
 - d. include concomitant rate base, revenue, expense, depreciation expense, and tax (i.e., taxes other, State Income, and federal Income) adjustments set forth, together with the details of their calculation;
 - e. include within the brief calculations which are the basis for proposed adjustments, but which are incomplete in the record.
4. Tables showing all proposed rate base and income adjustments, organized as shown in the attached Table I and Table II, shall be submitted with each brief, which includes such adjustments.
 - a. The starting point of Table I "Income Summary" shall be the utility's final pro forma showing at present rates. The ALJ shall specify the starting point to be the most recent update admitted into evidence. The update, admission, and ALJ ruling shall be cited on the table.

- b. The effect of deferred or accrued taxes on the various tax adjustments presented in Table II "Summary of Adjustments" shall be indicated by a footnote.

5. The following schedules shall be submitted with each brief.

- a. A schedule showing the precise derivation of any adjustment to proposed cash working capital allowance.
 - i. The schedule describing an adjustment to a Utility's claim for Cash Working Capital shall separately list (1) adjustments originating from Table II "Summary of Adjustments" and (2) adjustments resulting from the proposed revenue increase. Any effect on deferred and/or accrued taxes shall be shown in a separate column or footnote.
 - ii. Net Revenue and Expense Lag Days for all Cash Working Capital Adjustments shall be calculated to at least one decimal place.
- b. A schedule showing all tax and jurisdictional allocation factors utilized (any deviations from standard or obvious factors should be explained on the schedule on in the brief)
- c. A schedule listing, for the party or parties filing the brief, each exhibit or other document admitted into the record, along with the date the document was identified and the date the document was admitted.

6. Rate structure proposals shall be reasonably specific and explicit, shall, as appropriate, refer accurately to record support and shall be summarized at the end of the "Rate Structure" topic heading of each brief.

7. Parties shall, as feasible and appropriate, discuss alternative rate design proposals for overall rate increases at and below the requested increase.

8. The Commission requires, in all electric utility rate proceedings, subsequent to its Order at Docket No. I-900005, entered December 1, 1993, that issues of demand-side management and integrated resource planning be addressed.

9. Regarding the filing of exceptions, the following instructions are provided:
- a. Each exception shall be separately identified and, as necessary, discussed.
 - b. Each exception shall include, before any discussion is provided, the following elements (see examples attached):
 - i. a reference to the relevant part of the Recommended Decision, at least to the relevant pages;
 - ii. a reference to related discussions in the excepting party's brief and, as appropriate, to other briefs; and
 - iii. a concise statement of the exception.
 - c. The exceptions shall follow the order of presentation provided in the table of contents to the Recommended Decision.
 - d. If a party takes exception concerning a topic not included within the Recommended Decision or the table of contents thereto, the appropriate exception shall be included at the end of the appropriate major topic heading (such as "Rate Base" or "Expenses").
 - e. If a party seeks to correct computations associated with the Recommended Decision, replacement computations, with source references to briefs or the record, shall be provided.

Standardized Brief Format for
General Rate Increase Proceedings

- I. Introduction
- II. Summary of Argument
- III. Rate Base
 - A. Fair Value
 - B. Plant in Service
 - C. Depreciation Reserve
 - D. Additions to Rate Base
 - E. Deductions from Rate Base
 - F. Conclusion
- IV. Revenues
- V. Expenses
- VI. Taxes
- VII. Rate of Return
- VIII. Miscellaneous Issue
- IX. Rate Structure
 - A. Cost of Service
 - B. Revenue Allocation
 - C. Tariff Structure
 - D. Summary and Alternatives
- X. Conclusion

Note: Appropriate modifications may be made. For instance, a party might add "Affiliated Interest Expenses" as a major topic heading or might brief only rate structure and not use other topic headings. A summary and alternatives should be provided under "Rate Structure" but the "Rate Base" and "Rate Structure" formats shown may be modified, as appropriate. Additional subheadings should be used, as appropriate.

TABLE I

INCOME SUMMARY
(S000)

	Pro Forma Present Rates \$	Recommended Adjustments \$	Adjusted Present Rates \$	Revenue Adjustment \$	Total Allowable Revenues \$
Operating Revenues	_____	_____	_____	_____	_____
Deductions:					
O&M Expenses					
Depreciation					
Taxes:					
State					
Federal					
Other					
Total Deductions	_____	_____	_____	_____	_____
Net Income Available for Return	_____	_____	_____	_____	_____
Rate Base					
Recommended Rate of Return					

TABLE II

SUMMARY OF ADJUSTMENTS
(\$000)

<u>Recommended</u>	<u>Exhibit</u>	<u>Rate</u>	<u>Revenue</u>	<u>Expense</u>	<u>Depreciation</u>	<u>Effect</u>	<u>State</u>	<u>Federal</u>
<u>Adjustments</u>	<u>Reference</u>	<u>Base</u>	<u>Effect</u>	<u>Effect</u>	<u>Effect</u>	<u>Upon</u>	<u>Tax</u>	<u>Tax</u>
		<u>Effect</u>	<u>Effect</u>	<u>Effect</u>	<u>Effect</u>	<u>Taxes -</u>	<u>Effect</u>	<u>Effect</u>
						<u>Other</u>		
		\$	\$	\$	\$	\$	\$	\$

Total Adjustments _____
 Company Rate Base _____
 Recommended Rate Base _____

Examples of Specific Exceptions

1. Staff excepts to the ALJ's rejection of the Staff (and OCA) rate case expense adjustment. See R.D., pp. 31-2; Staff brief, pp. 54-5; OCA brief, pp. 98-9. The \$128,000 adjustment, based on a filing once every four years and on disallowance of certain expenses, should be accepted.

2. The Company excepts to the adoption of the OCA revenue adjustment. See R.D., pp. 28-30; Company brief, pp. 56-9; Company reply brief, p. 12. This adjustment was based on unreasonable projections of industrial consumption (see OCA brief, p. 84). The Company projection, as modified at Company St. 14, pp. 11-12, should be used.

3. OCA excepts to the ALJ's failure to address, and accept, its weather adjustment to revenues. See OCA brief, pp. 21-4; OCA reply brief, p. 12.

4. Corrections to calculations underlying salary increases (R.D., p. 41), force reductions (R.D., pp. 48-9) and tax normalization (R.D., pp. 81-2) are offered and explained at Appendix B.

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

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

January 31, 2007

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

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PA PUBLIC
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~~ C-20065904; 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

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 Praecipe 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

**DOCUMENT
FOLDER**

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 :

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SECRETARY'S

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

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:

**DOCUMENT
FOLDER**

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.

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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 Praecepte 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.

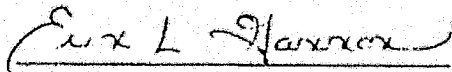
² The OCA notes that the Praecepte to Withdraw Tariff Supplement was filed pursuant to Section 5.61 of the Commission's regulations, entitled "Applications generally." 52 Pa. Code § 5.11. While the pleading is an application for permission, the OCA submits that the applicable regulation is Section 5.94, 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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Christine Maloni Hoover
Senior Assistant Consumer Advocate
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(717) 783-5048

Dated: January 31, 2007

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CERTIFICATE OF SERVICE

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Re: Pennsylvania Public Utility Commission
v.
Clean Treatment Sewage Co.
Docket No. R-00061390, *et al.*

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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 Praeceptum for Withdrawal of Tariff Supplement, 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 31st day of January, 2007.

SERVICE BY ELECTRONIC MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

James P. Melia, Esq.
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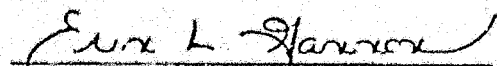
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