



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 11, 2017

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of the York Water Company for an Expedited Order Authorizing
Limited Waivers of Certain Tariff Provisions and Granting Accounting
Approval to Record Cost of Certain Customer-Owned Service Line
Replacements to the Company's Services Account
Docket No. P-2016-2577404

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
Prehearing Memorandum in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of
service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Phillip C. Kirchner
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313870

Enclosure
PCK/sea

cc: Certificate of Service
ALJ Elizabeth H. Barnes

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of the York Water Company for	:	
an Expedited Order Authorizing Limited	:	
Waivers of Certain Tariff Provisions and	:	
Granting Accounting Approval to Record	:	Docket No. P-2016-2577404
Cost of Certain Customer-Owned Service	:	
Line Replacements to the Company's	:	
Services Account	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated January 11, 2017, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Michael W. Hassell, Esquire
Devin T. Ryan, Esquire
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17 North Second Street
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Office of Consumer Advocate
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Harrisburg, PA 17101-1923



Phillip C. Kirchner
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313870

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

v.

YORK WATER COMPANY

:
:
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:
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:

P-2016-2577404

PREHEARING MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned proceeding.

The Bureau of Investigation and Enforcement Prosecutor in this proceeding will be Phillip C. Kirchner. Contact information is as follows:

By mail: Phillip C. Kirchner, Esq.
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

By e-mail: phikirchne@pa.gov

By telephone: (717) 783-6151

By fax: (717) 772-2677

I. INTRODUCTION

On November 28, 2016, the York Water Company (“York” or “Company”) filed a document entitled *Petition of the York Water Company for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Cost of Certain Customer-Owned Service Line Replacements to the Company’s Services Account* (“Petition”). Although York stopped installing lead service lines in the mid-1930’s, some lead pipe remains in service.¹ Service lines components are owned separately by York and by consumers. The former extending from the water main to a curb stop or valve and the latter extending from the curb stop or valve to the premises.² These components are maintained by their respective owners. Approximately 1,660 customers are served by lead Company-owned service lines; however, York does not know how many customer-owned service lines are lead pipe.³

After conducting mandated water testing in September of 2016, York Water determined that six out of 50 buildings tested had more than 15 parts per billion of lead.⁴ These water test samples were taken from customers’ taps and faucets.⁵ Following this determination, the Department of Environmental Protection has required York to optimize its corrosion control program, fulfill a series of public education requirements, increase its water testing, and replace at least seven percent of its total lead service lines per year. The total number of lead service lines amounts to approximately 1,660.

¹ Petition ¶ 4.

² Petition ¶ 5.

³ Petition ¶¶ 6-7.

⁴ Petition ¶ 3.

⁵ Petition Footnote 2.

York is proposing a commendably aggressive replacement plan that would achieve full removal of 1,660 Company-owned lead service lines in four years.⁶ In conjunction with this plan, York is now seeking Commission approval to replace the customer-owned portions of service lines made of lead at the Company's initial cost, which would be subsequently capitalized and recovered from its ratepayers. These lines would then go back to the ownership of the customers. This proposal to replace customer-owned service lines at York's expense is in contravention of York's tariff, which requires that service lines owned by customers be installed at their expense.⁷ Accordingly, York now seeks a waiver of such provisions by and through this Petition.

This matter was suspended following an Answer by I&E that was filed on December 19, 2016. A Prehearing Conference is now scheduled for January 12, 2016, with Administrative Law Judge Elizabeth Barnes presiding.

II. ISSUES

The following list represents I&E's preliminary determination of the potential issues in this case. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise. The issues are as follows:

⁶

Petition ¶ 6.

⁷

Rule 3.4, Supp. No. 68 to Water Pa.P.U.C. No. 14, Fourth Revised, Pg. 10.

- Subsidization of Costs
- Ownership of Service Lines
- Cost Recovery Mechanisms
- Public Safety
- Limitations on Tariff Exceptions

Again, this determination has been made without the benefit of complete discovery or analysis of the positions of other parties to this proceeding, I&E respectfully reserves the right to address issues raised in direct, rebuttal, or surrebuttal testimony or any other issues that become apparent at a later point in time or to remove issues from this list as fitting.

III. WITNESSES

It is currently expected that I&E may call the following expert witness without being limited thereto:

- Sunil Patel, *Fixed Utility Valuation Engineer*
- Rachel Maurer, *Fixed Utility Financial Analyst*

The I&E witnesses may be contacted through the information listed above for undersigned prosecutor. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding.

Accordingly, I&E reserves the right to call additional witnesses or withdraw the names of the witnesses listed above.

IV. EVIDENCE

I&E expects to present any written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

V. SCHEDULE

I&E will work with the parties to develop a mutually agreeable schedule in this proceeding.

VI. SERVICE OF DOCUMENTS AND DISCOVERY MODIFICATIONS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs, I&E will accept electronic delivery of documents with a follow-up hard copy provided by regular first class mail.

VII. SETTLEMENT

I&E is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "P. Kirchner", is written over a horizontal line.

Phillip C. Kirchner, Esq.
Prosecutor
PA Attorney I.D. # 313870

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265

Dated: January 11, 2017