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File #: 170237

September 6, 2017

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Emergency Interconnect Agreement Between The York Water Company
and Dallastown - Yoe Water Authority
Docket No. U-2017-2610587**

**Red Lion Municipal Authority v. The York Water Company
Docket No. C-2017-2616962**

Dear Secretary Chiavetta:

Enclosed is the Prehearing Memorandum of The York Water Company for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DR', written over a horizontal line.

Devin Ryan

DTR/jl
Enclosures

cc: Honorable Joel H. Cheskis
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

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PO Box 3265
Harrisburg, PA 17105-3265

Date: September 6, 2017



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of The York Water Company :
for Approval of Emergency Interconnect :
Agreement Between The York Water : Docket No. U-2017-2610587
Company and Dallastown-Yoe Water :
Authority :

Red Lion Municipal Authority :
 :
v. : Docket No. C-2017-2616962
 :
The York Water Company :

**PREHEARING CONFERENCE MEMORANDUM OF
THE YORK WATER COMPANY**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

Pursuant to 52 Pa. Code § 5.224(c) and the Prehearing Conference Order dated August 23, 2017, The York Water Company (“York Water” or the “Company”) hereby submit this Prehearing Conference Memorandum in the above-captioned matters, and states as follows:

I. BACKGROUND

On June 16, 2017, pursuant to 66 Pa. C.S. § 507, York Water filed a proposed Emergency Interconnect Agreement (“Agreement”) entered into by and between the Company and DYWA. The proceeding was assigned Docket No. U-2017-2610587.

On July 5, 2017, the Complainant filed a letter at Docket No. U-2017-2610587 advising that it is opposed to the Agreement for various reasons and would be filing a Formal Complaint with the Commission to that effect.

By letter dated July 17, 2017, the Complainant filed a Formal Complaint with the Commission against the Company and Dallastown-Yoe Water Authority (“DYWA”) at Docket No. C-2017-2616962.

Subsequently, the Complainant advised the other parties that it intended to amend its Formal Complaint.

On August 11, 2017, an informal prehearing conference was held before the ALJ to discuss the amendment of the Formal Complaint. As a result of that prehearing conference, the Complainant was given until August 18, 2017, to file its Amended Complaint, after which York Water would have until September 7, 2017, to file any responsive pleadings.

On August 14, 2017, the Commission issued a Telephonic Prehearing Conference Notice scheduling a prehearing conference for September 13, 2017, before Administrative Law Judge Joel H. Cheskis (the “ALJ”).

On August 15, 2017, the Complainant filed a Petition to Intervene at Docket No. U-2017-2610587.

On August 18, 2017, the Complainant filed its Amended Complaint at Docket No. C-2017-2616962, which replaces the original Formal Complaint. The Amended Complaint did not name DYWA as a respondent.

On August 23, 2017, a Prehearing Conference Order was issued by the ALJ at Docket Nos. C-2017-2616962 and U-2017-2610587, setting forth certain rules and requirements for the prehearing conference and the proceeding generally. The Prehearing Conference Order also directed the parties to submit prehearing memoranda on or before September 6, 2017.

York Water hereby files this Prehearing Memorandum pursuant to the Prehearing Conference Order.

II. SERVICE OF DOCUMENTS

York Water requests that Michael W. Hassell, Esquire, and Devin T. Ryan, Esquire, be listed on the service list on behalf of York Water. Their contact information is provided below:

Michael W. Hassell (ID # 34851)
Devin T. Ryan (ID # 316602)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
Email: mhassell@postschell.com
dryan@postschell.com

The Company agrees to receive service of documents electronically in this proceeding.

III. DISCOVERY

In an effort to expedite the current proceeding, York Water would support the discovery response modifications set forth below, which have been used in previous Commission proceedings:

- (1) Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories, provided that, if receipt of the interrogatories occurs after 12:00 noon on either a Friday or the day preceding a holiday, service shall be deemed to have occurred on the next business day;
- (2) Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories, provided that, if receipt of the interrogatories occurs after 12:00 noon on either a Friday or the day preceding a holiday, service shall be deemed to have occurred on the next business day. Unresolved objections to written interrogatories shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories, as defined above;
- (3) Motions to compel answers to written interrogatories that have been objected to in writing and answers to such motions to compel shall be filed and served within three (3) calendar days of service of the written objections or motions to compel, provided

that, if receipt of the objections or motion to compel occurs after 12:00 noon on either a Friday or the day preceding a holiday, service of these documents shall be deemed to have occurred on the next business day.

(4) Rulings over motions shall be issued, if possible, within seven (7) calendar days of filing of the motion, consistent with the above-mentioned rule changes;

(5) Responses or objections to requests for document production, entry for inspection, or other purposes shall be served in hand within ten (10) calendar days of service of the request, provided that, if receipt of the request occurs after 12:00 noon on either a Friday or the day preceding a holiday, service shall be deemed to have occurred on the next business day; and

(6) Requests for admission shall be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service of the requests, provided that, if receipt of the request occurs after 12:00 noon on either a Friday or the day preceding a holiday, service shall be deemed to have occurred on the next business day.

York Water proposes that discovery conclude prior to the date of the evidentiary hearing.

IV. PROPOSED SCHEDULE

York Water continues to be in contact with the Complainant to develop a mutually agreeable litigation schedule for this proceeding. If the parties are able to agree on a schedule before the prehearing conference, the Company will inform the ALJ of the proposed schedule.

V. WITNESSES

Witness	Subject Matter of Testimony
JT Hand Chief Operating Officer The York Water Company 130 E. Market Street York, PA 17401 Phone: 717-718-7554	Overview of emergency interconnect and the proposed emergency interconnect agreement; negotiations with DYWA; benefits of emergency interconnect and emergency interconnect agreement.
Mark Snyder Vice President – Engineering The York Water Company 130 E. Market Street York, PA 17401 Phone: 717-718-2977	Engineering aspects of the proposed emergency interconnect; hydraulic study performed by York Water.
Connie L. Stokes Manager Borough of Dallastown 175 E. Broad Street Dallastown, PA 17313 Phone: 717-244-6626	Negotiations with York Water; benefits of emergency interconnect and emergency interconnect agreement.

York Water reserves the right to call additional witnesses to testify on its behalf based on other issues that may arise during the course of this proceeding.

VI. ISSUES

York Water believes the presently identified issues are: (1) whether the proposed Agreement between York Water and DYWA is reasonable and in the public interest; (2) whether York Water violated Rule 4.3 of its tariff in negotiating the proposed Agreement; and (3) whether the proposed Agreement would result in a violation by York Water of 66 Pa. C.S.

§ 1501. Further development of issues may await the submission of direct testimony by the Complainant.

The Company's witnesses and evidence will demonstrate that the proposed Agreement is reasonable and in the public interest and, therefore, should be approved by the Commission pursuant to its authority under 66 Pa. C.S. § 507. Moreover, York Water will demonstrate that it has not violated Rule 4.3 of its tariff, nor would the Company violate 66 Pa. C.S. § 1501 if the proposed Agreement were approved and York Water's emergency interconnection with DYWA's system were constructed.

VII. EVIDENCE

York Water plans to submit written direct testimony of the three witnesses outlined in Section V, *supra*, and will present other evidence as necessary to substantiate its claims and arguments.

VIII. CONSOLIDATION

York Water does not oppose the consolidation of the above-captioned proceedings at Docket Nos. U-2017-2610587 and C-2017-2616962.

IX. INTERVENTION

York Water does not oppose the intervention of the Complainant at Docket No. U-2017-2610587.

X. SETTLEMENT

To date, no settlement discussions have been held. However, York Water is willing to work with the Complainant in an effort to fully resolve the matter through settlement, to reach a partial settlement, or to reduce the facts at issue in this case through stipulation.

Respectfully submitted,



Michael W. Hassell (ID # 34851)

Devin T. Ryan (ID # 316602)

Post & Schell, P.C.

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Of Counsel:

Post & Schell, P.C.

Date: September 6, 2017

Attorneys for The York Water Company