

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Tanya J. McCloskey, Acting Consumer Advocate

v.

Docket No. C-2014-2447138

Hidden Valley Utility Services, L.P. -- Water

and

Tanya J. McCloskey, Acting Consumer Advocate

v.

Docket No. C-2014-2447169

Hidden Valley Utility Services, L.P. -- Wastewater

**PETITION FOR CLARIFICATION,
RECONSIDERATION AND AMENDEMENT**

I. INTRODUCTION

Pursuant to Section 703(g) of the Public Utility Code, 66 PA. C.S. § 703(g) and Section 5.572 of the Commission’s Formal Proceeding regulations, 52 Pa. Code § 5.572, Respondent Hidden Valley Utility Services, L.P. (“HVUS”) hereby submits this Petition for Clarification, Reconsideration and Amendment of the Opinion and Order issued by the Commission on January 18, 2018 in the above-captioned matter (“Petition”). In support of its Petition, HVUS respectfully submits the following.

II. BACKGROUND

On January 18, 2018, the Commission issued an Opinion and Order in this case finding that HVUS had failed to provide safe, adequate and reasonable service in violation of Section 1501 of the Public Utility Code and requiring HVUS to undertake a number of measures to address water, wastewater and customer service issues that are described in detail in the Order.

The Order contains twenty-eight (28) ordering paragraphs¹ which specify, among other things, what the utility is expected to do to comply with the Commission's directives.

Since Administrative Law Judge Jeffrey Watson issued his Initial Decision (ID) on September 9, 2016, HVUS has endeavored to address the issues identified in the ID to the extent possible. The Company will report in due time regarding projects that have been completed and concerns that have addressed in order to satisfy the ALJ's and the Commission's requirements. There are items that have not been fully implemented by HVUS for a number of reasons, not the least of which is that the Company sought a final resolution of the ID before starting projects that were particular difficult, time consuming or expensive. The January 18th Order provides clarity and certainty regarding a number of steps HVUS needs to take to be in compliance with all Commission requirements. However, after careful and thoughtful review of the Order, there are items that HVUS submits require greater clarity, and perhaps reconsideration by the Commission and amendment of the Order. Those items are discussed in more detail below.

III. PETITION FOR CLARIFICATION AND RECONSIDERATION

The Commission has the authority to reconsider, modify and even rescind one its prior orders pursuant to Section 703(g) of the Public Utility Code. 66 Pa. C.S. § 703(g). See also, 52 Pa. Code § 5.572. The Commission has the discretion to amend a prior order in whole or in part. *Duick v. Pennsylvania Gas & Water Company*, 56 Pa. P.U.C. 553 (1982). Respondent HVUS respectfully requests that the Commission clarify, reconsider, amend or rescind portions of its January 18, 2018 Order as set forth below.

A. Ordering Paragraph No. 8

Ordering Paragraph 8 of the January 18, 2018 Order reads as follows:

¹ Although there are 27 ordering paragraphs listed, there are two (2) ordering paragraphs numbered 22. Thus, there are 28 ordering paragraphs in total.

8. That Hidden Valley Utility Services, L.P., shall comply with all recommendations from the engineer in order to correct any identified deficiencies including a remedy to eliminate the rust or brown-colored water provided to customers in order to ensure that customers shall receive adequate service from the improved water facilities, and to reassess the need, size and cost of treatment plant to permanently solve the problems caused by iron and manganese, within one (1) year from the date of the engineer's report.

Order at 62.

Ordering Paragraph No. 8 references an engineering report that HVUS is obligated to procure and file with the Commission pursuant to Ordering Paragraph No. 6 in the Order. The report is to be filed with the Commission within 90 days of the issue date of the Order.

However, at the end of Ordering Paragraph No. 8, the Commission includes a one-year deadline tied to the date of the engineer's report. The Company's reading of this paragraph is that HVUS will implement the recommendations contained in the engineer's report within one year of the date of the report. In addition, it is the Company's understanding that HVUS has been directed to "reassess the need, size and cost of treatment plant" within one year from the date of the engineer's report.

An alternative reading of Ordering Paragraph No. 8 compels HVUS to request clarification of the requirements of this paragraph. Ordering Paragraph No. 8 could be read to mean that HVUS is required to comply with the recommendations contained in the engineer's report based on the timetables and deadlines for completion of certain projects in the report itself. This alternative reading would limit the one-year deadline at the end of the paragraph to "reassessing the need, size and cost of the treatment plant." It is not entirely clear to which part of Ordering Paragraph No. 8 the one-year deadline applies.

Furthermore, the Company is confident that it has already taken many of the steps that would be outlined in any engineering report evaluating the water or wastewater system. For those measures that HVUS has undertaken already, the one-year deadline would be moot. For

these reasons, HVUS respectfully submits that clarification and possible amendment may be needed with regard to Ordering Paragraph No. 8.

B. Ordering Paragraph No. 15

Ordering Paragraph No. 15 provides that:

15. That Hidden Valley Utility Services, L.P., shall pay all electric and telephone bills in a timely manner to ensure adequate and reasonable service to its customers. Additionally, Hidden Valley Utility Services, L.P., shall execute appropriate authorization forms permitting its electric provider, Pennsylvania Electric Company, to continue providing monthly billing and payment information for all Hidden Valley Utility Services, L.P., accounts to the Office of Consumer Advocate until the requirements under Ordering Paragraph No. 27 are satisfied. Hidden Valley Utility Services, L.P., shall also provide an annual update of telephone service numbers which includes copies of bills for telephone service so that customers are able to reliably contact Hidden Valley Utility Services, L.P.

Order at 64.

In summary, the provisions of Ordering Paragraph No. 15 require HVUS to provide authorization to Penelec to submit billing information for continued monitoring. HVUS respectfully submits that this issue should not be the subject of the January 18, 2018 Order because it is moot. This issue was resolved in another proceeding and imposing a continuing obligation on HVUS to continue monitoring over an extended period of time is unreasonable.

By way of background, the Commission should be aware that the Office of Consumer Advocate (OCA) filed an emergency petition on June 4, 2014 at Docket No. P-2014-2424858. The allegations in the emergency petition related to late-paid bills for electric service that, according to the OCA, jeopardized HVUS ability to provided adequate service. The parties settled the matter through an agreement that was filed on or about September 26, 2014. The Settlement Agreement included provisions that mirror Ordering Paragraph No. 15 in that it required continued monitoring by the OCA and an authorization to Penelec to provide billing

information. In August of 2016, HVUS again provided authorization to Penelec to provide another year of billing information to the OCA. Based on the Settlement Agreement and the extended monitoring the Company agreed to, the OCA opted for ending the case by filing a Petition for Leave to Withdraw the emergency petition. The Petition was granted and the case was closed by Order of ALJ Katrina Dunderdale on March 1, 2017.

As far as HVUS is concerned, the issue of payments of electric bills has been litigated and settled. The OCA withdrew its case after HVUS agreed to two years of bill monitoring. It is utterly unfair and perhaps violative of the Company's due process rights to re-impose a penalty for alleged violations that were resolved in a separate matter. HVUS respectfully requests that the Commission amend its Order to delete Ordering Paragraph No. 15. The issue that this paragraph seeks to address has been dealt with and resolved in a matter that was closed in March of 2017. No further monitoring of payments to Penelec is necessary or appropriate under the circumstances.

C. Ordering Paragraph No. 20

Ordering Paragraph No. 20 states, in part, the following:

20. That on or before March 31, 2019, or within sixty (60) days after receipt of a written report of all completed rehabilitative measures from Hidden Valley Utility Services, L.P. and its engineer, the Office of Consumer Advocate shall investigate the quality of the water as well as of the water and wastewater services being received by Hidden Valley Utility Services, L.P.'s customers or request that this matter be referred to the Bureau of Technical Utility Services.

Order at 66.

HVUS requests reconsideration of the provisions of Ordering Paragraph 20. More specifically, HVUS requests that the Commission reconsider the requirement that the OCA investigate the quality of water or wastewater services following the issuance of HVUS's final report on rehabilitative measures. The Company objects to a party in a litigated proceeding

begin given the authority to investigate an opposing party in a contested proceeding. It is no secret that the OCA has made up its mind about whether HVUS is providing adequate service. They have made it clear throughout the course of this case that they believe the Company should be punished for what the OCA believes is inadequate service. It is highly irregular and inappropriate for a party in a litigated proceeding with a demonstrated bias against the utility to be given the authority to investigate the very party they have vilified for years. For these reasons, HVUS requests that, if the Commission deems it necessary to order an investigation after the March 2019 deadline, that the investigation not be conducted by a party that has prejudged the matter from the beginning. It is more appropriate to either do away with the additional investigation requirement or to task the Bureau of Technical Utility Services (TUS) with the investigation. TUS has not been directly involved in this proceeding or other proceedings against HVUS and has not demonstrated any sort of animus against the Company in the past. TUS would be a more appropriate entity to conduct an independent and fair investigation, if the Commission deems it necessary.

IV. CONCLUSION

Based on the foregoing, HVUS respectfully requests that the Commission clarify and reconsider Ordering Paragraphs Nos. 8, 15 and 20 and that it amend its January 18, 2018 Order accordingly.

Respectfully submitted,

Edward Lanza

Edward G. Lanza, Esq.
THE LANZA FIRM, LLC
P.O. Box 61336
Harrisburg, PA 17106-1336
(717) 576-2696
(717) 798-9897 [fax]
ed@lanzafirm.com

Date: February 2, 2018

Counsel for Respondent
Hidden Valley Utilities, L.P.

CERTIFICATE OF SERVICE

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

Via electronic and/or regular mail:

Christine Maloni Hoover
Erin Gannon
Lauren M. Burge
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
choover@paoca.org
egannon@paoca.org
lburge@paoca.org

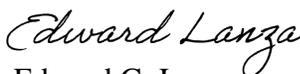
Hon. Jeffrey A. Watson, ALJ
PA Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222
jeffwatson@pa.gov

Paige Macdonald-Matthes, Esq.
Obermayer Rebmann Maxwell & Hippel
200 Locust Street, Suite 400
Harrisburg, PA 17101-1508
PMM@Obermayer.com

Robert J. Kollar, CPA
1374 Langport Drive
Pittsburgh, PA 15241
bob@kkacpas.com

James Kettler, President
Hidden Valley Utility Services, L.P.
811 Russell Avenue, Suite F
Gaithersburg, MD 20879
kettlerjmk@aol.com

Dated: February 2, 2018


Edward G. Lanza
Counsel for Hidden Valley Utility Services