

February 28, 2018

**Via Electronic Filing**

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

**Re: Docket Nos. U-2017-2610587; C-2017-2616962  
Red Lion Municipal Authority v. The York Water Company and  
Dallastown-Yoe Water Authority  
Main Brief of Red Lion Municipal Authority**

Dear Secretary Chiavetta:

Attached for filing is the Main Brief of Red Lion Municipal Authority in the above referenced proceeding.

A copy of the attached Main Brief has been forwarded to the parties in the manner indicated on the attached Certificate of Service.

If there are any questions, please feel free to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm  
Attachment

cc: The Hon. Joel Cheskis, PA Public Utility Commission [w/enc.]  
Andrew J. Miller, Esquire, MPL Law Firm, LLP [w/enc.]  
Peter T. Ruth, Esquire, Stock and Leader [w/enc.]  
Michael W. Hassell, Post & Schell, P.C. [w/enc.]

**Re: Docket Nos. U-2017-2610587; C-2017-2616962  
Red Lion Municipal Authority v. The York Water Company and  
Dallastown-Yoe Water Authority  
Main Brief of Red Lion Municipal Authority**

**CERTIFICATE OF SERVICE**

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

**Via Electronic and First Class Mail**

Michael W. Hassell, Esquire  
Devin Ryan, Esquire  
Post & Schell, PC  
17 N. Second Street  
12th Floor  
Harrisburg, PA 17101  
[mhassell@postschell.com](mailto:mhassell@postschell.com)  
[dryan@postschell.com](mailto:dryan@postschell.com)

Peter T. Ruth, Esquire  
Stock and Leader  
221 W. Philadelphia Street  
Suite E-600  
York, PA 17401  
[pruth@stockandleader.com](mailto:pruth@stockandleader.com)

Dated: February 28, 2018



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Margaret A. Morris, Esq.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF THE YORK WATER	:	
COMPANY FOR APPROVAL OF AN	:	U-2017-2610587
EMERGENCY INTERCONNECT	:	
AGREEMENT BETWEEN THE YORK	:	
WATER COMPANY AND DALLASTOWN-	:	
YOE WATER COMPANY	:	
	:	
	:	
RED LION MUNICIPAL AUTHORITY	:	
	:	C-2017-2616962
v.	:	
	:	
THE YORK WATER COMPANY AND	:	
DALLASTOWN-YOE WATER AUTHORITY	:	

**MAIN BRIEF OF  
RED LION MUNICIPAL AUTHORITY**

Margaret A. Morris, Esquire  
Attorney I.D. No. 75048  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Stephanie Kogut, Esquire  
Andrew J. Miller, Esquire  
MPL Law Firm, LLP  
137 East Philadelphia Street  
York, PA 17401  
(717) 845-1524 tel.  
[skogut@mpl-law.com](mailto:skogut@mpl-law.com)  
[amiller@mpl-law.com](mailto:amiller@mpl-law.com)

Date: February 28, 2018

Counsel for Red Lion Municipal Authority

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## I. STATEMENT OF CASE

### Introduction

This matter comes before the Pennsylvania Public Utility Commission (“Commission”) as an Application by the York Water Company (“York Water”) seeking approval of a proposed Emergency Interconnect Agreement between York Water and the Dallastown-Yoe Water Authority (“Dallastown”). The Red Lion Municipal Authority (“Red Lion”) contends the proposed Emergency Interconnect Agreement violates York Water’s Tariff, raises unresolved concerns regarding blending two differently treated water supplies and is an ordinary bulk water sales agreement rather than a true emergency interconnect agreement. For the reasons set forth below, the Commission should deny the Application of York Water.

### History of Proceedings

On June 16, 2017, York Water filed an Application with the Commission seeking approval of the proposed Emergency Interconnect Agreement between York Water and Dallastown as required by Section 507<sup>1</sup> of the Pennsylvania Public Utility Code (Code). The Application was docketed at U-2017-2610587. On July 5, 2017, Red Lion notified the Commission, by letter, of its opposition to the proposed Emergency Interconnect Agreement.

On July 17, 2017, Red Lion filed a Formal Complaint specifically alleging that the proposed Emergency Interconnect Agreement violates Section 4.3 of York Water’s Commission-approved tariff, is in fact an ordinary water purchase agreement and raises public health and safety concerns. The Formal Complaint was docketed at C-2017-2616962.

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<sup>1</sup> 66 Pa. C.S. § 507.

On August 14, 2017, the Commission issued a notice establishing an initial call-in telephonic prehearing conference on September 13, 2017 for both dockets. Administrative Law Judge Joel Cheskis was assigned as the presiding officer. On August 15, 2017, Red Lion filed a Petition to Intervene in Docket No. U-2027-2610587. On August 18, 2017, Red Lion filed an Amended Formal Complaint. On August 23, 2017, a Prehearing Conference Order was issued. Pursuant to that Order, York Water, Dallastown and Red Lion each filed a prehearing memorandum.

On September 7, 2017, York Water filed an Answer and New Matter, as well as Preliminary Objections, in response to the Amended Formal Complaint. The initial prehearing conference convened on September 13, 2017, as scheduled. The dockets were consolidated by the agreement of the parties for the sake of judicial economy. A Scheduling Order, dated September 14, 2017, was issued memorializing the agreed upon procedural schedule and issues. On September 14, 2017, the hearing notice was issued advising that an in-person hearing was scheduled for January 23, 2018. Red Lion filed its Response to the Preliminary Objections on September 29, 2017. By Order, dated October 11, 2017, York Water's Preliminary Objections were denied.

The hearing took place on January 23, 2018. A transcript of 116 pages was generated. On January 25, 2018, the Briefing Order was issued.

## **II. SUMMARY OF ARGUMENT**

Red Lion contends that the application seeking approval of the proposed Emergency Interconnect Agreement should be denied for the following reasons: (1) Dallastown did not pursue, let alone exhaust, all measures to obtain an adequate and safe supply of drinking water before contacting York Water as required by York Water's Tariff; (2) the record evidence confirms that York Water and Dallastown have not resolved the issue of blending two differently treated water supplies; and (3) the "take or pay" nature evidences that the proposed Emergency Interconnect Agreement does not serve an emergency interconnect purpose but is a bulk water agreement in violation of the Water Sales Agreement between Red Lion and Dallastown.

## **III. LEGAL BURDEN**

Section 501(a) of the Code, 66 Pa.C.S. § 501, authorizes and obligates the Commission to execute and enforce the provisions of the Code. A contract between a public utility and a municipal corporation to furnish service not at the regularly filed and published tariff rate is not valid unless filed with the Commission at least 30 days prior to its effective date. 66 Pa.C.S. § 507. The proposed Emergency Interconnect Agreement between York Water, a public utility, and Dallastown, a municipal corporation, is subject to Section 507. The Code, which also provides that the Commission may, prior to the effective date of the proposed Emergency Interconnect Agreement, institute proceedings to determine the reasonableness, legality or any other matter affecting the validity of that agreement. 66 Pa.C.S. § 507.

Section 508 of the Code<sup>2</sup> grants the Commission the power and authority to vary, reform or revise upon a fair, reasonable, and equitable basis, any obligations, terms or conditions of the proposed Emergency Interconnect Agreement between York Water and Dallastown. Section 508 authorizes the Commission to find that any obligations, terms or conditions of the proposed Emergency Interconnect Agreement are “unjust, unreasonable, inequitable, or otherwise contrary or adverse to the public interest and the general well-being of the Commonwealth” and to “determine and prescribe by findings and order, the just, reasonable, and equitable obligations, terms, and conditions” of the proposed Emergency Interconnect Agreement. 66 Pa.C.S. § 508.

York Water has the burden of proof to show that the obligations, terms or conditions of the proposed Emergency Interconnect Agreement are just, reasonable and approval is in the public interest consistent with Section 507 of the Code and Section 4.3 of its Tariff.

Based on the record evidence, Red Lion contends that York Water has not made a *prima facie* case, let alone met its burden of proof, since Dallastown admits that it did not pursue any alternative to obtaining an adequate high-quality source of supply. Therefore, a review of the obligations, terms and conditions of the proposed Emergency Interconnect Agreement need not be examined. *Assuming arguendo*, that York Water can overcome the fact that Dallastown did not explore any alternative, the record evidence reflects that the parties to the proposed Emergency Interconnect Agreement have not resolved which entity is responsible for the blending of the two differently treated water supplies. Finally, the “take or pay” element of the

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<sup>2 2</sup> 66 Pa. C.S. § 508.

proposed Emergency Interconnect Agreement supports a finding that it is simply a bulk water agreement in disguise which violates the terms of the Water Sales Agreement between Red Lion and Dallastown.

#### **IV. RECORD EVIDENCE**

##### York Water's Evidence

Three witnesses testified on behalf of York Water. Joseph Hand, CEO of York Water, testified regarding the drafting and negotiation of the proposed Emergency Interconnect Agreement. Mark Snyder, Vice President of Engineering at York Water, testified regarding the hydraulic study performed by York Water. Connie Stokes, Manager for Dallastown Borough, presented testimony that Dallastown entered into the proposed Emergency Interconnect Agreement due to Red Lion's inability to meet its contractual obligations to supply water as well as particulars regarding the Dallastown system. York Water introduced 19 exhibits, all of which were admitted into the record.

##### York Water Exhibit Number – Description

1. JTH-1: Emergency Interconnect Agreement dated May 10, 2017;
2. JTH-2: Estimated Revenues Worksheet;
3. JTH-3: Estimated Annual Expense Worksheet;
4. JTH-4: Estimated Cost of Main Extension;
5. JTH-5: Estimated Cost of Booster Station;
6. JTH-6: Page 28 of DEP's 2006 Public Water Supply Manual;
7. JTH-7: Powerpoint;
8. JTH-1R: Spreadsheet of annual revenues from interconnect;
9. JTH-2R: Estimated costs incurred for 1,000 gpd flow;
10. JTH-3R: Interrogatory RED LION-I-6;
11. JTH-4R: Interrogatory RED LION-I-18;
12. JTH-5R: Interrogatory RED LION-I-14;
13. JTH-6R: Interrogatory RED LION-I-13;
14. JTH-7R: Interrogatory Red Lion -I-17;

15. MS-1R: Interrogatory Red Lion -I-15;
16. MS-2R: Interrogatory Red Lion -II-4;
17. MS-3R: Interrogatory Red Lion -I-16;
18. CLS-1: Water tank levels spreadsheet
19. CLS-2: Water Sales Agreement between Red Lion and Dallastown.

### Red Lion's Evidence

One witness testified on behalf of Red Lion. Keith Kahwajy, superintendent for Red Lion, testified regarding Red Lion's water supply to Dallastown; communication between Red Lion and Dallastown; and Red Lion's records regarding Dallastown's system, specifically refuting that leaks on Red Lion's system prevented Red Lion from meeting its contractual obligation to supply water to Dallastown. Red Lion introduced three exhibits, all of which were admitted into the record.

### Red Lion Exhibit Number – Description

1. KK-1: Minutes from July 13, 2011 Joint Board Meeting;
2. KK 1-R: Hand-written call-log for Treatment Plant;
3. Red Lion Cross Ex. 1: 2015 draft Agreement between Dallastown and York Water.

## V. ARGUMENT

### Violation of York Water Tariff 4.3.

Section 4.3 of York Water's Tariff<sup>3</sup> clearly states that York Water may only provide water services to an authority **when the authority has "exhausted all alternatives to obtaining an adequate high-quality source of supply"** and only upon application by the authority. (Emphasis added). York Water's Commission-approved tariff has the force and effect

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<sup>3</sup>Tariff Supplement 20 to Water-Pa. P.U.C. No 14, First Revised Page No. 21, effective September 5, 1996.

of law and is binding on both the public utility and its customers. 66 Pa.C.S. § 1301; *DiSanto v. Dauphin Consolidated Water Supply Company*, 436 A.2d 197 (Pa. Super. 1981); *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1967, 1070 (Pa. Cmwlth. 1981). Witness Stokes freely admitted that Dallastown did not explore, let alone exhaust, “all alternatives to obtaining an adequate high-quality source of water.” Tr. 59. Based on her testimony, Dallastown did not meet the criteria under the Tariff to apply and enter into negotiations with York Water for the proposed Emergency Interconnect Agreement.

#### Blending of water supplies

York Water employs the use of chloramine to treat and disinfect its water supply prior to distribution to customers. Tr. 110. In contrast, the water supplied by Red Lion to Dallastown Authority is treated and disinfected with free chlorine. Red Lion Statement No. 1. Chloramine and free chlorine are two chemically distinct compounds that, when mixed, can substantially alter the individual disinfectant qualities of the chemicals and could cause the disinfecting properties of the compounds to dissipate altogether, which could leave the water with inadequate disinfectant and potentially cause public health issues.

Witness Hand testified that there would be no problem with the blending as long as Dallastown properly monitors and controls the water supply. York Water Statement No. 1. Witness Stokes testified that it is Dallastown’s responsibility to treat the York Water supply with blending (Tr. 62-63) yet the engineering firm it hired were “researching the issue” and had not provided a written report because of the pending PUC process. Tr. 67. The Commission has an absolute obligation to ensure that approval of the proposed Emergency Interconnect Agreement

does not create a potential health and safety issue to the public. The record evidence does not reflect any evidence that the unresolved issue of blending of the two differently treated water supplies will not create a public health issue. Rather the record reflects that York Water believes that Dallastown will be responsible for blending and Dallastown believes York Water will be responsible. Tr. 82. Witness Stokes admitted that they were “just in the midst of the agreement” and “didn’t work all the details out.” Tr. 82. Red Lion asserts that such a critical determination should be clearly resolved before seeking approval of the proposed Emergency Interconnect Agreement.

The proposed Emergency Interconnect Agreement is really a bulk water agreement

Pursuant to Section 1.1 of the Water Sale Agreement between Dallastown and Red Lion, Dallastown agreed to exclusively purchase its water supply from Red Lion with two noted exceptions which would permit Dallastown to purchase water from another entity: (1) Red Lion Authority’s inability to supply water due to a *force majeure*; or (2) **for the purchase of water necessary to maintain an emergency interconnect.** (Emphasis added). York Water Exhibit CLS -3. Specifically, Section 4.1 of the Water Sales Agreement states that Dallastown shall have the **right to purchase/use the minimum amount of water necessary to maintain the emergency interconnection with the alternative supplier.** (Emphasis added). York Water Exhibit CLS -3

The plain language of the proposed Emergency Interconnect Agreement makes it clear that York Water will be supplying water to Dallastown *via* an ordinary bulk water purchase agreement. The passing reference to the “emergency purchase” appears in the third recital when

referencing the Water Sales Agreement. Quite remarkably, there are no other references in the proposed Emergency Interconnect as means for Dallastown to purchase water on an emergency basis from York Water. Finally, the fourth recital of the proposed Emergency Interconnect Agreement expressly states the true intent between York Water and Dallastown, to wit: provide for the additional sale of water to Dallastown for **resale** to its customers. Exhibit JTH-1.

The Proposed Emergency Interconnect Agreement contains a “take or pay” provision, to wit: it requires Dallastown to pay for a minimum of 100,000 gallons of water, per day, regardless of whether it is taken or not. York Water calculated the minimum amount of water because Dallastown will not be contributing any capital to the infrastructure. The monthly revenues that Dallastown will pay is to cover the Operation and Maintenance (“O&M”) expenses for the interconnect and provide York Water a return on the investment. Tr. 31. York Water is intentionally providing Dallastown with water in quantities far above what is actually required to maintain the emergency interconnect simply to cover its costs.

Furthermore, the record evidence reflects that the Dallastown system consists of an upper pressure zone and a lower pressure zone. Tr. 61-62. Red Lion supplies water both through the upper and lower pressure zone. Witness Snyder testified that York Water will only provide water to the lower pressure zone. York Water Statement No. 2, Tr. 47. Witness Snyder does not know how many customers are in the lower pressure zone or the upper pressure zone. Tr. 48-49. Most striking, though, despite the proposed Emergency Interconnect Agreement being marketed as an “emergency interconnect,” Witness Snyder testified that if there is an issue with the upper pressure zone that Red Lion cannot provide water, the proposed Emergency

Interconnect Agreement cannot address it with the equipment proposed. Tr. 49. Witness Snyder further testified that Dallastown will notify York Water of its water needs using the same process as its four other “active interconnects with bulk water, other bulk water suppliers” where water is pumped into those systems on a daily basis. Tr. at 53. Witness Snyder confirmed that the proposed Emergency Interconnect Agreement is nothing more than a bulk sales agreement when he testified that “[f]rom an engineering and operations standpoint, there’s no difference” between the Dover Township bulk sales agreement and proposed Emergency Interconnect Agreement. Tr. 55. The record evidence supports a finding that the proposed Emergency Interconnect Agreement is simply a bulk water agreement, which violates the provisions of the Water Sales Agreement.

The record evidence reflects Witness Stokes’ admission that Dallastown intends to use the proposed Emergency Interconnect Agreement as a bulk purchase agreement. She testified emphatically that Dallastown will “[a]bsolutely” take the minimum amount of water everyday under the proposed Emergency Interconnect Agreement. Tr. 79. Therefore, the water provided under the proposed Emergency Interconnect Agreement will be a daily purchase of water. The Commission should not condone such a transparent attempt to circumvent the provisions of the Water Sales Agreement by merely labeling what is a bulk water agreement as an “emergency interconnect.”

## **VI. PROPOSED FINDINGS OF FACT**

1. Dallastown and Red Lion entered into a Water Sales Agreement, dated May 8, 2013, for a term of ten years. Red Lion Statement No. 1, Exhibit CLS-1.

2. Under Section 1.1 of the Water Sale Agreement, Dallastown agreed to exclusively purchase its water supply from Red Lion with two noted exceptions, which would permit Dallastown to purchase water from another entity: (1) Red Lion Authority's inability to supply water due to a *force majeure*; or (2) for the purchase of water necessary to maintain an emergency interconnect. Exhibit CLS-1.
3. York Water's calculation for the minimum "take or pay" amount of 3,000,000 gallons per month was calculated based on the anticipated investment in infrastructure by York Water in order to establish the interconnect. Tr. 30.
4. The monthly revenues that Dallastown will pay is to cover the O&M expenses for the interconnect and to provide York Water with a return on its investment. Tr. 31
5. The calculation of the minimum amount of water was based on York Water's tariff language that there are 4,400 customers that exist on the Dallastown system. Tr. 32.
6. Dallastown is not investing in any capital in the infrastructure under the proposed Emergency Interconnect Agreement. Tr. 35.
7. York Water will only be capable of supplying water to the lower pressure zone under the proposed Emergency Interconnect Agreement. Tr. 37.
8. The amount of water to be provided by York Water under the proposed Emergency Interconnect Agreement will not be adequate to meet all of the normal daily requirements of Dallastown in the event that Red Lion cannot supply any water to the Dallastown system. Tr. 41.
9. York Water did not do perform any study or modeling for a catastrophic or emergency event as neither term is defined in the proposed Emergency Interconnect Agreement. Tr. 45.
10. Under the proposed Emergency Interconnect Agreement, water will only be provided to the lower pressure zone and the water levels of the two lower tanks: Lion's Park and Denton. Tr. 47.
11. York Water did not perform any calculations to support the maximum flow rate. Tr. 49.
12. The proposed Emergency Interconnect Agreement will not provide water to the upper pressure zone. Tr. 49, 61.
13. Witness Snyder did not know if the proposed Emergency Interconnect Agreement was a bulk water contract. Tr. 53.

14. Dallastown will solely be responsible to determine if there is an emergency situation. Tr. 54-55.
15. Dallastown did not consider any alternative to obtain an adequate, high quality source of water before approaching York Water to purchase water as required in York Water's tariff.. Tr. 59.
16. Dallastown will pay \$20,731 monthly or \$248,772 annually regardless of whether any water is taken. Tr. 59.
17. Dallastown has the same two alternative supplemental sources of water that Red Lion has, to wit: Beaver Creek Reservoir and Susquehanna River. Tr. 60.
18. Dallastown has not provided any written notice of Red Lion's default or breach as required Section 7.1 of the Water Sales Agreement. Exhibit CLS-1, Tr. 61.
19. Dallastown's system is divided into two zones under the proposed Emergency Interconnect Agreement. Tr. 61-62.
20. Dallastown was not willing to make any up-front capital contribution for York Water's facilities under the proposed Emergency Interconnect Agreement. Tr. 62.
21. The 2009 turbidity issue with Red Lion's water supply was resolved when its new filter plant went on line April 2015. Tr. 64, 112.
22. The lack of water examples cited in Witness Stokes' Rebuttal Testimony occurred in the upper zone. Tr. 64.
23. The engineering company hired by Dallastown to determine if there was an issue receiving two differently treated water supplies by different companies has not provided a written report because of the pending PUC application process. Tr. 66-67.
24. Witness Stokes does not know how "emergency or catastrophe" is defined under Article IV of the Water Sales Agreement. Tr. 69.
25. York Water determined the minimum amount of water that Dallastown would need to financially support the interconnect. Tr. 72.
26. Witness Stokes stated Dallastown is paying for the water from York Water because it is called an emergency interconnect. Tr. 80.
27. Witness Stokes stated that the Emergency Interconnect Agreement is just the "first step" with York Water. Tr. 64.

28. Water Sales Agreement permits Dallastown to enter into an emergency interconnect agreement with a public utility for the purchase of water necessary to maintain an emergency interconnect. Exhibit CLS-1.
29. York Water dictated the minimum amount of water necessary to maintain the emergency interconnection with Dallastown. Tr. 72.
30. Dallastown always marks up the end-user customer rate that it pays to Red Lion. Tr. 80.
31. Dallastown and York Water have not worked out the details of who will be responsible for blending the water. Tr. 82.
32. Dallastown had a leak on its system on December 18, 2016. Tr. 97.
33. Dallastown had a leak on its system on March 13, 2017. Tr. 97.
34. The Water Sales Agreement provides that Dallastown's water supply will be purchased exclusively from Red Lion except for as set forth in Provision 4.1 regarding an emergency interconnect. Red Lion Statement No. 1, CLS-2.
35. Any emergency interconnect permitted under Section 4.1 shall be negotiated and constructed at the sole cost to Dallastown. Red Lion Statement No. 1, CLS-2.
36. Under the Water Sales Agreement Dallastown has the right to purchase and use only the minimum amount of water necessary to maintain an emergency interconnection with an alternative supplier. CLS-2
37. Red Lion was established in 1959 to provide water services to the Borough of Red Lion and other adjacent municipalities, including Dallastown Borough and Yoe Borough. Red Lion Statement No. 1.
38. Since 2013, when the Water Sales Agreement was executed, Red Lion has consistently provided a source of safe water to Dallastown for distribution to its end users customers. Red Lion Statement No. 1.
39. Leaks in Dallastown's systems will cause tank levels to drop below 77 feet. . Red Lion Statement No. 1.
40. Red Lion can remedy tank level dips when Dallastown manually opens isolation valves located in the Dallastown system.. Red Lion Statement No. 1.
41. Red Lion is aware of multiple leaks in the Dallastown system since 2015. Red Lion Statement No. 1.

42. In addition to leaks, draining or flushing the system and fire hydrant use can also contribute to low tank levels. Red Lion Statement No. 1.
43. Dallastown has exclusive control over the isolation valves in its system. Red Lion Statement No. 1.
44. Red Lion experiences tank issues related to closed isolation valves approximately six (6) times per year. Red Lion Statement No. 1.
45. Except for routine tank flushing, the four (4) tanks in Dallastown's system have never been completely empty. Red Lion Statement No. 1.
46. There has never been an issue in the Red Lion system that prevented Red Lion from providing an adequate supply of water to Dallastown consistent with the Water Sales Agreement. Red Lion Statement No. 1.
47. When a leak in Dallastown's system is detected, Red Lion requests that Dallastown open the isolation valves so that Red Lion can pump additional water into the system. Red Lion Statement No. 1.
48. When the isolation valves are opened by Dallastown the tanks fill quickly. Red Lion Statement No. 1.
49. Red Lion maintains an alternative source of water supply via Beaver Creek and the Susquehanna River. Red Lion Statement No. 1.
50. Dallastown represented that the minimum amount of water necessary to maintain an emergency interconnect with York Water would be 1,000 gallons per day. Red Lion Statement No. 1
51. Red Lion disinfects its water supply with liquid chlorine. Red Lion Statement No. 1
52. York Water disinfects its water supply with chloramine. Tr. 110.

## **VII. PROPOSED ORDERING PARAGRAPHS**

1. The Application of York Water Company seeking approval of the Emergency Interconnect Agreement to provide water to Dallastown-Yoe Water Authority is denied.

## **VIII. PROPOSED CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa. C.S. §§ 507 and 508.

2. As the party seeking affirmative relief from the Commission, York Water bears the burden of proof. 66 Pa.C.S. § 332(a).

3. A public utility is required to provide adequate, efficient, safe and reasonable service. 66 Pa.C.S. §§ 102 and 1501.

4. Commission's finding must be based on substantial evidence. *West Penn Power Co. v Pa PUC*, 422 A2d 230 (1980).

5. Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk and Western Railway Co. v. Pa. PUC*, 413 A2d 1037 (Pa. 1980).

7. A party fails to establish a prima facie case if it has not introduced sufficient evidence to establish the elements necessary to maintain an action. *Morena v. South Hills Health System*, 462 A 2d 680 (1983).

**WHEREFORE**, based on the foregoing, Red Lion Municipal Authority respectfully requests that this Honorable Court deny the Application of the York Water Company for the Approval of an Emergency Interconnect Agreement between the York Water Company and Dallastown-Yoe Water Authority.

Respectfully submitted,



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Margaret A. Morris, Esquire  
Attorney I.D. No. 75048  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Stephanie Kogut, Esquire  
Andrew J. Miller, Esquire  
MPL Law Firm, LLP  
137 East Philadelphia Street  
York, PA 17401

(717) 845-1524 tel.  
[skogut@mpl-law.com](mailto:skogut@mpl-law.com)  
[amiller@mpl-law.com](mailto:amiller@mpl-law.com)

Date: February 28, 2018

*Counsel for Red Lion Municipal Authority*