



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

IN REPLY PLEASE  
REFER TO OUR FILE

July 13, 2018

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building, Second Floor  
400 North Street  
Harrisburg, PA 17120

Re: Section 529 Investigation of North Heidelberg Sewer Company  
Docket No. I-2018-3001161

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) 783-6156.

Sincerely,

Carrie B. Wright  
Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. #208185

Enclosure

cc: Certificate of Service  
ALJ Steven K. Haas

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Section 529 Investigation of North  
Heidelberg Sewer Company

Docket No. I-2018-3001161

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated July 13, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Served via Electronic and First-Class Mail**

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Carrie B. Wright  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. #208185

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Section 529 Investigation of North  
Heidelberg Sewer Company

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I-2018-3001161

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PREHEARING MEMORANDUM  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT

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**TO: ADMINISTRATIVE LAW JUDGE STEVEN K. HAAS:**

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 these proceedings will be Carrie B. Wright. Contact information is as follows:

By mail: Carrie B. Wright  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

By e-mail: [carwright@pa.gov](mailto:carwright@pa.gov)  
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## I. INTRODUCTION

The Pennsylvania Public Utility Commission (“PUC” or “Commission”) has appointed Aqua Pennsylvania Wastewater, Inc. (“Aqua”) as receiver for the North Heidelberg Sewer Company (“NHSC”) as a result of NHSC’s failure to pay Metropolitan Edison (“Met Ed”) for electric services. The instant Docket, I-2018-3001161, arose out of a Commission Order entered on October 5, 2017 at Docket No. P-2017-2594688 (“NHSC October 5 Order”) and a Commission Order entered on February 9, 2018 at Docket No. M-2018-2645983 (“NHSC February 9 Order”). In the October 5, 2017 Order the Commission stated in the event that NHSC failed to make timely payments to Met Ed for electric services it was appropriate at that time for the Commission to institute an investigation under Section 529 of the Public Utility Code based on the evidence presented. On December 11, 2017 Met Ed’s parent company, First Energy, notified the Commission that NHSC failed to make payments as the Commission had directed. Thus, the Commission invoked its authority to: “(1) direct a competent utility to act as a receiver to manage and operate NHSC consistent with public safety; and (2) initiate a proceeding to transfer NHSC to a competent utility because NHSC has demonstrated that it can no longer provide reasonable and adequate services to its customers and that NHSC management has created a public health and safety threat that the Commission must address.”<sup>1</sup> Therefore, the Commission directed Aqua to act as receiver for NHSC beginning March 5, 2018.

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<sup>1</sup> NHSC February 8, 2018 Order at 3.

On June 1, 2018, a Notice of the 529 investigation was served on the proximate providers located near the NHSC service territory. On June 25, 2018, the ALJ issued an Order joining Pennsylvania American Water Company (“PAWC”) and Suez Water Pennsylvania, Inc. (“Suez”) as indispensable Parties to the instant proceeding.

A Prehearing Conference is scheduled for July 17, 2018, at 10:00 am with Administrative Law Judge Steven K. Haas presiding.

## **II. ISSUES**

The following list represents I&E’s preliminary determination of the potential issues in these proceedings. 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:

Should the Commission order a capable public utility to acquire North Heidelberg Sewer Company?  
Are the six elements of 66 Pa. C.S. Section 529 met?  
Is PA American Water Company or Aqua Pennsylvania Wastewater a capable public utility for purposes of 66 Pa. C.S. Section 529?

## **III. WITNESSES**

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

Sunil Patel, Pipeline Safety Engineer  
Christopher Keller, Fixed Utility Financial Analyst

The I&E witnesses may be contacted through the information listed above for Prosecutor Wright. 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 name of the witnesses listed above.

#### **IV. EVIDENCE**

I&E expects to present all 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. DISCOVERY**

Discovery in this proceeding is being conducted according to 52 Pa. Code §§5.321 et. seq. No modifications to the rules of discovery have been proposed by I&E. I&E will give due consideration to any discovery modifications proposed by any other party.

#### **VI. SCHEDULE**

I&E is willing to work with the ALJ and the parties to develop a schedule in this proceeding. As of this date, I&E understands that the parties have not yet agreed to a schedule.

#### **VII. SERVICE OF DOCUMENTS**

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.

## VIII. 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,



Carrie B. Wright

Prosecutor

PA Attorney I.D. # 208185

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
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Harrisburg, Pennsylvania 17105-3265  
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Dated: July 13, 2018