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July 13, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

We are counsel to Aqua Pennsylvania Wastewater, Inc. in the above matter and are submitting, via electronic filing with this letter, the Company's Prehearing Memorandum in accordance with the Prehearing Conference Order of Administrative Law Judge Haas dated June 27, 2018. Copies of the Prehearing Memorandum are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
Alexander R. Stahl, Esquire (via email, w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Honorable Stephen K. Haas, Presiding

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

**PREHEARING MEMORANDUM OF
AQUA PENNSYLVANIA WASTEWATER, INC.**

AND NOW, comes Aqua Pennsylvania Wastewater, Inc. (“Aqua”) and submits this Prehearing Memorandum in connection with the Initial Prehearing Conference scheduled to be held in the above captioned matter on July 17, 2018.

I. BACKGROUND

This proceeding concerns the Investigation of the Public Utility Commission (“Commission”) into whether it should order a capable public utility to acquire North Heidelberg Sewer Company (“NHSC”) pursuant to Section 529 of the Public Utility Code (“Code”), 66 Pa. C.S. § 529 (“Section 529”). The Commission instituted the Investigation as part of its Order entered February 9, 2018 in *Pa. P.U.C. v. North Heidelberg Sewer Company*, Docket No. M-2018-2645983 (“Order entered February 9”).

The Commission, in Ordering Paragraph 4 of the Order entered 9, directed Aqua to act as Receiver for NHSC, pursuant to 66 Pa. C.S. § 529 (g), beginning March 5, 2018 and to continue to act as Receiver for NHSC during the pendency of the Section 529 proceeding. Aqua’s appointment as Receiver, pursuant to Section 529(g), is to “protect the interests of the customers” of NHSC. Aqua, in its own right, is also a “capable public utility” as defined in Section 529(m) of the Code, 66 Pa. C.S. § 529 (m).

Administrative Law Judge Steven K. Haas was assigned to preside over the Section 529 Investigation. An Initial Prehearing Conference was noticed for July 17, 2018. Judge Haas issued a Prehearing Conference Order on June 27, 2018. Paragraph 7 of the Prehearing Conference Order directs each litigating party to file and serve a prehearing memorandum on or before 12:00 PM on Friday, July 13, 2018.

II. LITIGATION SCHEDULE

Aqua will cooperate with Judge Haas and the litigating parties to arrive at a mutually acceptable litigation schedule.

III. LIST OF ISSUES AND AQUA'S POSITION IN REGARD TO THEM

Section 529 (a) presents a "general rule" list of several determinations for the Commission to address in a Section 529 investigation. In conjunction with Section 529 (a), Section 529 (c) identifies several "factors" for the Commission to consider in making a determination pursuant to Section 529 (a). Those factors are:

- (1) The financial, managerial and technical ability of the small water or sewer utility.
- (2) The financial, managerial and technical ability of all proximate public utilities providing the same type of service.
- (3) The expenditures which may be necessary to make improvements to the small water or sewer utility to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service.
- (4) The expansion of the franchise area of the acquiring capable public utility so as to include the service area of the small water or sewer utility to be acquired.
- (5) The opinion and advice, if any, of the Department of Environmental Resources as to what steps may be necessary to assure compliance with applicable statutory or regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service.
- (6) Any other matters which may be relevant.

The Commission in Subparagraph 1q of Appendix A to the Order entered February 9 directed Aqua, as Receiver, to submit testimony regarding each “factor” delineated in Section 529(c). Aqua intends to submit testimony addressing each “factor,” which the Commission may then consider in its Section 529(a) determinations.

Aqua is not intending to present direct testimony other than the direct testimony concerning the Section 529(c) “factors” as set forth above. Section 529(i) places the burden of proof on the Bureau of Investigation and Enforcement (“BI&E”) to establish a prima facie case, including the presentation of direct testimony, that the acquisition of NHSC would be in the public interest and in compliance with Section 529.

Aqua reserves the right to present testimony in rebuttal to direct testimony of BI&E or of other litigating parties. Aqua’s rebuttal to BI&E or other litigating parties may be presented as a “capable public utility” pursuant to Section 529(m) or as the appointed Receiver of NHSC pursuant to Section 529(g).

IV. WITNESSES

Aqua anticipates calling the following witnesses:

William C. Packer
Vice President – Controller
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Mark J. Bubel, Sr.
Project Engineer, III
Aqua Services, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010

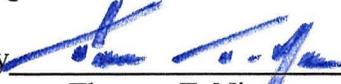
Mr. Packer will address financial matters. Mr. Bubel will address operational matters.

Aqua asks that any and all contact with Mr. Packer and/or Mr. Bubel be through counsel.

Aqua reserves the right to call additional witnesses, as necessary, and agrees to notify Administrative Law Judge Haas and the parties promptly should Aqua determine that additional witnesses will be called.

Respectfully submitted,

AQUA PENNSYLVANIA WASTEWATER, INC.

By  _____

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Counsel for Aqua Pennsylvania Wastewater, Inc.

Date: July 13, 2018

**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 have this 13th day of July, 2018, served a true and correct copy of the foregoing Prehearing Memorandum of Aqua Pennsylvania Wastewater, Inc., upon the persons and in the manner set forth below:

VIA ELECTRONIC MAIL, BEFORE 12:00 PM, AND 1ST CLASS MAIL

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