

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 13, 2018

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Investigation of North Heidelberg Sewer Company  
Pursuant to Section 529 of the Pennsylvania Public  
Utility Code  
Docket No. I-2018-3001161

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Very truly yours,

A handwritten signature in blue ink that reads "Christ Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Attachment

cc: Honorable Steven K. Haas, ALJ  
Certificate of Service

\*253707

CERTIFICATE OF SERVICE

Investigation of North Heidelberg Sewer :  
Company Pursuant to Section 529 : I-2018-3001161  
of the Pennsylvania Public Utility Code :

I hereby certify that I have this day served a true copy of the document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13<sup>th</sup> day of July, 2018.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

Carrie B. Wright, Esquire  
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Harrisburg PA 17120

SERVICE BY EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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762 West Lancaster Avenue  
Bryn Mawr, PA 19010

/s/ Christine Maloni Hoover

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of North Heidelberg Sewer Company :  
Pursuant to Section 529 of the Pennsylvania Public :       Docket No. I-2018-3001161  
Utility Code :

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the June 27, 2018 Prehearing Conference Order, the Office of Consumer Advocate (OCA) provides the following:

**I. BACKGROUND**

North Heidelberg Sewer Company (NHSC or the Company) serves approximately 273 residential customers and one commercial customer in portions of North Heidelberg and Jefferson Townships, Berks County. During NHSC's 2013 rate case, the Company was authorized to increase its annual operating revenue by \$75,000 over a period of four years, ending July 17, 2017. At that time, NHSC had an approximately \$60,000 past-due electric service charge to Metropolitan Edison Company (Med Ed). NHSC was ordered (2013 Order) to form a payment plan to remove the arrearage and to demonstrate the plan's implementation to the OCA.

On March 21, 2017, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Petition for Issuance of an Ex Parte Emergency Order against Met Ed and NHSC, averring that Met Ed had begun termination procedures against NHSC. At that time, NHSC's arrearage to Met Ed amounted to \$157,000. The Commission granted a modified Petition on March 22, 2017, which provided that NHSC customers receive uninterrupted wastewater service.

The Order also directed the scheduling of a hearing before an Administrative Law Judge (ALJ).

The OCA provided Notice of Intervention at Docket No. P-2017-2594688 on March 28, 2017. The OCA intervened in this proceeding to protect the interests of NHSC's and Met Ed's customers and to ensure that a resolution was found that was in accordance with applicable statutes.

The ALJ's April 11, 2017 Recommended Decision established a payment plan, which provided a way for NHSC to eliminate its charges from the 2013 Order in addition to the other arrearages that had accrued since. The Commission issued an Order on May 4, 2017 (May 2017 Order), directing NHSC to pay as a lump sum half the outstanding balance to Met Ed within 60 days of the Order and to pay the remaining half in twenty-four monthly payments.

NHSC sought a stay of the May 2017 Order in the Commonwealth Court on June 2, 2017, which the Court granted in part because it found that compliance with the 2013 Order would cause the Company irreparable harm. The Commonwealth Court relinquished jurisdiction on July 5, 2017 after the Commission filed an Expedited Application for Remand on July 3, 2017. The Court did not vacate the May 2017 Order.

The Commission again referred the case to an ALJ for further hearing on July 10, 2017. The ALJ issued a Recommended Decision on September 1, 2017, which found that Met Ed had a legal right to terminate the Company's service due to non-payment; that NHSC failed to comply with the 2013 Order, and; that the evidence did not demonstrate that the Company could not pay for its electric service under the May 2017 Order. The Recommended Decision also provided for the same payment plan from the May 2017 Order. The ALJ further recommended that if the Company failed to follow the payment plan, the Commission should initiate a Section 529, 66 Pa. C.S. § 529, proceeding against NHSC. The Commission's October 2017 Order adopted the

Recommended Decision without modification.

On December 11, 2017, Met Ed filed a letter at Docket No. P-2017-2594688 to notify the Commission that NHSC failed to make any payments in compliance with the October 2017 Order. Consequently, on February 8, 2018 (February 2018 Order), under 66 Pa. C.S. § 529, the Commission directed Aqua Pennsylvania Wastewater Company, Inc. (Aqua) to be receiver for and manager and operator of NHSC during the Section 529 proceeding. Notice was provided on May 1, 2018 to NHSC customers and to proximate wastewater providers pursuant to Section 529(h).

The OCA now files this Prehearing Memorandum to set forth the procedure and issues that the OCA believes are relevant to this proceeding.

## **II. SERVICE ON THE OCA**

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Christine Maloni Hoover. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923

Telephone (717) 783-5048  
Facsimile (717) 783-7152

Email service should include the following emails:

[choover@paoca.org](mailto:choover@paoca.org)

## **III. DISCOVERY**

The OCA does not propose any modifications to the Commission's discovery regulations.

#### IV. WITNESSES

If necessary, the OCA will present the testimony of Ashley E. Everette, Regulatory Analyst with the Office of Consumer Advocate and Terry L. Fought, P.E. Their contact information is as follows:

Ashley E. Everette, Regulatory Analyst  
Office of Consumer Advocate  
555 Walnut Street, Forum Place 5th Floor  
Harrisburg PA 17101-1923  
Telephone (717) 783-5048  
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Terry L. Fought, P.E., Consulting Engineer  
780 Cardinal Drive  
Harrisburg PA 17111  
(717) 580-4265  
(717) 566-7298 (Fax)  
E-mail: [TLFEngr@aol.com](mailto:TLFEngr@aol.com)

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

#### V. ISSUES, EVIDENCE AND PROPOSED SCHEDULE

A. In the interest of efficiency and expedience, the OCA submits that the parties may be able to stipulate to many of the findings set forth in Section 529 of the Public Utility Code regarding NHSC's financial, technical and managerial fitness.

B. To the extent that the requisite findings are not stipulated by the parties or moved into the record from other proceedings, the OCA will provide testimony to show that acquisition of NHSC would be in the public interest, including evidence to support the findings required by Section 529.

C. The OCA will evaluate the impact of acquisition by Aqua Pennsylvania,

Pennsylvania-American Water Company, Suez Water Pennsylvania, or other proximate service providers or municipalities on rates for NHSC's customers and the acquiring utility's existing customers. See 66 Pa. C.S. § 529(a)(6).

D. The OCA will examine the reasonableness of any proposed acquisition price for NHSC.

## VI. SCHEDULE

The OCA will work with the ALJ and the parties to develop a schedule in this proceeding.

## VII. SETTLEMENT

The OCA is willing to participate in settlement discussions in this matter.

Respectfully Submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

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DATED: July 13, 2018

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