



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

December 28, 2018

VIA ELECTRONIC FILING

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

Re: Pennsylvania Public Utility Commission, Bureau of Investigation
and Enforcement v. Winola Water Company
Docket Nos. C-2018-2644592, P-2018-3006216, I-2018-3006498
Prehearing Conference Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Prehearing Conference Memorandum of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement in the above-captioned proceeding.

Copies have been served on the parties of record in accordance with the included Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be "BRG", written over a horizontal line.

Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666

Enclosure

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
	:	
Complainant	:	Docket Nos. C-2018-2644592
	:	P-2018-3006216
v.	:	I-2018-3006498
	:	
Winola Water Company,	:	
	:	
Respondent	:	

**PREHEARING CONFERENCE MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Conference Memorandum in the above-captioned proceeding pursuant to the Prehearing Conference Order of the presiding Administrative Law Judge (“ALJ”) dated December 17, 2018.

I. BACKGROUND

On January 26, 2018, I&E filed a Formal Complaint against Winola Water Company (“Winola”) at Docket No. C-2018-2644592, alleging that Winola violated the Public Utility Code, 66 Pa.C.S. §§ 101 *et. seq.*, by failing to furnish and maintain adequate, efficient, safe, and reasonable service and facilities for the safety, and convenience of its customers. See I&E Formal Complaint, 1/26/18, Docket No. C-2018-2644592. Winola provides drinking water service to approximately ten (10) year-round customers and approximately twenty-five (25) seasonal customers around Lake Winola in Overfield Township, Wyoming County, Pennsylvania.

On November 28, 2018, I&E filed a Petition for the Issuance of an *Ex Parte* Emergency Order (“Petition”) requesting that the Commission appoint a capable public utility as receiver for Winola and that the Commission initiate an investigation under Section 529 of the Public Utility Code. See I&E Petition, 11/28/18 at Docket No. P-2018-3006216. In its Petition, I&E alleged that Winola’s system had been under a Do Not Consume Order since on or around October 5, 2018, and that, in violation of the Do Not Consume Order, Winola had failed to provide an alternate source of potable water to its customers. See I&E Petition at 2-3.

On November 29, 2018, Commissioner Norman J. Kennard issued an *Ex Parte* Emergency Order granting I&E’s Petition, initiating an investigation pursuant to Section 529, and appointing Pennsylvania American Water Company (“PAWC”) as receiver for Winola. At the Commission’s next Public Meeting, the Commission ratified Commissioner Kennard’s *Ex Parte* Emergency Order by Order dated December 6, 2018.

Subsequent to the Commission’s Order, ALJ Cheskis conducted an informal telephone conference with I&E, PAWC, the Office of Consumer Advocate (“OCA”), the Pennsylvania Department of Environmental Protection (“DEP”), and Winola in attendance. During the telephone conference, all parties agreed that, by the appointment of PAWC as receiver, the emergency issue in I&E’s Petition, namely lack of an alternate source of potable water, had been remedied, and the parties could proceed with the Section 529 investigation without an emergency hearing.

On December 17, 2018, ALJ Cheskis issued a hearing notice which scheduled a prehearing conference for January 7, 2018, at 10:00 AM in Harrisburg. I&E files this prehearing conference memorandum pursuant to ALJ Cheskis’s Prehearing Conference Order also dated December 17, 2018.

II. SERVICE LIST

The following prosecutor should be entered on the service list for I&E:

Bradley R. Gorter
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-6150
(717) 783-3458 (fax)
bgorter@pa.gov

III. STATEMENT REGARDING SETTLEMENT

I&E is open to settlement discussions with all parties. I&E is unaware of settlement discussions that may have taken place between Winola, PAWC, OCA, and/or DEP. In the interest of settlement, I&E believes that an in-person settlement conference with ALJ Cheskis should be scheduled for February or March 2019 prior to the service of any testimony. Given the number of interested parties in this matter and the complex nature of Section 529 proceedings, I&E believes that a settlement conference would significantly advance settlement discussions.

IV. DISCOVERY REGULATION MODIFICATION

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321 *et seq.*

V. LITIGATION SCHEDULE

In order to facilitate the efficient and timely resolution of this matter, I&E proposes the following litigation schedule:

March 8, 2019	I&E's written direct testimony served
March 29, 2019	Other parties rebuttal testimony
April 19, 2019	I&E's written surrebuttal testimony served
May 1, 2019	Close of discovery
Week of May 13, 2019	Evidentiary hearing in Harrisburg
21 days after transcripts	All parties file and serve Main Briefs
21 days after Main Briefs	All Parties file and serve Reply Briefs

I&E is amenable to working with all parties to develop a schedule for this proceeding.

As discussed above, I&E suggests an in-person settlement conference with ALJ Cheskis prior to service of its direct testimony.

VI. I&E WITNESSES

I&E expects to call the following expert witness who is highly experienced in pipeline matters in Pennsylvania:

Scott Orr
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement, Safety Division
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 480-2195
scoorr@pa.gov

Mr. Orr is expected to testify about all relevant matters related to I&E's investigation, its Formal Complaint, its Petition, and I&E's position in this Section 529 proceeding. It is anticipated that Mr. Orr's testimony will support the relief sought by I&E.

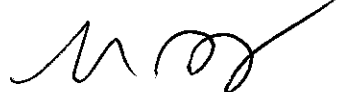
I&E reserves the right to call additional witnesses and will advise accordingly.

VII. ISSUES FOR DISPOSITION

The following is a list of issues that I&E intends to address in this proceeding. I&E reserves the right to address other issues, as it deems appropriate, if any such relevant issues arise.

1. Whether the Commission should, pursuant to 66 Pa.C.S. § 529, determine that it is in the public interest to order a capable utility to acquire Winola; and,
2. If a capable utility is ordered to acquire Winola, which capable public utility providing the same type of service should the Commission order to acquire Winola.

Respectfully submitted,



Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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Date: December 28, 2018

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	Docket No. C-2018-2644592
v.	:	Docket No. P-2018-3006216
	:	Docket No. I-2018-3006498
Winola Water Company,	:	
Respondent	:	

CERTIFICATE OF SERVICE

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

Service by First Class Mail:

Ralph Scartelli
Winola Water Company
724 N Webster Ave
Scanton, PA 18510

Thomas T. Niesen, Esq.
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101

Elizabeth Triscari, Esq.
Pennsylvania American Water Company
800 West Hershey Park Drive
Hershey, PA 17033

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

Overfield Township
775 Lower Mill City Road
Dalton, PA 18414

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Suez Water Pennsylvania, Inc.
4211 East Park Circle
Harrisburg, PA 17111

Crystal Mickalowski
Department of Environmental Protection
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18701-1915

The Honorable Joel H. Cheskis
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
P.O. Box 3265
Harrisburg, PA 17105



Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666
Bureau of Investigation and Enforcement

Pennsylvania Public Utility Commission
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Phone: 717-783-6150

Dated: December 28, 2018