



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

January 28, 2019

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

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

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Motion to Delay Procedural Schedule** for the above-captioned proceeding.

Copies are being served on all active parties of record. 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. No. 208185

CBW/jfm
Enclosure

cc: Hon. Steven K. Haas, (*Office of Administrative Law Judge, Harrisburg*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Section 529 Investigation of North
Heidelberg Sewer Company**

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Docket No. I-2018-3001161

**MOTION OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT
TO DELAY PROCEDURAL SCHEDULE**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“PUC” or “Commission”) respectfully requests Administrative Law Judge Steven K. Haas (the “ALJ”) delay the procedural schedule in the above captioned proceeding due to the death of the CEO and Owner of North Heidelberg Sewer Company (“NHSC” or “Company”) Joseph M. Aicholz, Jr.

In support of this Motion, I&E avers the following:

1. The Pennsylvania Public Utility Commission has appointed Aqua Pennsylvania Wastewater, Inc. (“Aqua”) as receiver for 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 that in the event 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."¹ Therefore, the Commission directed Aqua to act as receiver for NHSC beginning March 5, 2018.

2. On June 1, 2018, a Notice of the 529 investigation was served on the proximate providers located near the NHSC service territory and 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.

3. On July 17, 2018, an initial prehearing conference was held in the above-captioned proceeding. At that prehearing conference the Parties agreed to schedule a further prehearing conference at which point a procedural schedule would be established. A further prehearing conference was held on November 19, 2018 at which point a litigation schedule was agreed upon.

¹ NHSC February 8, 2018 Order at 3.

4. ALJ Haas issued an Order setting forth the following procedural schedule on December 3, 2018:

Direct Testimony due February 12, 2019
Rebuttal Testimony due March 13, 2019
Surrebuttal Testimony due April 16, 2019
Hearings in Harrisburg April 30 to May 1, 2019

5. On December 5, 2018, I&E sent its first set of discovery to NHSC and responses were due on December 26, 2019. To date I&E has not received responses from NHSC.

6. On January 14, 2019, Sean M. Cooper, counsel for NHSC, informed the Parties that Joseph. M. Aicholz, Jr., the CEO and Owner of NHSC had passed away on January 12, 2019.

7. To date the Parties have received no information regarding who will be stepping in to Mr. Aicholz's role as CEO and Owner of NHSC.

8. As the Party with the burden of proof, I&E's Direct Testimony is due February 12, 2019. I&E does not believe it can move forward with Direct Testimony until more information is ascertained regarding who will be Mr. Aicholz's successor at NHSC.

9. Your Honor has the authority, pursuant to 66 Pa. C.S. § 331(d)(7) to "dispose of procedural requests...."

10. Therefore, at this time, I&E requests that ALJ Haas issue an Order suspending the procedural schedule until such a time as the Parties have been notified who will be taking over Mr. Aicholz's responsibilities as CEO and Owner of NHSC. Doing so will allow the Parties to create a full and complete record on which the ALJ and Commission can base its determination related to this Section 529 investigation. Without the granting of this request, I&E's ability to present its case will be significantly hindered.

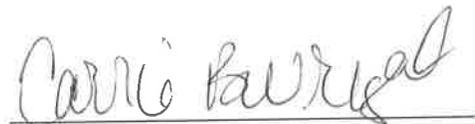
11. The Office of Consumer Advocate, the Office of Small Business Advocate, Metropolitan Edison, Pennsylvania American Water, SUEZ, Aqua Wastewater, Inc. and Sean M. Cooper, Esq., counsel of record for NHSC have indicated that they do not oppose I&E's request to delay the procedural schedule.

12. As Aqua is currently acting as the receiver for NHSC, I&E does not believe any NHSC customers will be harmed by this request.

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that ALJ Haas issue an Order suspending the procedural schedule in this proceeding until such a time as the Parties are able to determine who will take over Mr. Aicholz's role in the North Heidelberg Sewer Company.

Additionally, I&E respectfully requests ALJ Haas rule on this Motion in advance of the February 12, 2019 due date for I&E Direct Testimony.

Respectfully Submitted,



Carrie B. Wright

Prosecutor

PA Attorney I.D. No. 208185

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Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 783-6156

Dated: January 28, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Section 529 Investigation of North
Heidelberg Sewer Company

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: Docket No. I-2018-3001161
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CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Motion** dated January 28, 2019, 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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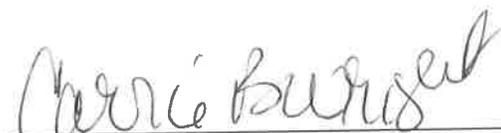
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