



March 19, 2020

**VIA E-FILING**

**Jonathan P. Nase**

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

**Re: Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. – Water, and Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. -- Wastewater; Docket Nos. C-2014-2447138 and C-2014-2447169**

**Answer of Hidden Valley Utility Services, L.P. to the Motion of the Office of Consumer Advocate to Dismiss Objections and to Compel Hidden Valley Utility Services, L.P. – Wastewater to Answer Interrogatories – Set X**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") please find the Answer of Hidden Valley Utility Services, L.P. to the Motion of the Office of Consumer Advocate to Dismiss Objections and to Compel Hidden Valley Utility Services, L.P. – Wastewater to Answer Interrogatories – Set X. Copies are being served in accordance with the attached Certificate of Service.

Please contact me if you have any questions regarding this filing.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase  
Counsel for *Hidden Valley Utility Services, L.P.*

JPN  
Enclosure

cc: Administrative Law Judge Katrina L. Dunderdale  
Per Certificate of Service  
James Kettler

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |                           |
|---|---|---------------------------|
| Tanya J. McCloskey, Acting Consumer Advocate      | : |                           |
|   | : |                           |
| v.  | : | Docket No. C-2014-2447138 |
|   | : |                           |
| Hidden Valley Utility Services, L.P. – Water      | : |                           |
|   | : |                           |
| and   | : |                           |
|   | : |                           |
| Tanya J. McCloskey, Acting Consumer Advocate      | : |                           |
|   | : |                           |
| v.  | : | Docket No. C-2014-2447169 |
|   | : |                           |
| Hidden Valley Utility Services, L.P. – Wastewater | : |                           |

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Answer of Hidden Valley Utility Services, L.P. to the Motion of the Office of Consumer Advocate to Dismiss Objections and to Compel Hidden Valley Utility Services, L.P. – Wastewater to Answer Interrogatories – Set X**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**DUE TO THE COVID-19 EMERGENCY, SERVICE IS BEING MADE VIA E-MAIL ONLY:**

Christine Maloni Hoover, Esq.  
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Terry L. Fought  
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Harrisburg, PA 17111  
tlfengr@aol.com  
Consultant for *Office of Consumer Advocate*

DATED: March 19, 2020

  
Jonathan P. Nase, Esquire  
Counsel for *Hidden Valley Utility Services, L.P.*

VERIFICATION

I, James Ketter

hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

March 19, 2020

James Ketter

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

---

**ADMINISTRATIVE LAW JUDGE  
KATRINA L. DUNDERDALE**

---

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket No. C-2014-2447138  
Hidden Valley Utility Services, L.P. – Water :

and

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket No. C-2014-2447169  
Hidden Valley Utility Services, L.P. – Wastewater :

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**ANSWER OF HIDDEN VALLEY UTILITY SERVICES, L.P.  
TO THE MOTION OF THE OFFICE OF CONSUMER ADVOCATE  
TO DISMISS OBJECTIONS AND TO COMPEL HIDDEN VALLEY UTILITY  
SERVICES, L.P. – WASTEWATER TO ANSWER INTERROGATORIES – SET X**

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AND NOW COMES, Hidden Valley Utility Services, L.P. (“HVUS”), pursuant to 52 Pa. Code § 5.342(g)(1), to file this Answer (“Answer”) to the Motion of the Office of Consumer Advocate (“OCA”) to Dismiss Objections and to Compel HVUS - Wastewater to Answer Interrogatories (“Motion to Compel”). A copy of the OCA’s Motion to Compel is attached as **Exhibit 1**. HVUS respectfully requests that the Motion be denied in its entirety. If the Administrative Law Judge (“ALJ”) grants the Motion, however, HVUS echoes the OCA’s

request that the ALJ modify the procedural schedule so that HVUS may address additional issues in its Direct Testimony that were not previously considered part of this proceeding. In support whereof, HVUS states as follows:

## **I. INTRODUCTION AND SUMMARY**

The Prehearing Conference Order in this proceeding made clear that this proceeding is being held pursuant to the Memorandum Opinion of the Commonwealth Court of Pennsylvania, dated May 15, 2019 in *Hidden Valley Utility Services, L.P. v. Pa. Pub. Util. Comm'n*, 187 C.D. 2019 (the “Memorandum Opinion”) and the Opinion and Order of the Pennsylvania Public Utility Commission (“Commission”) entered in this matter on January 17, 2019 (the “January 2019 Order”). The Memorandum Opinion and the January 2019 Order solely concerned the Petition (the “Petition to Amend”) of HVUS for an Amendment of the Opinion and Order entered in this matter on May 3, 2018 (the “May 2018 Order”). The Petition to Amend asked the Commission to modify a deadline contained in Ordering Paragraph 8 of the May 2018 Order. Specifically, Ordering Paragraph 8 gave HVUS one year from the date of an engineer’s report regarding its water system to “eliminate the rust or brown-colored water provided to customers.”

The Prehearing Conference Order noted that the issues presented in this proceeding are:

- a. The propriety of the recommendations, proposed time schedules and financing plans for the recommendations contained in the engineer’s report of HVUS from April 18, 2018 pertaining to HVUS’s water system;
- b. The sufficiency of the report of the engineer of HVUS from April 18, 2018;
- c. The sufficiency of the previously ordered one-year compliance deadline; and

d. Whether the Commission should grant the request of HVUS to extend the compliance deadlines proposed in the engineer's report from April 18, 2018.<sup>1</sup>

The OCA and Mr. Kollar, in their Prehearing Memoranda, attempted to introduce additional issues into this proceeding, but those attempts were rejected by the ALJ. Due to the limited, narrow issues presented, the ALJ established an expedited procedural schedule for this proceeding.

On March 6, 2020, the OCA served HVUS with Interrogatories Set X ("Set X"), which solely concerned HVUS's wastewater system. HVUS objected on the grounds that the interrogatories are irrelevant to this proceeding. HVUS argued that the interrogatories do not seek evidence that would be admissible in this proceeding, nor do they appear reasonably calculated to lead to the discovery of evidence that would be admissible in this proceeding.

In its Motion to Compel, OCA argues for the first time that this proceeding is being held pursuant to Ordering Paragraph 20 of the May 3, 2018 Order. Motion to Compel ¶ 22. In pertinent part, Ordering Paragraph 20 (emphasis added) states:

... an evidentiary hearing shall forthwith be scheduled by the Office of Administrative Law Judge *for purposes of addressing one or more of the following issues: the adequacy of the water system, the adequacy of the wastewater system, the quality of the water, the appropriateness of penalties to be imposed against [HVUS], the appropriateness of ratepayer refunds, and any other issue relative to these ordering paragraphs.* The burden of proof in the evidentiary hearing as to these issues shall be upon [HVUS].

HVUS respectfully requests that the ALJ deny the OCA's Motion to Compel. The ALJ has already made clear that this proceeding is not being held pursuant to Ordering Paragraph 20. The ALJ has also clearly delineated the issues presented in this proceeding, which are a limited, narrow set of issues pertaining to HVUS's water system and do not include the issues described

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<sup>1</sup> An additional issue, whether to consolidate these matters with the Complaint filed by Sharon Howard-Frieri at Docket No. C-2019-3008093, was not contested and the ALJ consolidated the matters during the Prehearing Conference.

in Ordering Paragraph 20. The interrogatories in Set X, which concern HVUS's wastewater system, would not produce evidence relevant to and admissible in this proceeding, nor are they reasonably calculated to lead to the discovery of evidence that would be relevant to and admissible in this proceeding. OCA will have an opportunity to conduct discovery regarding HVUS's wastewater system in the future, when the Commission commences the proceeding described in Ordering Paragraph 20. There is no need for the ALJ to allow the OCA to conduct its discovery at this time.

If, however, the ALJ agrees with the OCA that this proceeding is being held pursuant to Ordering Paragraph 20, and orders HVUS to answer the interrogatories, HVUS echoes the request of the OCA that the ALJ modify the procedural schedule in this matter. The ALJ established an expedited litigation schedule based on the limited, narrow issues discussed in the Prehearing Order and at the Prehearing Conference. A decision that this proceeding is being held pursuant to Ordering Paragraph 20 would significantly enlarge the issues in this proceeding. Considering that HVUS's Direct Testimony is due in approximately two weeks, HVUS would not be able to prepare Direct Testimony addressing all of the additional issues described in Ordering Paragraph 20. If the issues in this case are greatly expanded, HVUS's due process rights require an extension of the time period for preparing its Direct Testimony.

## **II. ANSWER**

1. Admitted. By way of further answer, the January 2019 Order considered HVUS's Petition to Amend, which requested a modification of Ordering Paragraph 8 of the May 2018 Order, concerning the deadline for HVUS to "eliminate the rust or brown-colored water provided to customers." The only reference to Ordering Paragraph 20 in the Petition to Amend was to

request a conforming amendment to the deadline in Ordering Paragraph 20 if the Commission modified the deadline in Ordering Paragraph 8. Since the Commission denied HVUS's request to amend Ordering Paragraph 8, the Commission did not address the request for a conforming amendment in Ordering Paragraph 20.

2. Admitted.

3. Admitted.

4. Admitted. See **Exhibit 1**, Attachment 1.

5. Admitted.

6. Admitted. See **Exhibit 1**, Attachment 2.

7. This paragraph contains legal argument, to which no response is required. By way of further answer, discovery seeking information outside the scope of a pending proceeding is impermissible. See, e.g., *Petition of the Borough of Cornwall for a Declaratory Order*, 2015 Pa. PUC LEXIS 433, at \*19-21 (Order Denying Motion to Compel, September 11, 2015); *Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, 2000 Pa. PUC LEXIS 49, at \*1849 (Opinion and Order entered July 20, 2000). The Commission may interpret the relevance of discovery liberally, but clearly there are limits. Questions about HVUS's wastewater system are clearly beyond the scope of the narrow, limited issues concerning HVUS's water system that were outlined in the Prehearing Order.

8. The Commission's May 2018 Order is a written document that speaks for itself. By way of further answer, it is denied that Ordering Paragraph 9 (requiring HVUS to obtain an engineer's report regarding its wastewater system) is relevant to this proceeding, which concerns

HVUS's request for an amendment to Ordering Paragraph 8 (requiring HVUS to implement an engineer's report regarding its water system).

9. It is admitted that HVUS filed an engineer's report on April 18, 2018 regarding its wastewater system. That report is a written document that speaks for itself. It is denied that this report is relevant to this proceeding.

10. The Commission's May 2018 Order is a written document that speaks for itself. By way of further answer, it is denied that Ordering Paragraph 11 (requiring HVUS to implement an engineer's report regarding its wastewater system) is relevant to this proceeding.

11. The Commission's May 2018 Order is a written document that speaks for itself. By way of further answer, it is denied that Ordering Paragraph 19 (requiring HVUS to file a final status report from its engineer when all repairs to its wastewater system have been completed) is relevant to this proceeding.

12. It is admitted that, on February 14, 2020, HVUS filed a final status report from its engineer regarding repairs to its wastewater system. That report is a written document that speaks for itself. It is denied that this report is relevant to this proceeding.

13. Ordering Paragraph 20 of the May 2018 Order is a written document that speaks for itself. It is denied that this paragraph is relevant to this proceeding.

14. Paragraph 10 (not Paragraph 11, as stated in the Motion to Compel) references Ordering Paragraph 19 of the Commission's May 2018 Order. As stated above, in response to Paragraph 10, it is denied that the engineer's wastewater report is relevant to this proceeding. As a result, it is denied that any interrogatories regarding that report are relevant to this proceeding. Such interrogatories are therefore outside the scope of permissible discovery. 52 Pa. Code

§ 5.321(c) (“a party may obtain discovery regarding any matter, not privileged, *which is relevant to the subject matter involved in the pending action*”).

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted. By way of further answer, HVUS’s objections are a written document that speaks for itself.

22. Denied. To the contrary, HVUS’s objections should be sustained. This hearing is not being held pursuant to Ordering Paragraph 20 of the May 2018 Order; this hearing is being held to consider the evidentiary support for HVUS’s Petition to Amend. That pleading, in turn, requests an amendment of Ordering Paragraph 8, which only concerns HVUS’s water system. All the interrogatories in Set X, however, concern HVUS’s wastewater system, which is completely irrelevant to this proceeding.

23. Ordering Paragraph 20 and OCA Set X are written documents that speak for themselves. By way of further answer, the OCA asserts that Set X addresses the issue of “the adequacy of the wastewater system.” That issue is not within the scope of this proceeding as described in the Prehearing Order and discussed during the Prehearing Conference. Information that would be responsive to Set X would not be relevant to this proceeding. As a result, it would not be admissible in this proceeding. Moreover, it is not likely to lead to the discovery of

information that would be admissible in this proceeding. It is therefore outside the scope of permissible discovery. 52 Pa. Code § 5.321(c).

24. It is denied that wastewater system issues are properly addressed in this proceeding. It is further denied that this proceeding is being held pursuant to Ordering Paragraph 20. The proceeding described in Ordering Paragraph 20 will be held in the future. The OCA will have an opportunity to conduct discovery for relevant information at that time.

25. The OCA and Mr. Kollar suggested several additional issues in their Prehearing Conference Memoranda, which the ALJ rejected, noting that this proceeding is limited to the narrow issues raised by the January 2019 Order and the Memorandum Opinion. Now, with just two weeks remaining until HVUS's Direct Testimony is due, is no time to significantly enlarge the issues presented in this proceeding.

The allegation that OCA was still reviewing the engineer's report filed February 14, 2020 is irrelevant. At the time of the Prehearing Conference in February 2020, the OCA was certainly well aware that HVUS did not file an engineer's report verifying that HVUS had completed all necessary repairs to its wastewater system on or before January 31, 2019. If the OCA wanted to argue that this proceeding is the hearing described in Ordering Paragraph 20, it should have done so at the Prehearing Conference.

If, however, the ALJ agrees with the OCA and finds that the requested information is relevant to this proceeding, HVUS echoes the OCA's request that the procedural schedule be modified to give HVUS additional time to address the multitude of additional issues that would be involved in this proceeding.

26. Denied. This is a consolidated proceeding and Ordering Paragraphs 19-21 do not distinguish between the water and wastewater systems. Therefore, the Ordering Paragraph 20

proceedings for HVUS's wastewater system should occur at the same time as the Ordering Paragraph 20 proceedings for HVUS's water system. It would be a waste of the Parties' and the Commission's resources to begin the Ordering Paragraph 20 proceedings for the water system until after it is determined whether to grant HVUS's Petition to Amend. In any event, it is clear that OCA will have its day in court pursuant to Ordering Paragraph 20 with regard to HVUS's wastewater system. There is no need to complicate this proceeding by adding those issues to this proceeding.

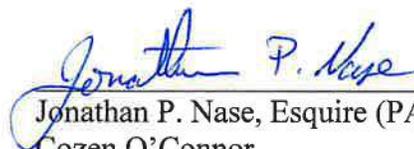
27. Admitted.

### III. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, for all of the reasons set forth above, HVUS respectfully requests that the ALJ deny the Motion and sustain the Objections of HVUS to all of the interrogatories in Set X. In the alternative, if the ALJ grants the Motion and finds that this proceeding is being held pursuant to Ordering Paragraph 20, HVUS respectfully requests that the ALJ modify the procedural schedule to permit HVUS to prepare Direct Testimony that will address a number of issues that were not previously a part of this proceeding.

Respectfully submitted,

Dated: March 19, 2020

  
Jonathan P. Nase, Esquire (PA ID No. 44003)  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101  
Phone: 717-773-4191  
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E-mail: jnase@cozen.com

Counsel for *Hidden Valley Utility Services, L.P.*

# **EXHIBIT 1**

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca

 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

March 16, 2020

**Via Electronic Mail Only**

The Honorable Katrina L. Dunderdale  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 Fifth Avenue  
Suite 220  
Pittsburgh, PA 15222

Re: Tanya J. McCloskey, Acting Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P.  
Water and Wastewater  
Docket Nos. C-2014-2447138  
C-2014-2447169

Dear Judge Dunderdale:

Enclosed please find a Notice to Plead and the Motion of the Office of Consumer Advocate to Dismiss Objections and to Compel Hidden Valley Utility Services, L.P. – Wastewater to Answer Interrogatories (OCA Set X, questions 1 through 6) in the above-referenced proceedings. The OCA has attached the verification of Terry L. Fought, Professional Engineer, pursuant to the requirements of 52 Pa. Code section 1.36.

The original has been electronically filed with the Secretary's Office and the parties have been served as evidenced by the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Enclosures

cc: Rosemary Chiavetta, PUC Secretary  
Certificate of Service

\*285298

**EXHIBIT 1**

CERTIFICATE OF SERVICE

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket Nos. C-2014-2447138 (W)  
Hidden Valley Utility Services, L.P. – : C-2014-2447169 (WW)  
Water and Wastewater :

I hereby certify that I have this day served a true copy of the following document, a Notice to Plead and the Motion of the Office of Consumer Advocate to Dismiss Objections and to Compel Hidden Valley Utility Services, L.P. – Wastewater to Answer Interrogatories (OCA Set X, questions 1 through 6), 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 16<sup>th</sup> day of March 2020.

**SERVICE BY E-MAIL ONLY**

Allison C. Kaster, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
Cozen O'Connor  
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Robert J. Kollar  
Kellie A. Kuhleman  
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Pittsburgh, PA 1524

James Kettler, President  
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Sharon Howards-Fieri  
1174 Grist Mill Court  
P.O. Box 4126  
Hidden Valley, PA 15502

/s/ Erin L. Gannon

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Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
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Christine Maloni Hoover  
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PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Counsel for:  
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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: March 16, 2020  
\*285301

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tanya J. McCloskey, Acting Consumer Advocate :  
: v. : Docket Nos. C-2014-2447138  
: : C-2014-2447169  
Hidden Valley Utility Services, L.P. – :  
Water and Wastewater :

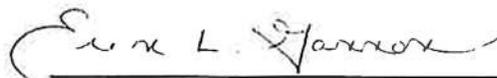
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NOTICE TO PLEAD

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You are hereby advised that, pursuant to 52 Pa. Code § 5.342(g)(1), as modified by the Prehearing Order issued on March 11, 2020 in this proceeding, you may file a reply to the enclosed Motion to Compel within three (3) calendar days after the date of service of the attached Motion to Compel. Your reply should be filed with the Secretary of the Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120. A copy should also be served on the undersigned counsel, the Presiding Officers and all other parties.

Respectfully submitted,



Erin L. Gannon  
Senior Assistant Consumer Advocate  
Pa. Attorney No. 83487  
[EGannon@paoca.org](mailto:EGannon@paoca.org)

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Christine Maloni Hoover  
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Pa. Attorney No. 50026  
[CHoover@paoca.org](mailto:CHoover@paoca.org)

Dated: March 16, 2020  
285203

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

|  |   |                            |
|--|---|----------------------------|
| Tanya J. McCloskey, Acting Consumer Advocate | : |                            |
|  | : |                            |
| v.   | : | Docket Nos. C-2014-2447138 |
|  | : | C-2014-2447169             |
| Hidden Valley Utility Services, L.P. –       | : |                            |
| Water and Wastewater                         | : |                            |

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MOTION OF THE OFFICE OF CONSUMER ADVOCATE  
TO DISMISS OBJECTIONS AND TO COMPEL  
HIDDEN VALLEY UTILITY SERVICES, L.P. - WASTEWATER  
TO ANSWER INTERROGATORIES

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**I. INTRODUCTION**

Pursuant to 52 Pa. Code §§ 5.103, 5.331, and 5.342(g) and the discovery modifications adopted in the Prehearing Order issued by Administrative Law Judge Katrina L. Dunderdale on March 11, 2020, the Office of Consumer Advocate (OCA) hereby moves that the Presiding Officer dismiss the objections of Hidden Valley Utility Services, LP (HVUS or Company) and compel HVUS to provide the full and complete information requested in OCA Set X, questions 1 through 6. In support thereof, the OCA states as follows:

**II. BACKGROUND**

1. The most recent Public Utility Commission (Commission) Order in this proceeding was entered on January 17, 2019 (January 2019 Order).<sup>1</sup> In the January 2019 Order, the Commission denied the Petition for Amendment (Second Petition) filed by HVUS. In the Second Petition, HVUS sought an amendment to deadlines contained in the Commission's May 3, 2018 Order (May

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<sup>1</sup>The OCA incorporates by reference the extensive discussion of the background of this proceeding as set forth in the Commission's Order of January 17, 2019.

2018 Order) on reconsideration.<sup>2</sup>

2. The Company filed a Petition for Review of the January 2019 Order with the Commonwealth Court. The Commission filed a Motion to Quash the Petition for Review. The Motion was granted in an unreported Memorandum Opinion of the Commonwealth Court. Hidden Valley Utility Services, L.P. v. Pa. P.U.C., 187 C.D. 2019 (May 15, 2019).

3. On March 11, 2020, the Presiding Officer issued a Prehearing Order, which modified the discovery procedures for the case and provided, in relevant part, as follows:

- B. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of interrogatories. Unresolved objections shall be served to the Administrative Law Judge in writing within five (5) calendar days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- E. Ruling over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

4. On March 6, 2020, prior to 12 p.m., the OCA served HVUS with Set X (wastewater). A copy of this discovery is attached hereto as Attachment 1.

5. In accordance with the modified discovery timeframes, counsel for HVUS contacted counsel for the OCA to orally object to all interrogatories in Set X, which contains six questions. Counsel were unable to resolve the dispute.

6. On March 11, 2020, HVUS filed its written objections to Set X. A copy of this filing is attached as Attachment 2.

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<sup>2</sup> The Commission entered an Order on January 18, 2018 (January 2018 Order) sustaining in part the OCA's complaints against HVUS. HVUS filed a Petition for Clarification, Reconsideration, and Amendment (First Petition). The Commission addressed that Petition in its May 2018 Order.

### III. LEGAL STANDARD

7. Under the Commission's regulations, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.<sup>3</sup> 52 Pa. Code § 5.321(c). It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Id.* The Commission applies the relevancy test liberally. See Pa. P.U.C. v. The Peoples Natural Gas Co., 62 PaPUC 56 (Aug. 26, 1986). Further, any doubts are to be resolved in favor of relevancy and permitting discovery. Petition of the Borough of Cornwall for a Declaratory Order, Docket No. P-2015-2476211, Order (Sept. 11, 2015).<sup>4</sup> The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. Id.

### IV. MOTION TO COMPEL

8. Ordering Paragraph 9 of the Commission's May 2018 Order required an engineering report on the HVUS wastewater system.<sup>5</sup>

9. That Hidden Valley Utility Services, L.P., shall obtain and file with the Commission a written report from an independent or third-party Pennsylvania licensed water and wastewater engineer concerning the adequacy of its wastewater system; and the report shall contain recommendations and a cost analysis to identify

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<sup>3</sup> Section 5.321 outlines the scope of discovery as follows:

(c) *Scope.* Subject to this subchapter, a party may obtain discovery regarding **any matter**, not privileged, which is **relevant to the subject matter** involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the **claim or defense of another party**, including the **existence**, description, nature, content, custody, condition and location of any books, **documents**, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c) (emphasis added).

<sup>4</sup> Citing Koken v. One Beacon Ins. Co., 911 A.2d 1021, 1025 (Pa. Commw. 2006).

<sup>5</sup> This Ordering Paragraph 9 is identical to the original Ordering Paragraph 9 contained in the Commission's January 2018 Order.

whether or not the pumping stations are equipped and operating properly, whether an adequate and appropriate type and number of pumps and alarms are being utilized and maintained in operating conditions, and identify any deficiencies, repairs, maintenance, replacements or improvements and recommendations to ensure that reasonable and adequate wastewater services are being provided to its customers. The engineer shall inspect all wastewater facilities, tanks and equipment and prepare a report of its findings. The report shall confirm that the wastewater treatment plant and equipment is installed, properly maintained and operable. If this is not the case, then the engineer shall include a schedule for making all repairs, replacements and/or maintenance and to correct any found deficiencies recommend any maintenance or improvements in the report. The report shall include a survey of the lagoon at Treatment Plant No. 2 to estimate the current capacity and provide a timeframe for removal of sediment. The report shall also confirm the draining, inspection, repair, and repainting of Tank 1 (side 1). The report shall also include an evaluation and proposed remedy to ensure that Hidden Valley Utility Services, L.P., is providing adequate and reasonable wastewater services to its customers. Hidden Valley Utility Services, L.P., shall obtain said report within ninety (90) days from the date of entry of this Opinion and Order.

May 2018 Order at 27-28.

9. On April 18, 2018, HVUS filed an engineer's report in response to Ordering Paragraph 9. *Inter alia*, the report provided the engineer's list of recommended deficiency repairs prioritized by their observed conditional rating and their estimated repair costs. See Appendices 2 through 10 to the April 2018 Report (a full copy of the report is attached as Attachment A, hereto).

10. Ordering Paragraph 11 of the May 2018 Order required that, by January 31, 2019, the Company comply with all recommendations from the engineer's April 2018 report.<sup>6</sup>

11. That Hidden Valley Utility Services, L.P., **shall comply with all recommendations from the engineer** with regard to wastewater services in order to ensure that customers shall receive adequate and reasonable wastewater service, **on or before January 31, 2019.**

May 2018 Order at 29 (emphasis added).

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<sup>6</sup> This Ordering Paragraph 11 is identical to the original Ordering Paragraph 11 contained in the Commission's January 2018 Order.

11. Ordering Paragraph 19 of the May 2018 Order required that, by January 31, 2019, the Company file another report with a verification from the engineer regarding what has and has not been completed.<sup>7</sup>

19. That **on or before January 31, 2019**, or as soon as all repairs, modifications and improvements have been made, as ordered herein, Hidden Valley Utility Services, L.P., shall file a final detailed status report with the Secretary of the Commission, along with a verification from its engineer outlining the details of what has and has not been completed, and provide copies to the Office of Consumer Advocate and to the Commission's Bureau of Technical Utility Services, in writing, at the time of filing, identifying in detail the extent of compliance and any incomplete matters as ordered herein. **If any matters ordered herein have not been completed, Hidden Valley Utility Services, L.P., and its engineer shall state in said report, in detail, the reasons for the same.**

May 2018 Order at 31 (emphasis added).

12. On February 14, 2020, the Company filed a final status report from HVUS's engineer, with a verification, regarding the April 2018 engineer's report for the wastewater system. The February 2020 report indicates that certain of the engineer's recommendations from the April 2018 report were not completed.

13. Ordering Paragraph 20 of the May 2018 Order provided, in relevant part, that if the recommended repairs, modifications, rehabilitative and maintenance procedures have not been accomplished within the time frame structured herein, that the adequacy of the wastewater system and any other issue relative to the Commission's ordering paragraphs, may be addressed in an evidentiary hearing.<sup>8</sup>

20. That on or before March 31, 2019, or within sixty (60) days after receipt of a written report of all completed rehabilitative measures from Hidden Valley Utility Services, L.P. and its engineer, the Bureau of Technical Utility Services shall

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<sup>7</sup> This Ordering Paragraph 19 is identical to the original Ordering Paragraph contained in the Commission's January 2018 Order.

<sup>8</sup> This Ordering Paragraph 20 differs, in part, from the original Ordering Paragraph contained in the Commission's January 2018 Order. The modifications are discussed on pages 20-25 of the May 2018 Order.

investigate the quality of the water as well as of the water and wastewater services being received by Hidden Valley Utility Services, L.P.'s customers. **If the recommended repairs, modifications, rehabilitative and maintenance procedures have not been accomplished within the time frame structured herein**, or if the water quality or water and wastewater service as reported by the Bureau of Technical Utility Services is not adequate and reasonable, an evidentiary hearing shall forthwith be scheduled by the Office of Administrative Law Judge for purposes of addressing one or more of the following issues: the adequacy of the water system, **the adequacy of the wastewater system**, the quality of the water, the appropriateness of penalties to be imposed against Hidden Valley Utility Services, L.P., the appropriateness of ratepayer refunds, and **any other issue relative to these ordering paragraphs**. The burden of proof in the evidentiary hearing as to these issues shall be upon Hidden Valley Utility Services, L.P. The Commission shall retain jurisdiction for that purpose.

May 2018 Order at 31-32 (emphasis added).

14. As stated in paragraph 10 above, where the engineer's recommended actions to ensure reasonable and adequate wastewater service were not completed, the Commission required the final status report to include detailed reasons. On March 6, 2020, the OCA served Set X discovery to HVUS, which sought additional detail regarding several of the reasons provided in the February 2020 report.

15. Interrogatory OCA-X-1 states:

Reference: Engineer's Final Report and Verification of Repairs to the Wastewater System, filed on February 14, 2020.

1. Reference: Addendum 2, Page 2 of 14, STP No. 1 – Headworks and Equalization Facilities.
  - a. Was the Pennsylvania Department of Environmental Resources (DEP) contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
  - b. Was DEP contacted and did DEP issued a permit amendment or modification for not repairing the Equalization Splitter Box because if it collapses it would cause an emergency situation?
  - c. Was DEP contacted and did DEP issue a permit amendment or modification for replacing Bubbler Tubes with a Transducer?
  - d. When does the Company intend to have the Equalization Tanks interiors visually inspected?

16. Interrogatory OCA-X-2 states:
  2. Reference: Addendum 2, Page 3 of 14, STP No. 1 – Primary Clarifier and Aeration Tanks.
    - a. Was DEP contacted and did DEP issue a permit amendment or modification for not using and not repairing the Primary Clarifier?
    - b. When does the Company intend to test and if necessary repair the Froth Spray Systems for Aeration Tanks No. 1 and No. 2?
17. Interrogatory OCA-X-3 states:
  3. Reference: Addendum 2, Page 4 of 14, STP No. 1 – Final Clarifier, Sludge Holding, and Effluent Tanks.
    - a. When did the Company notify DEP that it intended to drain the Sludge Holding Tanks for maintenance?
    - b. When were the Old Sludge Holding Tank and New Sludge Holding Tank drained and the walls inspected, repaired and repainted as necessary?
18. Interrogatory OCA-X-4 states:
  4. Reference: Addendum 2, Page 5 of 14, STP No. 1 – Control Building and Equipment.
    - a. Was an Aeration Blower replaced or repaired to make an additional backup? If not, when does the Company intend to replace or repair it?
19. Interrogatory OCA-X-5 states:
  5. Reference: Addendum 2, Page 6 of 14, STP No. 2 – Headworks, Generator, and Facultative Lagoon.
    - a. Was the Lagoon Liner repaired? If yes, who repaired it? If not, when does the Company intend to repair it?
    - b. Was DEP contacted and did DEP issue a permit amendment or modification for removing the Parshall Flume Roof?
    - c. Was the DEP contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
20. Interrogatory OCA-X-6 states:
  6. Reference: Addendum 2, Pages 10 thru 14 – Fairways Lots, Highland Townhouse, Westridge #1 and Westridge #2 Pumping Stations.
    - a. Was the DEP contacted and did DEP issue a permit amendment or modification for installing the shutoff valves in valve boxes instead of a valve pit?

21. HVUS objects to all six questions in OCA Set X on the ground that information regarding its wastewater system is not relevant to the issues being addressed in this proceeding, which are limited to its water system.<sup>9</sup> Objections at 3-5.

22. The Company's objection should be dismissed. The hearing in this proceeding is being held pursuant to Ordering Paragraph 20 of the Commission's May 2018 Order. The provisions of that paragraph expressly apply to both the water and wastewater systems.

23. Ordering Paragraph 20 provides that, where the engineer's recommendations have not been completed within the time frame, here January 31, 2019, an evidentiary hearing shall forthwith be scheduled to address the adequacy of the wastewater system or any other issue relative to the ordering paragraphs. The information requested in OCA Set X specifically address the engineer's April 2018 recommendations for the wastewater system, which were not completed by January 31, 2019, and the reasons why they were not completed.

24. Since the issuance of the Commission's January 2018 Order, most of the litigation in this proceeding has focused on the deadline for compliance with the Company's engineer's report for the water system. That is not basis, however, to exclude wastewater system issues properly addressed in this proceeding pursuant to Ordering Paragraph 20.

25. The OCA recognizes that the sufficiency of the wastewater report and adequacy of wastewater service, was not specifically addressed during the Prehearing Conference held on February 25, 2020. The OCA points out, however, that the wastewater report was filed on February 14, 2020 and, at the time of the conference, was still being reviewed by the OCA and the

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<sup>9</sup> Specifically, the Company contends that the only matters at issue are: the propriety of the recommendations, proposed time schedules and financing plans for the recommendations contained in the April 2018 engineer's report pertaining to the Company's water system; the sufficiency of the report; and the sufficiency of the previously ordered one-year compliance deadline and whether the Commission should grant the request of HVUS to extend the compliance deadlines proposed in the 2018 engineer's report. Objections at 2.

OCA's engineer. The OCA notes, further, that the Company's testimony in this proceeding is not due until April 3, 2020. The OCA submits there is ample time for the February 2020 report to be addressed in the scheduled testimony and evidentiary hearing. In the alternative, the procedural schedule could be adjusted to provide additional time.

26. If the February 2020 report for the wastewater system is not addressed in this proceeding, it is not clear where it will be addressed and how the wastewater provisions of Paragraph 20 will be given effect.

#### V. CERTIFICATION

27. The undersigned counsel for OCA certifies that, on March 11, 2019, she contacted HVUS's counsel in a further attempt to resolve the Company's objections. Counsel were unable to resolve the dispute at that time.

#### VI. CONCLUSION

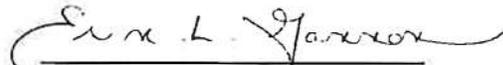
For the foregoing reasons, the OCA's requests for information in OCA Set X, Questions 1 through 6 are relevant and reasonable. The OCA respectfully requests that the Presiding Officer grant this Motion to Dismiss Objections and Compel Responses to Discovery and direct Hidden Valley Utility Services, LP to answer fully OCA Set X, within three calendar (3) days from the date of the order.

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048

Dated: March 16, 2020  
285203

Respectfully submitted,



Erin L. Gannon  
Senior Assistant Consumer Advocate  
Pa. Attorney No. 83487  
[EGannon@paoca.org](mailto:EGannon@paoca.org)

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Pa. Attorney No. 50026  
[CHoover@paoca.org](mailto:CHoover@paoca.org)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket Nos. C-2014-2447138  
Hidden Valley Utility Services, L.P. - : C-2014-2447169  
Water and Wastewater Division :

VERIFICATION

I, Terry L. Fought, hereby state that the facts set forth in the attached pleading are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: March 16, 2020

Signature:

  
\_\_\_\_\_  
Terry L. Fought

780 Cardinal Drive  
Harrisburg, PA 17111

285271

**Attachment 1**  
**OCA Set X (wastewater) to HVUS**

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca

 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

March 6, 2020

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
Cozen O'Connor  
17 North Second Street  
Suite 1410  
Harrisburg, PA 17101

Re: Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. –  
Wastewater Division  
Docket No. C-2014-2447169

Dear Counsel:

Enclosed you will find two copies of Interrogatories of the Office of Consumer Advocate, Set X, in the above-referenced proceeding.

In accordance with the Commission's Rules of Practice and Procedure, we request that the Company provide verified answers to these inquiries within ten (10) days of service. Also, please forward the verified answers as they are completed, rather than waiting until the responses to the full set are completed. We would appreciate it if you would communicate any objections you may have to these interrogatories as soon as possible.

We also request that you send a copy of the answers directly to our consultant, as listed below:

Terry L. Fought  
780 Cardinal Drive  
Harrisburg, PA 17111  
E-Mail: [tlfengr@aol.com](mailto:tlfengr@aol.com)

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
March 6, 2020  
Page 2

If you have any questions, please call us. By copy of this letter, copies of these interrogatories have been served upon all parties. A certificate of service showing service of these interrogatories on all parties has been filed with Secretary Chiavetta of the Pennsylvania Public Utility Commission as required by 52 Pa. Code § 5.341(b).

Sincerely,

/s/ Erin L. Gannon  
Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Enclosures:

cc: PUC Secretary Rosemary Chiavetta, (Letter and Certificate of Service only)  
Certificate of Service

\*284896

CERTIFICATE OF SERVICE

Office of Consumer Advocate

v.

Hidden Valley Utility Services, L.P. –  
Wastewater Division

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Docket No. C-2014-2447169

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Interrogatories to Hidden Valley Utility Services, L.P. – Wastewater Division, Set X, 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 6<sup>th</sup> day of March 2020.

SERVICE BY E-MAIL AND FIRST CLASS MAIL. POSTAGE PREPAID

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101

Sharon Howards-Fieri  
1174 Grist Mill Court  
P.O. Box 4126  
Hidden Valley, PA 15502

James Kettler, President  
Hidden Valley Utility Services, L.P.  
811 Russell Avenue, Suite F  
Gaithersburg, MD 20879

Robert J. Kollar  
Kellie A. Kuhleman  
1374 Langport Drive  
Pittsburgh, PA 1524

/s/ Erin L. Gannon

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

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

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: March 6, 2020  
\*284897

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Office of Consumer Advocate

v.

Hidden Valley Utility Services, L.P.,  
– Wastewater Division

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:  
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Docket No. C-2014-2447169

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INTERROGATORIES OF THE  
OFFICE OF CONSUMER ADVOCATE  
SET X

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Pursuant to 52 Pa. Code §5.341, the Office of Consumer Advocate hereby propounds the following Interrogatories to Hidden Valley Utility Services, L.P. - Wastewater Division to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of the Company. Each interrogatory is to be verified by the responding witness in accordance with 52 Pa. Code §5.342(a)(6).

DATED: March 6, 2020

### Instructions

- 1) These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed.
- 2) Restate the interrogatory immediately preceding each response.
- 3) Identify the name, title, and business address of each person(s) providing each response.
- 4) Provide the date on which the response was created.
- 5) Divulge all information that is within the knowledge, possession, control, or custody of Respondent or may be reasonably ascertained thereby. The term "Hidden Valley Utility Services, L.P. - Wastewater," "Hidden Valley Utility Services," "Hidden Valley," or "you," as used herein includes Hidden Valley Utility Services, L.P. - Wastewater, its attorneys, agents, employees, contractors, or other representatives, to the extent that the Company has the right to compel the action requested therein.
- 6) Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness' knowledge, information and belief.
- 7) As used herein, but only to the extent not protected by 52 Pa. Code Section 5.323, the word "document" or "workpaper" includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
  - a) notations of any sort concerning conversations, telephone calls, meetings or other communications;
  - b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
  - c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. – Wastewater  
Docket No. C-2014-2447169

Interrogatories of the Office of Consumer Advocate  
Set X

Reference: Engineer's Final Report and Verification of Repairs to the Wastewater System, filed on February 14, 2020.

1. Reference: Addendum 2, Page 2 of 14, STP No. 1 – Headworks and Equalization Facilities.
  - a. Was the Pennsylvania Department of Environmental Resources (DEP) contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
  - b. Was DEP contacted and did DEP issued a permit amendment or modification for not repairing the Equalization Splitter Box because if it collapses it would cause an emergency situation?
  - c. Was DEP contacted and did DEP issue a permit amendment or modification for replacing Bubbler Tubes with a Transducer?
  - d. When does the Company intend to have the Equalization Tanks interiors visually inspected?
2. Reference: Addendum 2, Page 3 of 14, STP No. 1 – Primary Clarifier and Aeration Tanks.
  - a. Was DEP contacted and did DEP issue a permit amendment or modification for not using and not repairing the Primary Clarifier?
  - b. When does the Company intend to test and if necessary repair the Froth Spray Systems for Aeration Tanks No. 1 and No. 2?
3. Reference: Addendum 2, Page 4 of 14, STP No. 1 – Final Clarifier, Sludge Holding, and Effluent Tanks.
  - a. When did the Company notify DEP that it intended to drain the Sludge Holding Tanks for maintenance?
  - b. When were the Old Sludge Holding Tank and New Sludge Holding Tank drained and the walls inspected, repaired and repainted as necessary?

Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. – Wastewater  
Docket No. C-2014-2447169

Interrogatories of the Office of Consumer Advocate  
Set X

4. Reference: Addendum 2, Page 5 of 14, STP No. 1 – Control Building and Equipment.
  - a. Was an Aeration Blower replaced or repaired to make an additional backup? If not, when does the Company intend to replace or repair it?
5. Reference: Addendum 2, Page 6 of 14, STP No. 2 – Headworks, Generator, and Facultative Lagoon.
  - a. Was the Lagoon Liner repaired? If yes, who repaired it? If not, when does the Company intend to repair it?
  - b. Was DEP contacted and did DEP issue a permit amendment or modification for removing the Parshall Flume Roof?
  - c. Was the DEP contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
6. Reference: Addendum 2, Pages 10 thru 14 – Fairways Lots, Highland Townhouse, Westridge #1 and Westridge #2 Pumping Stations.
  - a. Was the DEP contacted and did DEP issue a permit amendment or modification for installing the shutoff valves in valve boxes instead of a valve pit?

284890

**Attachment 2**  
**HVUS Objections to OCA Set X (wastewater)**



March 11, 2020

**VIA E-MAIL AND FIRST CLASS MAIL**

**Jonathan P. Nase**

Direct Phone 717-773-4191  
Direct Fax 215-372-2340  
jnase@cozen.com

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

**Re: Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. -- Water and Tanya J. McCloskey, Acting Consumer Advocate v. Hidden Valley Utility Services, L.P. -- Wastewater; Docket Nos. C-2014-2447138 and C-2014-2447169**

**Objections of Hidden Valley Utility Services, L.P., to the Interrogatories Propounded by the Office of Consumer Advocate – Set X**

Dear Ms. Hoover:

Enclosed please find the Objections of Hidden Valley Utility Services, L.P., to the Interrogatories Propounded by the Office of Consumer Advocate – Set X. Copies have been served in accordance with the attached Certificate of Service.

Please contact me if you have any questions regarding these Objections.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase  
Counsel for *Hidden Valley Utility Services, L.P.*

JPN

cc: Rosemary Chiavetta, Secretary (*cover letter and certificate of service only*)  
Honorable Katrina L. Dunderdale  
Per Certificate of Service  
James M. Kettler, President, Hidden Valley Utility Services, L.P.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |                           |
|---|---|---------------------------|
| Tanya J. McCloskey, Acting Consumer Advocate      | : |                           |
|   | : |                           |
| v.  | : | Docket No. C-2014-2447138 |
|   | : |                           |
| Hidden Valley Utility Services, L.P. – Water      | : |                           |
|   | : |                           |
| and   | : |                           |
|   | : |                           |
| Tanya J. McCloskey, Acting Consumer Advocate      | : |                           |
|   | : |                           |
| v.  | : | Docket No. C-2014-2447169 |
|   | : |                           |
| Hidden Valley Utility Services, L.P. – Wastewater | : |                           |

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Objections of Hidden Valley Utility Services, L.P. to the Interrogatories Propounded by the Office of Consumer Advocate – Set X**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA E-MAIL AND FIRST CLASS MAIL:**

Christine Maloni Hoover, Esq.  
Erin L. Gannon, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
Counsel for *Office of Consumer Advocate*

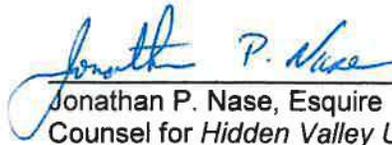
Sharon Howard-Frieri  
P.O. Box 4126  
Gristmill Court  
Hidden Valley, PA 15502

Robert J. Kollar, CPA and  
Kellie A. Kuhleman  
1374 Langport Dr.  
Pittsburgh, PA 15241

Allison Kaster, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120  
Counsel for *Bureau of Investigation and Enforcement*

Terry L. Fought  
780 Cardinal Drive  
Harrisburg, PA 17111  
Consultant for *Office of Consumer Advocate*

DATED: March 11, 2020

  
\_\_\_\_\_  
Jonathan P. Nase, Esquire  
Counsel for *Hidden Valley Utility Services, L.P.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**ADMINISTRATIVE LAW JUDGE  
KATRINA L. DUNDERDALE**

---

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket No. C-2014-2447138  
Hidden Valley Utility Services, L.P. – Water :

and

Tanya J. McCloskey, Acting Consumer Advocate :  
v. : Docket No. C-2014-2447169  
Hidden Valley Utility Services, L.P. – Wastewater :

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**OBJECTIONS OF HIDDEN VALLEY UTILITY SERVICES, L.P.  
TO THE INTERROGATORIES PROPOUNDED BY  
THE OFFICE OF CONSUMER ADVOCATE – SET X**

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AND NOW COMES Hidden Valley Utility Services, L.P. (“HVUS”), pursuant to 52 Pa. Code § 5.342(c) and the Parties’ agreement<sup>1</sup> following the Prehearing Conference held before Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) on February 25, 2020, to file these Objections (“Objections”) to the Interrogatories Propounded by the Office of Consumer Advocate (“OCA”) - Set X (“Set X”). In support whereof, HVUS states as follows:

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<sup>1</sup> The Parties have been complying with this agreement, although a formal order modifying the Commission’s discovery rules has not been issued.

## **I. Background**

1. This proceeding is pursuant to the Memorandum Opinion of the Commonwealth Court of Pennsylvania, dated May 15, 2019 and the Opinion and Order of the Pennsylvania Public Utility Commission (“Commission”) entered January 17, 2019, which denied the Petition of HVUS for an Amendment of the Opinion and Order entered May 3, 2018.

2. At the Prehearing Conference, the ALJ ruled that the only issues in this proceeding are:

a. The propriety of the recommendations, proposed time schedules and financing plans for the recommendations contained in the engineer’s report of HVUS from April 18, 2018 pertaining to HVUS’s water system;

b. The sufficiency of the report of the engineer of HVUS from April 18, 2018;

c. The sufficiency of the previously ordered one-year compliance deadline; and

d. Whether the Commission should grant the request of HVUS to extend the compliance deadlines proposed in the engineer’s report from April 18, 2018.

3. The OCA served Set X on HVUS before noon on Friday, March 6, 2020. A copy is attached as **Exhibit 1**.

4. Counsel for HVUS contacted counsel for the OCA on Monday, March 9, 2020 to orally object to all interrogatories in Set X. They were unable to resolve the discovery dispute.

## **II. Objections**

5. 52 Pa. Code § 5.342(c) permits a party to object to discovery requests.

6. 52 Pa. Code § 5.321(c) states:

(c) Scope. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be

inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

7. In summary, HVUS objects to all Interrogatories in Set X because they seek information regarding HVUS's *wastewater* system, which is well beyond the scope of the present proceedings. The present proceedings are limited to a narrow scope of issues pertaining to HVUS's *water* system.

8. Specifically, HVUS objects to Interrogatory X-1, which states:

1. Reference: Addendum 2, Page 2 of 14, STP No. 1 – Headworks and Equalization Facilities.

a. Was the Pennsylvania Department of Environmental Resources [sic] (DEP) contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?

b. Was DEP contacted and did DEP issued [sic] a permit amendment or modification for not repairing the Equalization Splitter Box because if it collapses it would cause an emergency situation?

c. Was DEP contacted and did DEP issue a permit amendment or modification for replacing Bubbler Tubes with a Transducer?

d. When does the Company intend to have the Equalization Tanks interiors visually inspected?

9. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

10. HVUS objects to Interrogatory X-2, which states:

2. Reference: Addendum 2, Page 3 of 14, STP No. 1 – Primary Clarifier and Aeration Tanks.

a. Was DEP contacted and did DEP issue a permit amendment or modification for not using and not repairing the Primary Clarifier?

b. When does the Company intend to test and if necessary repair the Froth Spray Systems for Aeration Tanks No. 1 and No. 2?

11. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

12. HVUS objects to Interrogatory X-3, which states:

Reference: Addendum 2, Page 4 of 14, STP No. 1 – Final Clarifier, Sludge Holding, and Effluent Tanks.

a. When did the Company notify DEP that it intended to drain the Sludge Holding Tanks for maintenance?

b. When were the Old Sludge Holding Tank and New Sludge Holding Tank drained and the walls inspected, repaired and repainted as necessary?

13. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

14. HVUS objects to Interrogatory X-4, which states:

4. Reference: Addendum 2, Page 5 of 14, STP No. 1 – Control Building and Equipment.

a. Was an Aeration Blower replaced or repaired to make an additional backup? If not, when does the Company intend to replace or repair it?

15. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

16. HVUS objects to Interrogatory X-5, which states:

5. Reference: Addendum 2, Page 6 of 14, STP No. 2 – Headworks, Generator, and Facultative Lagoon.

a. Was the Lagoon Liner repaired? If yes, who repaired it? If not, when does the Company intend to repair it?

b. Was DEP contacted and did DEP issue a permit amendment or modification for removing the Parshall Flume Roof?

c. Was the DEP contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?

17. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

18. HVUS objects to Interrogatory X-6, which states:

6. Reference: Addendum 2, Pages 10 thru 14 – Fairways Lots, Highland Townhouse, Westridge #1 and Westridge #2 Pumping Stations.

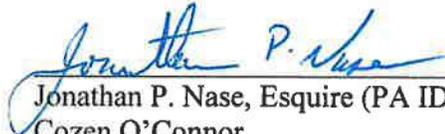
a. Was the DEP contacted and did DEP issue a permit amendment or modification for installing the shutoff valves in valve boxes instead of a valve pit?

19. HVUS objects to this interrogatory on the grounds that the requested information is not relevant to the limited issues involved in this proceeding. The answers to this interrogatory will not be admissible in this proceeding, nor is this interrogatory reasonably calculated to lead to the discovery of admissible evidence.

### III. CONCLUSION

WHEREFORE, for all of the reasons set forth above, HVUS respectfully requests that its objections be sustained, and that all Interrogatories in Set X Propounded by the Office of Consumer Advocate be stricken.

Respectfully submitted,

  
Jonathan P. Nase, Esquire (PA ID No. 44003)  
Cozen O'Connor  
17 North Second Street  
Suite 1410  
Harrisburg, PA 17101  
Phone: 717-773-4191  
Fax: 215-372-2340  
E-mail: [jnase@cozen.com](mailto:jnase@cozen.com)

Counsel for *Hidden Valley Utility Services, L.P.*

Date: March 11, 2020

# **EXHIBIT 1**

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca

 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

March 6, 2020

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
Cozen O'Connor  
17 North Second Street  
Suite 1410  
Harrisburg, PA 17101

Re: Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. –  
Wastewater Division  
Docket No. C-2014-2447169

Dear Counsel:

Enclosed you will find two copies of Interrogatories of the Office of Consumer Advocate, Set X, in the above-referenced proceeding.

In accordance with the Commission's Rules of Practice and Procedure, we request that the Company provide verified answers to these inquiries within ten (10) days of service. Also, please forward the verified answers as they are completed, rather than waiting until the responses to the full set are completed. We would appreciate it if you would communicate any objections you may have to these interrogatories as soon as possible.

We also request that you send a copy of the answers directly to our consultant, as listed below:

Terry L. Fought  
780 Cardinal Drive  
Harrisburg, PA 17111  
E-Mail: [tlfengr@aol.com](mailto:tlfengr@aol.com)

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Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
March 6, 2020  
Page 2

If you have any questions, please call us. By copy of this letter, copies of these interrogatories have been served upon all parties. A certificate of service showing service of these interrogatories on all parties has been filed with Secretary Chiavetta of the Pennsylvania Public Utility Commission as required by 52 Pa. Code § 5.341(b).

Sincerely,

/s/ Erin L. Gannon  
Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Enclosures:

cc: PUC Secretary Rosemary Chiavetta, (Letter and Certificate of Service only)  
Certificate of Service

\*284896

CERTIFICATE OF SERVICE

Office of Consumer Advocate

v.

Hidden Valley Utility Services, L.P. –  
Wastewater Division

:  
:  
:  
:  
:  
:  
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Docket No. C-2014-2447169

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Interrogatories to Hidden Valley Utility Services, L.P. – Wastewater Division, Set X, 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 6<sup>th</sup> day of March 2020.

SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Jonathan P. Nase, Esquire  
David P. Zambito, Esquire  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101

Sharon Howards-Fieri  
1174 Grist Mill Court  
P.O. Box 4126  
Hidden Valley, PA 15502

James Kettler, President  
Hidden Valley Utility Services, L.P.  
811 Russell Avenue, Suite F  
Gaithersburg, MD 20879

Robert J. Kollar  
Kellie A. Kuhleman  
1374 Langport Drive  
Pittsburgh, PA 1524

/s/ Erin L. Gannon

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

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

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: March 6, 2020  
\*284897

RECEIVED MAR - 9 2020



### Instructions

- 1) These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed.
- 2) Restate the interrogatory immediately preceding each response.
- 3) Identify the name, title, and business address of each person(s) providing each response.
- 4) Provide the date on which the response was created.
- 5) Divulge all information that is within the knowledge, possession, control, or custody of Respondent or may be reasonably ascertained thereby. The term "Hidden Valley Utility Services, L.P. - Wastewater," "Hidden Valley Utility Services," "Hidden Valley," or "you," as used herein includes Hidden Valley Utility Services, L.P. - Wastewater, its attorneys, agents, employees, contractors, or other representatives, to the extent that the Company has the right to compel the action requested therein.
- 6) Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness' knowledge, information and belief.
- 7) As used herein, but only to the extent not protected by 52 Pa. Code Section 5.323, the word "document" or "workpaper" includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
  - a) notations of any sort concerning conversations, telephone calls, meetings or other communications;
  - b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
  - c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. – Wastewater  
Docket No. C-2014-2447169

Interrogatories of the Office of Consumer Advocate  
Set X

Reference: Engineer's Final Report and Verification of Repairs to the Wastewater System, filed on February 14, 2020.

1. Reference: Addendum 2, Page 2 of 14, STP No. 1 – Headworks and Equalization Facilities.
  - a. Was the Pennsylvania Department of Environmental Resources (DEP) contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
  - b. Was DEP contacted and did DEP issued a permit amendment or modification for not repairing the Equalization Splitter Box because if it collapses it would cause an emergency situation?
  - c. Was DEP contacted and did DEP issue a permit amendment or modification for replacing Bubbler Tubes with a Transducer?
  - d. When does the Company intend to have the Equalization Tanks interiors visually inspected?
2. Reference: Addendum 2, Page 3 of 14, STP No. 1 – Primary Clarifier and Aeration Tanks.
  - a. Was DEP contacted and did DEP issue a permit amendment or modification for not using and not repairing the Primary Clarifier?
  - b. When does the Company intend to test and if necessary repair the Froth Spray Systems for Aeration Tanks No. 1 and No. 2?
3. Reference: Addendum 2, Page 4 of 14, STP No. 1 – Final Clarifier, Sludge Holding, and Effluent Tanks.
  - a. When did the Company notify DEP that it intended to drain the Sludge Holding Tanks for maintenance?
  - b. When were the Old Sludge Holding Tank and New Sludge Holding Tank drained and the walls inspected, repaired and repainted as necessary?

Office of Consumer Advocate  
v.  
Hidden Valley Utility Services, L.P. – Wastewater  
Docket No. C-2014-2447169

Interrogatories of the Office of Consumer Advocate  
Set X

4. Reference: Addendum 2, Page 5 of 14, STP No. 1 – Control Building and Equipment.
  - a. Was an Aeration Blower replaced or repaired to make an additional backup? If not, when does the Company intend to replace or repair it?
5. Reference: Addendum 2, Page 6 of 14, STP No. 2 – Headworks, Generator, and Facultative Lagoon.
  - a. Was the Lagoon Liner repaired? If yes, who repaired it? If not, when does the Company intend to repair it?
  - b. Was DEP contacted and did DEP issue a permit amendment or modification for removing the Parshall Flume Roof?
  - c. Was the DEP contacted and did DEP issue a permit amendment or modification for not repairing or replacing the Muffin Monster cutting cartridge?
6. Reference: Addendum 2, Pages 10 thru 14 – Fairways Lots, Highland Townhouse, Westridge #1 and Westridge #2 Pumping Stations.
  - a. Was the DEP contacted and did DEP issue a permit amendment or modification for installing the shutoff valves in valve boxes instead of a valve pit?

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