



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

August 5, 2020

**Via Electronic Filing**

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

Re: Petition of Twin Lakes Utilities, Inc. For A Commission Order Authorizing  
The Acquisition of Twin Lakes Utilities, Inc. By A Capable Public Utility  
Pursuant To 66 Pa. C.S. §529  
Docket No. P-2020-3020914  
**I&E Answer to Twin Lakes Petition**

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E)  
**Answer to Twin Lakes Petition** for the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service.  
*Due to the temporary closing of the PUC's offices, I&E is only providing electronic Service.*  
Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Scott B. Granger".

Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

SBG/jfm  
Enclosures

cc: Hon. Joel Cheskis, OALJ Harrisburg (*via email only*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Twin Lakes Utilities, Inc. for a :  
Commission Order Authorizing the :  
Acquisition of Twin Lakes Utilities, Inc. by a : Docket No.: P-2020-3020914  
Capable Public Utility Pursuant to :  
66 Pa. C.S. §529 :

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**ANSWER  
OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT  
IN REPLY TO THE PETITION OF TWIN LAKES UTILITIES  
REQUESTING A COMMISSION ORDER  
AUTHORIZING ITS ACQUISITION BY A CAPABLE PUBLIC UTILITY  
PURSUANT TO 66 PA. C.S. SECTION 529**

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**AND NOW COMES** the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), pursuant to 52 Pa. Code Section 5.61, and hereby files this timely Answer requesting that the Commission deny the Company’s requested relief prayed for in its Petition.

On July 16, 2020, Twin Lakes Utilities Inc., (“Twin Lakes” or “Company”) filed a Petition with the Pennsylvania Public Utility Commission (“Commission”) requesting that the Commission issue an order, on an expedited basis, that authorizes the acquisition of Twin Lakes pursuant to 66 Pa. C.S. § 529 (“Section 529”) by a “capable public utility” as defined by statute.

I&E hereby requests that the Commission deny the Company’s requested relief. Doing so is warranted because the Company cannot meet its burden of proof; and, because the Petition fails to justify the request that the Commission issue an order, on an

expedited basis, that authorizes the acquisition of Twin Lakes by a capable public utility pursuant to Section 529.

As further support to deny the Petition of Twin Lakes, I&E offers the following Answer and New Matter:

## **I. BACKGROUND**

1. Admitted upon information and belief.
2. Admitted upon information and belief.
3. Admitted in part, denied in part. It is admitted upon information and belief that Twin Lakes is a wholly-owned subsidiary of Middlesex. Further, after a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments that Middlesex is not approved to do business in Pennsylvania, nor that Middlesex or Twin Lakes have ever designated themselves as a “doing business as” (“d/b/a”) entity. Finally, to the extent the allegations contained in this paragraph are conclusions of law no response is required and they are denied.

By way of further response, on its website, Middlesex states that it was incorporated as a water utility in 1897, and that it “provides a full range of regulated and non-regulated water and wastewater utility and related services in parts of New Jersey, Delaware and Pennsylvania.”<sup>1</sup> Additionally, on its website, Middlesex proclaims “[t]hrough our affiliated companies we are delivering technical and management capabilities that creatively address challenges such as aging infrastructure and increasing

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<sup>1</sup> See, <https://www.middlesexwater.com/about-us/>, p. 1 of 8.

regulatory pressures faced by municipalities, developers and small system owners.”<sup>2</sup>

Therefore, in consideration of the proclamation on Twin Lakes’ parent company’s own website, Twin Lakes can reasonably be expected to furnish and maintain adequate, efficient, safe and reasonable service and facilities in the future.<sup>3</sup> Finally, by and through its parent company, Twin Lakes has access to the necessary financial, managerial and technical ability to provide safe and reasonable service and facilities in the future.<sup>4</sup>

4. Admitted in part, denied in part. It is admitted upon information and belief that on April 6, 2009, Middlesex formed Twin Lakes by filing Articles of Incorporation with the Pennsylvania Department of State Corporation Bureau. Further, after a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments the remaining of the averments and they are denied. Finally, to the extent the allegations contained in this paragraph are conclusions of law no response is required and they are therefore denied.

5. Admitted upon information and belief. It is admitted that Middlesex, by and through its wholly-owned subsidiary, Twin Lakes Utilities Inc., owns the assets of what was formerly Twin Lakes Water Services, LLC.

6. Admitted upon information and belief.

7. Admitted upon information and belief.

8. Admitted upon information and belief, however strict proof thereof is demanded.

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<sup>2</sup> See, <https://www.middlesexwater.com/about-us/>, p. 2 of 8.

<sup>3</sup> See, 66 Pa. C.S. § 529(a)(3).

<sup>4</sup> See, 66 Pa. C.S. § 529(c)(1).

9. Denied. After reasonable investigation I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent that the allegations in this paragraph are conclusions of law, no response is required and they are deemed denied.

10. Denied. After reasonable investigation I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent that the allegations in this paragraph are conclusions of law, no response is required and they are deemed denied.

11. Denied. After reasonable investigation I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent that the allegations in this paragraph are conclusions of law, no response is required and they are deemed denied.

12. Admitted in part, denied in part. It is admitted upon information and belief that Middlesex provides operations support to Twin Lakes through a Service Agreement. Further, to the extent the averments in this paragraph attempt to paraphrase the Service Agreement, as a written document, the Service Agreement speaks for itself and must be read in the context of the entire document, therefore the averments are denied. Finally, to the extent the allegations contained in this paragraph are conclusions of law, no response is required and they are therefore denied.

By way of further response, the responses to Paragraph 3 *supra* are incorporated herein as if fully set forth. Additionally, Middlesex, Twin Lakes' parent company, is a "capable public utility" as that term is defined in the Public Utility Code.<sup>5</sup> Further, Middlesex, as evidenced by its own statements on its website, is financially, managerially, and technically capable of operating Twin Lakes in compliance with all applicable statutory and regulatory standards.<sup>6</sup>

13. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. By way of further response, to the extent that the remaining allegations contained in this paragraph are conclusions of law, no response is required and they are therefore denied.

14. Admitted in part, denied in part. It is admitted upon information and belief that Twin Lakes senior executives have traveled to Harrisburg to meet with the commission, commission staff, and the office of consumer advocate. However, after reasonable investigation I&E is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Finally, to the extent the averments in this paragraph are conclusions of law, no response is required and they are therefore denied.

15. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph

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<sup>5</sup> 66 Pa. C.S. § 529(m).

<sup>6</sup> 66 Pa. C.S. § 529(a)(5).

and they are therefore denied. Strict proof thereof is demanded. By way of further response, to the extent that the remaining allegations contained in this paragraph are conclusions of law, no response is required and they are therefore denied.

16. Admitted in part, denied in part. It is admitted upon information and belief that Twin Lakes filed a base rate cases in 2011, 2015, and 2019. It is also admitted that the 2019 rate case was fully litigated. Further, I&E is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph and they are therefore denied. Strict proof thereof is demanded.

17. Admitted in part, denied in part. It is admitted the Commission issued its Order in the 2019 rate case on March 26, 2020. By way of further response, to the extent the averments in this paragraph attempt to paraphrase the Commission's Order, they are denied. The Commission's Order, as a written document, speaks for itself and must be read in the context of the entire document. Further, to the extent the averments in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

18. Denied. To the extent the averments in this paragraph attempt to paraphrase the Commission's Order in the 2019 rate case they are denied. The Commission's Order, as a written document, speaks for itself and must be read in the context of the entire document. Further, to the extent the averments in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

By way of further response, Twin Lakes correctly states that the Commission rejected recommendations made by both Twin Lakes and OCA to initiate a

Section 529 proceeding. The conditions that existed then are the same conditions that exist today and Twin Lakes' attempt to initiate a Section 529 proceeding by and through the Petition filed at this docket should be rejected again. It is clear from the averments in Twin Lakes' own Petition that the actions Twin Lakes and Middlesex have taken, and are threatening to take in the future, constitute a de-facto abandonment as that term is used in the context of Section 1102(a)(2) of the Public Utility Code.<sup>7</sup>

By way of providing further background, Section 529 requires the Commission determine that six conditions be met.<sup>8</sup> Section 529 also lists six factors to be considered.<sup>9</sup> Section 529 places the burden of establishing a prima facie case on the Commission's Bureau of Investigation and Enforcement.<sup>10</sup> And finally, it is contrary to legal reasoning to posit that one party may file a petition requesting a specific relief from a tribunal and then the burden of proving the prima facie case to grant the requested relief is placed on another (possibly adversarial) party to move the tribunal toward granting the requested relief.

19. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of

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<sup>7</sup> 66 Pa. C.S. § 1102(a)(2).

<sup>8</sup> 66 Pa. C.S. § 529(a)(1)-(6).

<sup>9</sup> 66 Pa. C.S. § 529(c)(1)-(6).

<sup>10</sup> 66 Pa. C.S. § 529(i)

the entire document. Also, to the extent the averments contained in this paragraph are conclusions of law no, response is required and they are therefore deemed denied.

20. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of the entire document. Also, to the extent the averments contained in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

21. Admitted upon information and belief.

22. Admitted upon information and belief.

23. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of the entire document. Also, to the extent the averments contained in this paragraph are conclusions of law no response is required and they are therefore deemed denied.

24. Admitted in part, denied in part. It is admitted that on June 1, 2020, Middlesex issued a letter notice of termination of the service agreement to Twin Lakes. By way of further response, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document

speaks for itself and must be read in the context of the entire document. Also, to the extent the allegations contained in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

Further, the termination of the Service Agreement between Middlesex and Twin Lakes on September 1, 2020, will result in violations of the requirements of Section 1501 of Public Utility Code.<sup>11</sup> If the termination of the Service Agreement has the results that have been threatened by both Twin Lakes and Middlesex in the instant Petition, then violations of both Section 3301 and Section 3302 of the Public Utility Code may occur.<sup>12</sup>

25. Denied. I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of the entire document.

26. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of the entire document. Also, to the extent the averments contained in this paragraph are conclusions of law no response is required and they are therefore deemed denied.

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<sup>11</sup> 66 Pa. C.S. § 1501.

<sup>12</sup> 66 Pa. C.S. §§ 3301, 3302.

By way of further response, the termination of the Service Agreement between Middlesex and Twin Lakes on September 1, 2020, will result in violations of the requirements of Section 1501 of Public Utility Code.<sup>13</sup> If the termination of the Service Agreement has the results that have been threatened by both Twin Lakes and Middlesex in the instant Petition, then violations of both Section 3301 and Section 3302 of the Public Utility Code may occur.<sup>14</sup>

27. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded.

28. Admitted upon information and belief, however, strict proof thereof is demanded. By way of further response, to the extent that this paragraph attempts to paraphrase a written document, they are denied. As a written document, the document speaks for itself and must be read in the context of the entire document.

29. Admitted upon information and belief, however, strict proof thereof is demanded. Further, to the extent that the averments in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

30. Admitted upon information and belief, however, strict proof thereof is demanded. Further, to the extent that the averments in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

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<sup>13</sup> 66 Pa. C.S. § 1501.

<sup>14</sup> 66 Pa. C.S. §§ 3301, 3302.

31. Admitted upon information and belief, however, strict proof thereof is demanded. Further, to the extent that the averments in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

By way of further response, it is denied that the July 13, 2020 letter from the Commission was dispositive regarding the issue of whether a Section 529 proceeding is appropriate, as opposed to a Section 1102 abandonment, in the instant proceeding.

32. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. Further, to the extent the averments in this paragraph attempt to paraphrase a written document, they are denied. As written documents, the documents speak for themselves and must be read in the context of the entire document.

## **II. PRAYER FOR RELIEF**

33. Denied. Incorporation paragraph, no response required, therefore it is deemed denied.

34. Denied. Incorporation paragraph, no response required, therefore it is deemed denied.

35. Denied. To the extent the averments in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied.

By way of further response, it is admitted that the Commission may order a “capable public utility” to acquire a small water utility if all of the requirements of

Section 529 are met. However, it is specifically denied, that Section 529 permits the small water utility to proceed under Section 529 pursuant to its own petition.

To the contrary, Section 529 is part of Chapter 5, POWERS AND DUTIES (of the Commission), of the Public Utility Code. Chapter 5 clearly states “[t]he express enumeration of the powers of the Commission in this part ... .”<sup>15</sup> As one of the powers bestowed upon the Commission in Chapter 5, Section 529 is unambiguously intended for use by the Commission pursuant to its own motion. Chapter 5 does not confer or bestow any powers upon the public utilities.

36. Denied. After a reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and they are therefore denied. Strict proof thereof is demanded. To the extent the averments in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied.

By way of further response and in consideration of the totality of the circumstances regarding the relative capabilities of Twin Lakes and its parent company, Middlesex; I&E, as the party with the burden of establishing the prima facie case, cannot present to the ALJ and the Commission that I&E has determined that condition (a)(3)<sup>16</sup> in Section 529 can be met.

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<sup>15</sup> See 66 Pa. C.S. § 501(a).

<sup>16</sup> 66 Pa. C.S. § 529(a)(3).

**WHEREFORE**, in consideration of the averments set forth in I&E's Answer and New Matter, the Bureau of Investigation and Enforcement respectfully requests that Deputy Chief Administrative Law Judge Joel H. Cheskis and the Pennsylvania Public Utility Commission deny the relief requested by Twin Lakes in the instant Petition.

Respectfully submitted,

A handwritten signature in cursive script that reads "Scott B. Granger".

Scott B. Granger  
Prosecutor  
PA Attorney ID No. 63641

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

Dated: August 5, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Twin Lakes Utilities, Inc. for a :  
Commission Order Authorizing the :  
Acquisition of Twin Lakes Utilities, Inc. by a : Docket No.: P-2020-3020914  
Capable Public Utility Pursuant to :  
66 Pa. C.S. §529 :

**VERIFICATION**

I, Scott B. Granger, Prosecutor of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, 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.



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Scott B. Granger  
Prosecutor  
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Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
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Dated: August 5, 2020

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Capable Public Utility Pursuant to :  
66 Pa. C.S. §529 :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **I&E Answer to Twin Lakes Petition** dated August 5, 2020, in the manner and upon the persons listed below.

**Served via Electronic Mail Only**

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