



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 5, 2020

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission v.
The City of Bethlehem – Water Department
Supplement No. 15 to Tariff Water – Pa. P.U.C. No. 6
Docket No.: R-2020-3020256
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** in the above-captioned proceeding.

Copies are being served on the parties of record as evidenced in 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 black ink, appearing to read "John M. Coogan", with a long horizontal flourish extending to the right.

John M. Coogan
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 313920
(717) 783-6151
jcoogan@pa.gov

JMC/jfm
Enclosures

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

I. BACKGROUND

On July 31, 2020, the City of Bethlehem (“Bethlehem” or “City”), filed Supplement No. 15 to Tariff Water-Pa. P.U.C. No. 6 which proposed an annual distribution revenue increase of \$908,421 (10.9%), to become effective September 29, 2020. I&E entered its appearance on August 14, 2020. The Office of Consumer Advocate (“OCA”) filed a Notice of Appearance and Formal Complaint on August 27, 2020. The Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance and Formal Complaint on August 27, 2020.

On September 17, 2020, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of the proposed tariff changes until April 29, 2021, unless permitted by Commission Order to become effective at an earlier date. Through its order, the Commission assigned this case to the Office of Administrative Law Judge for Alternative Dispute Resolution (i.e., mediation), if possible, and for scheduling of hearings as necessary for issuance of a recommended decision. On September 23, 2020, the Company declined mediation and filed a tariff suspension, suspending its proposed tariff to April 29, 2021.

A Prehearing Conference is scheduled for October 8, 2020 at 10:00 a.m., before Administrative Law Judge Steven K. Haas (“ALJ Haas”). I&E submits this Memorandum in compliance with the Prehearing Conference Order issued by ALJ Haas on September 25, 2020.

II. ISSUES

The following list represents I&E's preliminary determination of the potential issues in this proceeding:

- Capital Structure
- Cost of Debt
- Cost of Equity
- Tax Adjustment to the Cost of Equity
- Overall Rate of Return
- Rate Base
- Utility Plant in Service
- Annual Depreciation Expense
- Rate Structure
- Scaleback
- Purchased Water
- Power
- Department Contracts
- Other
- Chemicals
- General Fund
- Bethlehem Authority
- Professional Services
- Postage/Bank Fees
- Communication
- Workers Comp
- Social Security
- City Insurance Package
- Medical Insurance Reimbursement
- Pensions
- Payment In Lieu of Taxes
- Cash Working Capital
- Salaries and Wages

The listing is as complete as can be made at this time. I&E is developing its position on each specific issue, but is generally evaluating whether the Company's proposed tariff is just, reasonable, and otherwise in compliance with the law. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise.

III. WITNESSES

It is currently expected that I&E may call the following witnesses without being limited thereto:

Esyon Sakaya Fixed Utility Valuation Engineer

Anthony Spadaccio Fixed Utility Financial Analyst

Brenton Grab Fixed Utility Financial Analyst

The I&E witnesses may be contacted through the contact information listed above for Mr. Coogan. I&E reserves the right to substitute witnesses or call additional witnesses if warranted.² All active parties will be notified of any amendments to the I&E witness list.

IV. EVIDENCE

I&E expects to present all pre-served written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports. However, there may be issues of Commission policy or legal representation that are not properly the subject of testimony or factual issues that are clear on the record and need not be

² The above listing is provided without analysis of the positions of all parties to this proceeding and without the benefit of completed discovery.

supported by testimony. I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed through briefing.

V. DISCOVERY

Due to the time limitations in the proceedings, I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:

1. Answers to written interrogatories shall be served in-hand within seven (7) calendar days of service.
2. Objections to interrogatories shall be communicated orally to the opposing party within three (3) calendar days of service; unresolved objections shall be served to the other party in writing within seven (7) calendar days of service of interrogatories.
3. Motion to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of such motions.
5. Discovery served after 12:00 noon on a Friday or after 12:00 p.m. on any business day preceding a state holiday will be deemed to be served on the next business day.

VI. SCHEDULE

I&E is working with Parties to develop a mutually agreeable procedural schedule regarding testimony for this proceeding.

VII. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs during the closure of Commission offices, and consistent with Paragraph 8 of the Commission's March 20, 2020 Emergency Order,³ I&E can both only serve and accept electronic delivery of documents. Upon re-opening of Commission offices, I&E requests parties provide a follow-up hard copy provided by regular first-class mail in addition to electronic delivery.

VIII. PUBLIC INPUT HEARINGS

To the extent that public input hearings are deemed necessary in this proceeding, I&E advocates for the use of Smart Hearings where possible.

³ Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*.

IX. SETTLEMENT

I&E intends to participate in any settlement discussions and is willing to work with the parties to reach a resolution of any or all issues.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

John M. Coogan
Prosecutor
PA Attorney ID No. 313920

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
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Date: October 5, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2020-3020256
	:	
The City of Bethlehem – Water Department	:	
Supplement No. 15 to Tariff Water –	:	
Pa. P.U.C. No. 6	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated October 5, 2020, in the manner and upon the persons listed below:

Served via Electronic Mail Only

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