

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 5, 2020

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
Docket No. R-2020-3020256

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Very truly yours,

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Enclosures:

cc: The Honorable Steven K. Haas (**email only**)
Certificate of Service

*297379

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket No. R-2020-3020256
The City of Bethlehem – Water Department :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, 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 5th day of October 2020.

SERVICE BY E-MAIL ONLY

John M. Coogan, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

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

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Counsel for:
Office of Consumer Advocate
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Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: October 5, 2020
*297378

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2020-3020256
	:	C-2020-3021583
City of Bethlehem – Water Department	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On July 31, 2020, the City of Bethlehem – Water Department (City) filed Supplement No. 15 to Tariff Water – Pa. P.U.C. No. 6, to become effective September 29, 2020. The City, by filing this tariff supplement, seeks Commission approval to make rate changes that would increase the level of rates that it charges for providing service to its customers outside the City boundaries.

In its filing, the City proposes an annual increase in base rate revenues of \$908,421 from customers located outside the City. This represents an approximate overall 10.9% increase in the City’s annual revenues at present rates. Under the City’s proposal, the total bill for a residential customer using 4,000 gallons per month with a 5/8” meter would increase from \$25.31 to \$28.52 per month, or by 12.7%. The proposed rates for an average 2” meter commercial customer using 65,000 gallons per month would increase from \$301.93 to \$349.57 per month, or by 15.8%.

Additionally, rates for an industrial customer using 228,000 gallons per month with a 1 1/2” meter would increase from \$812.96 to \$980.09 per month, or by 20.6%. The City provides water to 13,800 customers in portions of 11 surrounding municipalities in Northampton and Lehigh Counties.

On August 14, 2020, the Bureau of Investigation and Enforcement (I&E) filed a notice of appearance. The OCA filed a formal complaint and public statement on August 27, 2020. Also on that day, the Office of Small Business Advocate (OSBA) filed a formal complaint and public statement. The Commission suspended the filing for investigation on September 21, 2020. The City filed Supplement No. 16 to extend the suspension period until April 29, 2021.

Administrative Law Judge (ALJ) Haas issued a prehearing conference order on September 25, 2020. A prehearing conference is scheduled for October 8, 2020.

II. ISSUES

The OCA is currently conducting discovery in this proceeding. As soon as the OCA has received all of the discovery information and has had the opportunity to review it, the OCA anticipates that additional discovery and/or informal discovery meetings can be scheduled. At those meetings and discussions, the OCA will narrow the scope of additional information requests. Once the discovery process is complete, the OCA will file direct testimony which will set forth the specific issues it will address in this proceeding. At that time, the OCA will also make and quantify its specific recommendations.

The issues set forth below, and others that may develop during discovery, will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses and includes:

- A. Accounting and Finance: measures of value, including utility plant in service and cash working capital, claimed revenues, and operation and maintenance expenses;

- B. Cost of Capital: cost of debt, cost of equity as a municipal system, appropriate capital structure;
- C. Rate Design and Cost Allocation: the reasonableness of the City's proposed distribution of the revenue increase among customer classes, the City's cost of service study, including the methodology used and the reasonableness of the allocations, the City's proposed rate design, including its proposed effect on residential customers and its ability to reflect the cost to serve different classes of customers.
- D. Quality of Service: the OCA will examine the City's quality of service to ensure that it is providing safe, adequate, and reliable service, and water that is useful for all household purposes, including the City's program and practices for replacing lead service lines.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In light of the COVID-19 emergency, the OCA requests that instead of hard-copy mail, the parties send responses to each appropriate consultant by e-mail as indicated below until the OCA's offices are open again:

Accounting/Regulatory Policy:

Stacy L. Sherwood
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-Mail: sherwood@exeterassociates.com

Rate of Return: David J. Garrett
Resolve Utility Consulting
101 Park Avenue
Suite 1125
Oklahoma City, OK 73102
E-Mail: dgarrett@resolveuc.com

Rate Design/Cost Allocation/
Regulatory Policy: Jerome D. Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-Mail: jmierzwa@exeterassociates.com

Quality of Service: Terry L. Fought, P.E.
780 Cardinal Drive
Harrisburg, PA 17111
E-Mail: TLFEngr@aol.com

The OCA specifically reserves the right to call additional witnesses, as necessary. All parties of record will be notified as soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case.

IV. EVIDENCE

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of other parties to the proceeding. The OCA will also present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Authority through discovery and cross-examination.

V. SERVICE ON THE OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocate Christine Maloni Hoover. All documents should be served on the OCA attorney, as well as the OCA's support person, lmyers@paoca.org, by e-mail only until the OCA's offices are open again as follows:

Christine Maloni Hoover, Senior Assistant Consumer Advocate

choover@paoca.org

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

(717) 783-5048 (telephone)
(717) 783-7152 (facsimile)

VI. PUBLIC INPUT HEARINGS

At this time, the OCA is not requesting a public input hearing. The OCA will notify the ALJ and the parties if it becomes aware of interest in a public input hearing.

VII. PROPOSED SCHEDULE

A schedule that reflects the reply brief date of December 30, 2020, as provided by ALJ Haas is attached as Appendix A.

VIII. DISCOVERY

The OCA has served interrogatories on the City. Going forward, the OCA proposes the following modifications to the Commission's discovery regulations. The OCA notes, however, that it anticipates using informal discovery in this case and will work with the City to ensure that discovery is completed efficiently and effectively.

- A. Answers to written interrogatories to be served in-hand within ten (10) days of service.
- B. Objections be communicated orally to the party propounding the discovery within three (3) days; written objections be served on the party propounding the discovery within 5 days of service;
- C. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
- D. Answers to on-the-record data requests to be served in-hand within seven (7) calendar days of the request.
- E. All discovery due dates shall be "in-hand" and e-mail service on the due

date will satisfy the “in-hand” requirement, while the PUC offices remain closed. After re-opening, the “in-hand” requirement will be met where e-mail service is followed, the next business day, by first-class mail service.

IX. SETTLEMENT

The OCA is willing to participate in settlement discussions.

Respectfully Submitted,

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Office of Consumer Advocate
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Phone: (717) 783-5048
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Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

DATE: October 5, 2020
*297386

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2020-3020256
	:	C-2020-3021583
City of Bethlehem – Water Department	:	

**PROPOSED PROCEDURAL SCHEDULE
OF THE
OFFICE OF CONSUMER ADVOCATE**

Direct Testimony of the City	October 5, 2020
Direct Testimony Of Non-City Parties	October 30, 2020
Rebuttal Testimony	November 17, 2020
Surrebuttal Testimony	December 2, 2020
Evidentiary Hearings	December 4, 2020
Close of Record	December 4, 2020
Main Briefs	December 17, 2020
Reply Briefs	December 30, 2020
End of Suspension Date	April 29, 2021