

October 5, 2020

Via Electronic Filing

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

In re: Docket No. R-2020-3020256, *et al.*
Pa. P.U.C., *et al.* v. The City of Bethlehem – Water

Dear Secretary Chiavetta:

We are counsel to the City of Bethlehem in the above matter and are submitting, via electronic filing with this letter, the City's Prehearing Conference Memorandum in connection with the Call In Telephonic Prehearing Conference to be held on October 8, 2020. Copies of the Prehearing Conference Memorandum are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
The Honorable Steven K. Haas, Administrative Law Judge (via email, w/encl.)
Edward J. Boscola, P.E. (via email, w/encl.)

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Steven K. Haas, Presiding**

Pennsylvania Public Utility Commission	:	Docket No. R-2020-3020256
Office of Small Business Advocate	:	Docket No. C-2020-3021576
Office of Consumer Advocate	:	Docket No. C-2020-3021583
	:	
v.	:	
	:	
The City of Bethlehem	:	

**PREHEARING CONFERENCE MEMORANDUM OF
THE CITY OF BETHLEHEM**

AND NOW, comes the City of Bethlehem (“City”), by its attorney, and submits the following in connection with the Prehearing Conference to be held on October 8, 2020:

History of the Proceeding

This proceeding involves City’s Supplement No. 15 to Tariff Water-Pa. P.U.C. No. 6 (“Supplement No. 15”) filed on July 31, 2020. Supplement No. 15 would increase the City’s jurisdictional water revenue by \$908,421.

Complaints against the rate filing were filed by the Office of Small Business Advocate (“OSBA”) and the Office of Consumer Advocate (“OCA”) on August 27, 2020, at Docket No. C-2020-3021576 and Docket No. C-2020-3021583, respectively.

By Order entered September 17, 2020, at Docket No. R-2020-3020256, the Pennsylvania Public Utility Commission (“Commission”) suspended Supplement No. 15 and instituted an investigation into the reasonableness of the proposed tariff change. The matter was assigned to Administrative Law Judge Steven K. Haas.

The City's Counsel to Be Included on the Service List

The name, postal and email addresses and telephone and fax numbers for the City's counsel to be included on the service list are as follows:

Thomas T. Niesen, Esquire
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
Voice: 717.255.7641
Fax: 717.236.8278
Email: tniesen@tntlawfirm.com

The City's Interest In This Proceeding

The City's interest in this proceeding is its Supplement No. 15 and the rates, rules and regulations presented in its Tariff No. 6.

The Issues the City Intends to Raise and Pursue

The fundamental issue in this proceeding is whether the rates, rules and regulations proposed by the City in Supplement No. 15 are fair, just, reasonable, non-discriminatory and lawful. The City is unable to determine at this time all of the issues and sub-issues which will be raised by the Bureau of Investigation and Enforcement, the OCA, the OSBA and any other participants to the proceeding. Reference should be made to their respective Pre-Hearing Conference Memoranda for any issues they may be in a position to identify at this time. Nevertheless, it is reasonable to expect that the following general issues will be raised in the proceeding:

- A. Is the City's rate base claim reasonable?
- B. Is the City's rate of return claim reasonable?

- C. Are the City’s claims for operating revenues, expenses, depreciation and taxes reasonable?
- D. Is the City’s proposed rate design fair, reasonable, non-discriminatory and lawful?

It is the City’s position that Supplement No. 15 and the supporting information submitted with it establish that each of the foregoing issues should be answered in the affirmative. The City submits that the rates, rules and regulations proposed in Supplement No. 15 are fair, just, reasonable, non-discriminatory and lawful and should be allowed to go into effect as proposed.

The City’s Witnesses and Areas of Testimony

The City has distributed written direct testimony of the following witnesses:

<u>Statement</u>	<u>Witness</u>	<u>General Subject Matter</u>
1	Constance E. Heppenstall Senior Project Manager, Rate Studies Gannett Fleming Valuation and Rate Consultants, LLC Valley Forge Corporate Center 1010 Adams Avenue Audubon, PA 19403-2402 610.650.8101	Revenue Requirement and Rate Design; Supplement No. 15 to Tariff Water - Pa. P.U.C. No. 6; Rate Study and Data in Support of Supplement No. 15; Cost of Service Study; Demand Study; and Exhibit CEH-1, Exhibit CEH-2 and Exhibit CEH-3
2	Harold Walker, III Manager, Financial Studies Gannett Fleming Valuation and Rate Consultants, LLC Valley Forge Corporate Center 1010 Adams Avenue Audubon, PA 19403-2402 610.650.8101	Rate of Return
3	John J. Spanos President Gannett Fleming Valuation and Rate Consultants, LLC 207 Senate Avenue Camp Hill, PA 17011 717.763.7211	Depreciation Study including Depreciation Studies as of December 31, 2019 and December 31, 2020 identified as Exhibit JJS-1 and Exhibit JJS-2

4 Edward J. Boscola, P.E.
Director of Water and Sewer
Resources
City of Bethlehem
10 East Church Street
Bethlehem, PA 18018-6025

City Water Operations

The City requests that any contact with Ms. Heppenstall, Mr. Walker, Mr. Spanos or Mr. Boscola be arranged through City Counsel.

The City respectfully reserves the right to present additional witnesses, rebuttal and other testimony and exhibits as the matter progresses.

Proposed Plan and Schedule for Discovery

Discovery is ongoing. The City is not proposing any modification to the Commission's rules pertaining to discovery other than to suggest that discovery directed by it to the testimony of the other parties be answered within 5 days on a best efforts basis given the anticipated short time for preparation of Company rebuttal testimony following service of the other parties' direct testimony.

Public Input Hearing

There have been no formal customer complaints against the rate filing. The City, accordingly, believes that substantial public interest in the proceeding has not been shown and a public input hearing is not warranted.

Litigation Schedule

The parties have been corresponding over the past several days concerning a possible litigation schedule. The City intends to work with the other parties to finalize a schedule for presentation at the prehearing conference.

Protective Order

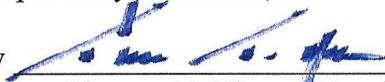
Thus far, the only potentially confidential information are system maps sought by the Office of Consumer Advocate in discovery. The City and the OCA are attempting to address the discovery requests without the need for a protective order. The City will present a petition for protective order if a protective order becomes necessary either to address the map requests or to protect other confidential and proprietary information that might occur during the proceeding.

Settlement

The City is willing to engage in discussions with the other parties in an effort to settle the proceeding, in whole or part, on an appropriate and reasonable basis.

Respectfully submitted,

By



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

*Attorney for
The City of Bethlehem*

Dated: October 5, 2020

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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v.	:	
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The City of Bethlehem	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 5^h day of October, 2020, served a true and correct copy of The City of Bethlehem's Prehearing Conference Memorandum, upon the persons and in the manner indicated below:

VIA ELECTRONIC MAIL

The Honorable Steven K. Haas
Administrative Law Judge
Pennsylvania Public Utility Commission
sthaas@pa.gov

John M. Coogan, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
jcoogan@pa.gov

Christine Maloni Hoover
Senior Assistant Consumer Advocate
Office of Consumer Advocate
choover@paoca.org

Steven C. Gray
Senior Supervising
Assistant Small Business Advocates
Office of Small Business Advocate
sgray@pa.gov



Thomas T. Niesen