



Thomas J. Sniscak  
(717) 236-1300 x224  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Whitney E. Snyder  
(717) 236-1300 x260  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

Bryce R. Beard  
(717) 236-1300 x248  
[brbeard@hmslegal.com](mailto:brbeard@hmslegal.com)

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 [www.hmslegal.com](http://www.hmslegal.com)

October 28, 2020

**VIA ELECTRONIC FILING**

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

RE: Audubon Water Company; Docket No. R-2020-3020919; **AUDUBON WATER COMPANY'S PREHEARING CONFERENCE MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Audubon Water Company's Prehearing Conference Memorandum in the above-captioned matter.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me at (717) 236-1300.

Very truly yours,

*/s/ Whitney E. Snyder*

Thomas J. Sniscak  
Whitney E. Snyder  
Bryce R. Beard

*Counsel for Audubon Water Company*

WES/das  
Enclosures

cc: Honorable Darlene Heep (via email [dheep@pa.gov](mailto:dheep@pa.gov))  
Pamela McNeal, Legal Assistant (via email [pmcneal@pa.gov](mailto:pmcneal@pa.gov))  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	Docket No. R-2020-3020919
v.	:	
	:	
AUDUBON WATER COMPANY	:	
	:	
DENNIS ZAJAC	:	C-2020-3021410
OFFICE OF CONSUMER ADVOCATE	:	C-2020-3021396
OFFICE OF SMALL BUSINESS ADVOCATE	:	
	:	C-2020-3021579
LOWER PROVIDENCE TOWNSHIP	:	C-2020-3021993
STEVEN BURDA	:	C-2020-3022127
	:	
	:	
v.	:	
	:	
AUDUBON WATER COMPANY	:	

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**PREHEARING CONFERENCE MEMORANDUM  
OF AUDUBON WATER COMPANY**

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**TO THE HONORABLE DARLENE HEEP:**

Pursuant to the September 29, 2020 Prehearing Conference Order in the above-referenced proceeding, Audubon Water Company (AWC or Audubon), by and through its attorneys in this matter, Hawke McKeon & Sniscak LLP, submits this Prehearing Conference Memorandum.

**A. PROCEDURAL HISTORY**

On July 20, 2020, Audubon Water Company (Audubon), Utility Code 210060, filed Supplement No. 3 to Tariff Water – Pa. PUC No. 4 (Supplement No. 3) to become effective September 19, 2020. Supplement No. 3 would increase Audubon’s total annual operating revenues for water service by approximately \$934,236, or 41.1%.

On August 19, 2020, the Office of Consumer Advocate (OCA) filed a Formal Complaint to the rate filing docketed at C-2020-3021396.

On August 27, 2020, the Office of Small Business Advocate (OSBA) filed a Formal Complaint to the rate filing docketed at C-2020-3021579.

On September 17, 2020, the Lower Providence Township (LPT) filed a Formal Complaint to the rate filing docketed at C-2020-3021993.

Additionally, two consumer complaints were filed to date by Complainant Zajac at Docket No. C-2020-3021410 and by Complainant Burda at Docket No. C-2020-3022127.

On September 17, 2020, the Commission, pursuant to the Public Utility Code, 66 Pa. C.S. § 1308(d), suspended the filing by operation of law until April 19, 2021, unless permitted by Commission Order to become effective at an earlier date. The Commission also ordered an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Audubon Water Company's proposed Supplement No. 3 to Tariff Water – Pa. PUC No. 4.

On or about September 25, 2020 an E-serve Notice was issued by the Commission setting a Prehearing Conference in the above-captioned proceedings for October 30, 2020 before the Honorable Darlene Heep ("ALJ Heep"). By Prehearing Conference Order dated September 29, 2020 ALJ Heep directed the parties to file Prehearing Conference Memoranda.

## **B. MATTERS FOR DISCUSSION**

### **1. A Proposed Plan and Schedule of Discovery**

Audubon has responded to extensive discovery requests received from Commission Staff, the Bureau of Investigation and Enforcement, and the OCA. Audubon will work with the parties to develop a final discovery schedule.

Due to the statutory time constraints in this proceeding, Audubon proposes modifications to the Commission's normal discovery timelines as are commonly adopted in rate cases such as the water rate case for Community Utilities of Pennsylvania, Inc. at both R-2019-3008947 and R-2016-2538660 as well as Appalachian Utilities Inc. at docket R-2015-2478098. Audubon also proposes the parties agree to accept service of all documents by email only by 4:30 pm as satisfying in-hand delivery under the Commission's COVID-19 modified procedures at M-2020-3019262.

Discovery Modifications:

- A. Answers to interrogatories shall be served in-hand within best efforts for seven (7) calendar days and no later than ten (10) calendar days unless otherwise agreed to by the parties. Interrogatories served after 12:00 p.m. on a Friday or the day before a Commission holiday shall be deemed served on the next business day.
- B. Objections to interrogatories to be communicated orally within three (3) calendar days of service; unresolved objections shall be served on the propounding party 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 written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- E. Rulings over such motions shall be issued, if possible within seven (7) calendar days of the filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.
- G. Requests for admission to be deemed admitted unless answered within seven (7) calendar days or objected to within five (five) calendar days of service.

## **2. Possibility of Settlement**

AWC will actively seek to participate in settlement discussions with the other parties. AWC believes, at a minimum, that rate of return should be stipulated. AWC will not be utilizing the Commission's mediation process.

## **3. Issues**

The adjustments and reasons for the revenue, expense, rate base, and return are listed or appear in the Company's filings and the Direct Testimony of Audubon's witness, Dennis Kalbarczyk, Principal of Utility Rate Resources, which was served on the parties on October 22, 2020. This testimony addressed issues involving: (1) the reasonableness of the revenue increases it is seeking in this proceeding; (2) the reasonableness of the proposed allocations of the requested increases among the various customer classes; (3) the reasonableness of the rate of return proposed by Audubon; (4) general water system operations and projects to continue to provide safe and reliable service to its customers; and (5) the allegations of the various complaints, specifically regarding the Complaint filed by Lower Providence Township.

Audubon reserves the right to present additional testimony and exhibits on any other issues that may arise during the course of this proceeding.

## **4. Amount of Hearing Time**

AWC believes that one day will be sufficient for hearing in this matter.

## **5. Witnesses**

Audubon has presented the Direct testimony of:

Dennis M. Kalbarczyk  
910 Piketown Road, Harrisburg, PA 17112  
Principal of Utility Rate Resources

The subject matter of Mr. Kalbarczyk's testimony is identified above. His Direct testimony was served on October 22, 2020.

Audubon may present additional testimony from the following persons as witnesses in this proceeding:

J.H. Russel  
2650 Eisenhower Ave, P.O. Box 7337, Audubon, PA 19407  
Audubon Water Company – Operation Manager

The subject matter of Mr. Russel's possible testimony includes topics and issues regarding Audubon's operations.

**6. Schedule**

AWC is working with OCA, OSBA, and I&E to develop a mutually agreeable schedule.

**7. Public Input Hearings**

AWC submits that public input hearings are not necessary in these proceedings because substantial public interest has not been shown. The Commission's policy statement regarding public input hearings states:

If the Commission determines that substantial public interest in a rate proceeding has been shown, at least one public input hearing will be held in the utility's service area.

52 Pa. Code § 69.321(b).

To date, only two customers and Lower Providence Township have filed complaints. No other customers filed letters, or other opposition to AWC's rate increases in these proceedings. Further, due to the impacts of COVID-19 and in consideration of the lack of substantial public interest, AWC submits that a socially distanced public input hearing, whether by phone or by other remote media, would not lead to substantive public participation or public input.

To the extent a public input hearing is held, AWC proposed that it be telephonic and held on or about November 4, 2020. AWC is willing to work with the parties on a mutually agreeable date.

**8. Any Other Appropriate Matter**

a. Acceptance of Service and Lead Attorney

Service of paper documents in this proceeding shall be accepted on behalf of AWC by:

Thomas J. Sniscak, Esquire  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
Phone: 717-236-1300  
Fax: 717-236-4841  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Mr. Sniscak will be the lead attorney for AWC in this proceeding. Counsel for AWC also requests that any electronic service list utilized by the parties in this proceeding include Thomas J. Sniscak ([tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)), Whitney E. Snyder ([wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)) and Bryce R. Beard ([brbeard@hmslegal.com](mailto:brbeard@hmslegal.com)). AWC is willing to extend the same courtesy upon request of any other party for any e-mails or electronic service to the parties.

b. Service of Documents

AWC proposes that all due dates for any documents in this proceeding are in-hand the day they are due. Service of documents by email only by 4:30 pm on the due date will be considered in-hand delivery on that date under the Commissions COVID-19 modified procedures at M-2020-3019262. Any pleading or discovery request served after noon on a Friday or day before a holiday shall be considered served the next business day.

c. Simplification of the issues and stipulations

AWC will actively seek to participate in discussions with the other parties regarding the simplification of the issues, possibility of admissions or stipulations, and other matters to streamline the issues in this case.

d. Limitations as to the number of witnesses

AWC has no position on this matter at this time.

e. Limitations of time and scope for direct and cross-examinations

As indicated above, AWC believes that one day of evidentiary hearings will be sufficient to cover the scope of direct and cross-examination in this matter and does not have a position on further limitations on testimony.

f. Protective Order

AWC, I&E, OCA, and OSBA have entered into a stipulate protective agreement. Should this matter proceed to hearing, AWC will file a Motion for Protective order at the appropriate time that reflects the terms of the stipulated protective agreement.

Respectfully submitted,

/s/ Whitney E. Snyder

Thomas J. Sniscak, Esquire, Attorney ID No. 33891

Whitney E. Snyder, Esquire, Attorney ID No. 316625

Bryce R. Beard, Esquire, Attorney ID No. 325837

Hawke McKeon & Sniscak LLP

100 North Tenth Street

Harrisburg, PA 17101

Phone: 717-236-1300

Fax: 717-236-4841

[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

[brbeard@hmslegal.com](mailto:brbeard@hmslegal.com)

*Counsel for Audubon Water Company*

Date: October 28, 2020



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL ONLY**

Christine Maloni Hoover, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101  
[choover@paoca.org](mailto:choover@paoca.org)

Steven C. Gray, Esq.  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor Forum Place  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

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  
[akaster@pa.gov](mailto:akaster@pa.gov)

Dennis Zajac  
32 Arrowhead Circle  
Collegeville, PA 19426  
[djzajac@gmail.com](mailto:djzajac@gmail.com)

Don Delamater, Township Manager  
Lower Providence Township  
100 Parklane Drive  
Eagleville, PA 19403  
[ddelamater@lowerprovidence.org](mailto:ddelamater@lowerprovidence.org)

John Rice, Esquire  
Grim Biehn & Thatcher  
104 S. Sixth Street  
P.O Box 215  
Perkasie, PA 18944  
[jrice@grimlaw.com](mailto:jrice@grimlaw.com)

/s/ Whitney E. Snyder

Thomas J. Sniscak, Esq.  
Whitney E. Snyder, Esq.  
Bryce R. Beard, Esq.

Dated: October 28, 2020