

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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August 27, 2021

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

Re: Pennsylvania Public Utility Commission
v.
The Borough of Hanover --
Hanover Municipal Waterworks
Docket No. R-2021-3026116

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.

Respectfully submitted,

/s/ Laura J. Antinucci

Laura J. Antinucci

Assistant Consumer Advocate

PA Attorney I.D. # 327217

E-Mail: LAntinucci@paoca.org

Enclosures:

cc: The Honorable F. Joseph Brady (**email only**)
Certificate of Service

*315906

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2021-3026116
 :
 The Borough of Hanover -- :
 Hanover Municipal Waterworks :

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 27th day of August 2021.

SERVICE BY E-MAIL ONLY

Erika L. McLain, Esquire
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Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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ermclain@pa.gov

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Kenneth R. Stark, Esquire
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/s/ Laura J. Antinucci
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Fax: (717) 783-7152
Dated: August 27, 2021
*315957

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2021-3026116
	:	
The Borough of Hanover --	:	
Hanover Municipal Waterworks	:	

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 August 17, 2021 Prehearing Order issued in the above-captioned proceeding, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On June 29, 2021, the Borough of Hanover – Hanover Municipal Water Works (Hanover or Borough) filed Supplement No. 32 to Tariff Water – Pa. P.U.C. No. 3, to become effective on August 28, 2021. Hanover, by filing this tariff supplement, seeks Commission approval of rates and rate changes that would increase the level of rates that it charges for providing water service to its customers located outside the Borough. In its filing, the Borough has used a fully projected future test year ending December 31, 2022.

Hanover proposes an annual increase in base rate revenues of \$1,563,100 per year from its outside-Borough customers. This represents an approximate 27.6% increase in the Borough’s annual revenues at present rates. If the Borough’s entire request is approved, the total bill for a

residential customer using 11,000 gallons of water per quarter would increase by \$19.37 per quarter, from \$68.94 to \$88.32, or by 28.1%.

Hanover serves 10,969 outside-Borough water customers, of which 10,285 are residential, in Penn Township and Heidelberg Township, York County, and Conewago Township and McSherrystown Borough in Adams County.

On July 15, 2021, the OCA filed a Formal Complaint (Docket No. C-2021-3027274) in this matter. The Office of Small Business Advocate filed a Formal Complaint on July 19, 2021. Hanover Foods Corporation filed a Formal Complaint on August 9, 2021. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on August 10, 2021.

On August 5, 2021, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increases in this tariff filing, and suspended the effective date of Supplement No. 32 until March 28, 2022 by operation of law. The Commission assigned the case to Administrative Law Judge F. Joseph Brady and notified the parties. A Prehearing Conference is scheduled for August 31, 2021.

The OCA filed a Formal Complaint in this matter to protect the interests of Hanover's outside-Borough customers, and seeks to ensure that Hanover is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent Hanover from collecting all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise violate the Public Utility Code. The OCA submits that Hanover's current rates and the rates sought by the Borough may be unjustifiable and unlawful based upon information filed by the Borough in support of its claim.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of the Borough's filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the rate increase request. It is anticipated that other issues will arise and may be pursued as discovery proceeds.

The OCA has identified several issues that may require further review as follows:

A. Accounting and Policy

1. The OCA will examine the reasonableness and accuracy of Hanover's calculation pertaining to the water utility plant in service at the time relevant to this proceeding.

2. The OCA will review the appropriateness, reasonableness, and accuracy of the Borough's claims for plant additions during the Future Test Year and the Fully Projected Future Test Year.

3. The OCA will investigate whether Hanover's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will review the reasonableness and accuracy of the Borough's revenue projections and supporting water consumption assumptions.

5. The OCA will examine the historic levels of O&M expenses and review the projected adjustments to determine whether the claims are appropriate, reasonable and accurate.

B. Rate of Return

1. Capital Structure: The OCA will examine whether the capital structure claimed by the Borough is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

2. Embedded Cost of Debt: The OCA will examine the embedded cost of debt claimed by the Borough.

3. Cost of Common Equity: The OCA will perform a detailed analysis of the cost of common equity claimed by the Borough. Also, the OCA will carefully examine Hanover's methodologies and supporting data used to develop its final cost of common equity claim.

4. Utility Specific Adjustments: The OCA will examine whether any adjustments proposed by the Borough are justified.

C. Rate Design/Cost of Service

1. The OCA will examine Hanover's cost of service study and proposed rate design and recommend adjustments as necessary to comply with sound ratemaking principles in consideration of an appropriate level of revenue requirement.

2. The OCA will examine the Borough's proposed allocation of its revenue requirement between inside-Borough and outside-Borough customers, as well as among customer classes within the outside-Borough group of customers.

3. The OCA will examine the Borough's proposed rate design, including its proposed effects on residential customers and its ability to reflect the cost to serve different classes of customers.

4. The OCA will examine the reasonableness and appropriateness of the Borough's proposed tariff changes, as well as other terms and conditions of its tariffs.

D. Quality of Service

1. The OCA will examine the quality of service provided by the Borough to assure that Hanover's outside-Borough customers receive water which is suitable for household purposes, is continuously available and otherwise conforms with applicable standards for safe and adequate water utility service.

III. WITNESSES

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written form and will also attach various exhibits, documents and explanatory information that will assist in the presentation of the OCA's case. The OCA reserves the right to call additional witnesses and will inform the ALJ and the parties if it determines that an additional witness(es) will be necessary. The OCA's witnesses are:

Accounting and Policy:

Stacy L. Sherwood
Exeter Associates, Inc.
10480 Little Patuxent Pkwy, Suite 300
Columbia, MD 21044-3575
sherwood@exeterassociates.com

Rate of Return:

David Garrett
Resolve Utility Consulting PLLC
101 Park Avenue, Suite 1125
Oklahoma City, OK 73102
dgarrett@resolveuc.com

Rate Design/Cost of Service:

Jerry Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Pkwy, Suite 300
Columbia, MD 21044-3575
jmierzwa@exeterassociates.com

Quality of Service:

Terry L. Fought
780 Cardinal Drive
Harrisburg, Pennsylvania, 17111
foughtbusiness@gmail.com

IV. EVIDENCE

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

present testimony in the following areas: rate design, cost of service, rate of return, accounting, regulatory policy, and quality of service.

V. PROPOSED SCHEDULE

The OCA has worked with the parties to develop a litigation schedule that adheres to the deadlines established by the Presiding Officer and is acceptable to the parties. The parties' joint proposed litigation schedule is attached hereto as Appendix A.

VI. SERVICE ON THE OCA

The OCA respectfully requests that the Presiding Officer permit electronic service without the requirement of a follow-up hard copy. The OCA will be represented in this case by Erin L. Gannon and Laura J. Antinucci. Documents should be served on the OCA as follows:

Laura J. Antinucci
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: lantinucci@paoca.org

As a courtesy, the OCA requests that all electronic correspondence be copied to Erin L. Gannon (egannon@paoca.org) and the OCA's support person, Lauren Myers (lmyers@paoca.org).

For purposes of the prehearing conference, Assistant Consumer Advocate Laura J. Antinucci will be the speaking attorney on behalf of the Office of Consumer Advocate.

VII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VIII. DISCOVERY

The OCA has served six sets of interrogatories on Hanover. Going forward, the OCA proposes the following modifications to the Commission's discovery regulations.

- 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 five (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.

After rebuttal is served, the OCA proposes that the deadlines in A through D be reduced as follows:

- A. Answers to written interrogatories to be served in-hand within five (5) days of service.
- B. Objections be communicated orally to the party propounding the discovery within two (2) days; written objections be served on the party propounding the discovery within three (3) days of service.
- C. Requests for admission be deemed admitted unless answered within five (5) days or objected to orally within two (2) days of service and served in writing within three (3) days of service.

The OCA requests that all discovery due dates be “in-hand” and e-mail service on the due date will satisfy the “in-hand” requirement.

VIII. PUBLIC INPUT HEARINGS

The OCA is requesting that one evening telephonic input hearing be scheduled in the PUC-jurisdictional service territory. The OCA is aware that informal comments/objections have been filed with the PUC.¹ Hanover’s rates and service have not been subject to review since 2014. Further, the proposed increase is substantial. The OCA submits that it is reasonable to provide an opportunity for Hanover’s PUC-jurisdictional customers to provide testimony regarding the

¹ At this time, due to the protocols in place for accessing the PUC’s physical files, the OCA has not been able to review the comments.

proposed rate increase and its impact on them, as well as any other relevant issues, including service issues. The OCA suggests that the public input hearing be held during the week of October 20, prior to the proposed deadline for non-Company direct testimony.

Respectfully Submitted,

/s/Laura J. Antinucci

Laura J. Antinucci

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Erin L. Gannon

Senior Assistant Consumer Advocate

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Christine Maloni Hoover

Interim Acting Consumer Advocate

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Phone: (717) 783-5048
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Dated: August 27, 2021

#315802

JOINTLY-PROPOSED LITIGATION SCHEDULE

Direct Testimony of Non-Borough Parties:	September 30, 2021
Rebuttal Testimony:	October 20, 2021
Surrebuttal Testimony:	October 29, 2021
Evidentiary Hearings (w/oral rejoinder):	November 4 and 5, 2021 ²
Close of Record	November 5, 2021
Main Briefs Due	November 24, 2021
Reply Briefs Due	December 6, 2021 (by 12:00 p.m.) ³
Public Meeting	March 10, 2022
End of Suspension	March 28, 2022

² The OCA notes that one of its witnesses, Mr. Garrett, may only be available to appear on November 5, due to his scheduled appearance in other hearings on November 4, 2021.

³ Given that December 4, 2021 is a Saturday, the parties have jointly proposed a Monday, December 6, 2021 Reply Brief due date.