



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 4, 2021

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.
City of Lancaster – Water Department
Docket No. R-2021-3026682
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of Investigation and Enforcement (I&E)** for the above-captioned proceeding.

Consistent with the Pennsylvania Public Utility Commission's order regarding waiver of regulations regarding service requirements, issued at docket M-2021-3028321 on September 15, 2021, I&E is providing only electronic service on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina L. Miller', is written over a light blue horizontal line.

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 313863
(717) 787-8754
ginmiller@pa.gov

GLM/ac
Enclosures

cc: Administrative Law Judge Darlene D. Heep (*via email only*)
Athena Delvillar, Legal Assistant – Office of Administrative Law Judge (*via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2021-3026682
	:	C-2021-3029095
City of Lancaster – Bureau of Water	:	C-2021-3029188

**PREHEARING MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

To Administrative Law Judge Darlene D. Heep:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) hereby submits this Prehearing Memorandum in the above-captioned dockets. The I&E prosecutor assigned to this proceeding is Gina L. Miller. Ms. Miller may be contacted as follows:

By mail: Gina L. Miller
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By e-mail: ginmiller@pa.gov

Telephone: (717) 787-8754

I. BACKGROUND

On September 30, 2021, the City of Lancaster-Water Department (“City of Lancaster”) filed with the Pennsylvania Public Utility Commission (“Commission”): a tariff filing that initiated this water base rate case at Docket No. R-2021-3026682. Specifically, the City of Lancaster filed Supplement No. 46 to Tariff Water – Pa. P.U.C. No. 6 (Supplement

No. 46) with the Commission to become effective November 29, 2021. Supplement No. 46 would increase Lancaster's total annual operating revenues for water service by approximately \$4,024,593, or 20.8%.

Subsequently, I&E entered its appearance in this case on November 5, 2021. The Office of Consumer Advocate ("OCA") filed its Notice of Appearance, a Formal Complaint, and a Public Statement in this case on October 14, 2021. On October 20, 2021, OSBA filed a Notice of Appearance, Complaint, and a Public Statement in this case.

On October 28, 2021, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of the City of Lancaster's proposed tariff changes until June 29, 2022, unless permitted by Commission Order to become effective at an earlier date. As part of all of its base rate case suspension order, the Commission directed that the City of Lancaster's filing be assigned to the Office of Administrative Law Judge for the scheduling of hearings as may be necessary for the Administrative Law Judge to render a recommended decision.

Subsequently, I&E received notice that Administrative Law Judge Darlene D. Heep ("ALJ Heep") would preside. ALJ Heep issued a Prehearing Conference Order on October 28, 2021 that established November 5, 2021 at 10 a.m. as the date and time for a telephonic prehearing conference in this case, and the deadline of November 4, 2021 at 3:00 p.m. for submission of a prehearing memorandum. I&E now submits this memorandum in compliance with ALJ Heep's Prehearing Conference Order.

II. ISSUES

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

- | | |
|---|-----------------------------|
| 1. Rate base (general issues) | 17. COVID-19 adjustment |
| 2. Reporting Requirements | 18. Overall rate of return |
| 3. Cost of Service Issues | 19. Salaries & Benefits |
| 4. Inside/Outside Allocations | 20. Payroll Taxes |
| 5. Tariff Changes | 21. Maintenance – Building |
| 6. Tariff Language-Partial Bills | 22. Maintenance – Equipment |
| 7. Present/Proposed Revenues | 23. Maintenance – Mains |
| 8. Rate Design | 24. Maintenance – Vehicles |
| 9. Scale back of Rates | 25. Sludge |
| 10. Capital Structure | 26. Power Electric |
| 11. Cost of debt | 27. Chemicals |
| 12. Cost of equity | 28. Capital Outlay |
| 13. Various adjustments to the cost of equity | 29. Trench Paving |
| 14. Implied tax adjustment | 30. Professional Services |
| 15. Debt service coverage ratio | 31. Rate Case Expense |
| 16. Risk assessment | 32. Admin. Indirect Costs |
| | 33. Cash Working Capital |

The list is as complete as can be made at this time. Additionally, I&E reserves the right to amend and supplement this issue list while discovery is on-going.

III. WITNESSES

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

- Ethan Cline, Fixed Utility Valuation Engineer: Mr. Cline anticipates addressing issues identified as 1 through 9 in the above listing.
- Anthony Spadaccio, Fixed Utility Financial Analyst: Mr. Spadaccio anticipates addressing issues identified as 10 through 18 in the above listing.
- Zachari Walker, Fixed Utility Financial Analyst: Mr. Walker anticipates addressing issues identified as 19 through 33 in the above listing.

The I&E witnesses may be contacted through the contact information listed above for Ms. Miller. I&E reserves the right to substitute witnesses or call additional witnesses if warranted.¹ All active parties will be notified of any amendments to the I&E witness list.

IV. EVIDENCE

I&E expects to present all written direct, rebuttal, surrebuttal, and, if necessary, supplemental, testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the City of Lancaster's filing, 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 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

I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:

1. Answers to interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) days of service.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of written objections.

¹ The above issues list is provided without analysis of the positions of all parties to this proceeding and without the benefit of completed discovery.

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. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the request.
7. Any discovery or discovery-related pleadings served after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of tracking due dates.
8. All discovery due dates shall be “in-hand” and electronic or fax service on the due date will satisfy the “in-hand” requirement.

VI. SCHEDULE

I&E will continue to work with the other parties to develop a schedule for the submission of testimony, hearings, and briefs in this matter that is mutually agreeable to the parties and to the ALJ.

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 the provisions of the Commission’s September 15, 2021 Order for Waiver of Regulations Regarding Service Requirements,² I&E proposes to both only serve and accept electronic delivery of documents.

² Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements*, p. 6.

VIII. PUBLIC INPUT HEARINGS

I&E intends to fully participate in all public input hearings deemed warranted in this case. Additionally, I&E advocates for the use of telephonic hearings public input hearings where possible.

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. In the event settlement discussions fail to result in a complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully submitted,



Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Date: November 4, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
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v. :
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City of Lancaster – Water Department :

Docket No. R-2021-3026682

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated November 4, 2021, in the manner and upon the persons listed below:

Served via Electronic Mail Only

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