

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Section 529 Investigation of : Docket No. I-2018-3001161
North Heidelberg Sewer Company :

**PREHEARING MEMORANDUM OF
NORTH HEIDELBERG SEWER COMPANY**

Pursuant to the Prehearing Conference Order issued on November 23, 2021, by Administrative Law Judge Steven K. Haas (“ALJ Haas”), North Heidelberg Sewer Company (“NHSC”), submits the following Prehearing Memorandum in the above-captioned matter.

I. Introduction

This matter arose out of a long-standing dispute between the owner of NHSC and the Metropolitan Edison Company (“Met-Ed”) regarding payment of invoices for electric services. NHSC’s position at the time, as directed by its then-President, Joseph M. Aichholz, Jr. (“Mr. Aichholz”), was that Met-Ed’s negligence had allegedly caused damage to equipment owned by NHSC. Despite these accusations, NHSC did not make any attempt to pursue legal action before the Pennsylvania Public Utility Commission (“PUC” or “the Commission”) or any other venue that may have been proper venue for such claims. Instead, Mr. Aichholz unilaterally withheld payment for electrical services from Met-Ed for a number of years.

Following various proceedings before the PUC, as a result of these withheld payments and several other factors, the Commission appointed Aqua Pennsylvania Wastewater, Inc., (“Aqua”) as receiver for NHSC in February 2018. Aqua began acting in this capacity as receiver on or about March 5, 2018. On December 3, 2018, the parties attended a prehearing conference before ALJ Haas and a litigation schedule was developed for the instant matter.

On or about January 12, 2019, Mr. Aichholz died intestate, leaving ownership interests of NHSC in doubt. Accordingly, on February 1, 2019, ALJ Haas issued an order suspending this

proceeding until Mr. Aichholz's estate could be settled. Following a protracted estate settlement period, apparent ownership of the company fell to Mr. Aichholz's surviving wife, Joyce Aichholz ("Mrs. Aichholz"). Mrs. Aichholz also passed away on or about August 4, 2019. The status of Mrs. Aichholz's estate is unknown. However, Mrs. Aichholz was survived by her daughter, Donna Aichholz-Reitz, and three sons, Joseph M. "Jody" Aichholz, III ("Jody Aichholz"), Todd Aichholz, and Gary Aichholz. All available information indicated that Mrs. Aichholz's children are her heirs apparent.

As of the date of this memorandum, no one has come forward to claim ownership of NHSC. During the estate settlement period, a review of NHSC's business records with the Pennsylvania Department of State, indicated that Mr. Aichholz had previously named Jody Aichholz as the Vice President, Secretary, and Treasurer of NHSC. After several unsuccessful attempts to involve Mr. Aichholz's other children in bringing this matter to resolution, Jody Aichholz has reluctantly agreed to act on behalf of the apparent ownership of NHSC so that this matter can move toward resolution.

On November 23, 2021, a Prehearing Order was issued scheduling a Prehearing Conference for December 8, 2021, at 10:00 am with Administrative Law Judge Steven K. Haas presiding.

II. **Issues**

The following issues are present at this time:

- 1) Whether the Commission should order a capable public utility to acquire North Heidelberg Sewer Company? (Suggested answer: Yes.)
- 2) Whether all elements of 66 Pa. C.S. § 529 are met? (Suggested answer: Yes.)

III. **Discovery**

NHSC does not intend to engage in discovery. Accordingly, NHSC declines to propose modifications to the rules of discovery, and instead will defer to other parties should such modifications be proposed.

IV. **Witnesses**

NHSC does not intend to call witnesses, and instead reserves the right to call rebuttal witnesses if deemed necessary. A rebuttal witness list will be provided to the parties and ALJ Haas should such witnesses become necessary.

V. **Evidence**

NHSC does not intend to present evidence, and instead reserves the right to present rebuttal evidence if deemed necessary. Offers of proof for rebuttal evidence will be presented to the parties and ALJ Haas should such evidence become necessary.

VI. **Litigation Schedule**

Cognizant of the deadline previously set by the Commission, NHSC will agree to a proposed schedule as set at the prehearing conference.

VII. **Settlement**

Given the litigation posture established above, NHSC will make good faith efforts to resolve this matter through settlement.

Date: 12/6/2021

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Sean M. Cooper, certify that on this date, I served the foregoing Prehearing Memorandum to the parties whose names appear below:

VIA ELECTRONIC MAIL

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Date: 12/6/2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean M. Cooper", written over a horizontal line.

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