

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 2, 2022

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

Re: Pennsylvania Public Utility Commission
v.
Borough of Ambler – Water Department
Docket No. R-2022-3031704

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 as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Deputy Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Enclosures:

cc: The Honorable Steven K. Haas (**email only**)
The Honorable John M. Coogan (**email only**)
Certificate of Service

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2022-3031704
 :
 Borough of Ambler – Water Department :

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 2nd day of June 2022.

SERVICE BY E-MAIL ONLY

Allison C. Kaster, Esquire
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Dated: June 2, 2022
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residential customer using 14,600 gallons per quarter would increase by \$36.16 per quarter, from \$80.03 to \$116.19, or by 45.2%.

Ambler serves 3,747 outside-Borough water customers, of which 3,541 are residential, in Upper Dublin, Lower Gwynedd, Whitpan and Whitemarsh Townships, Montgomery County in addition to providing public water service within the Borough.

On April 14, 2022, the Office of Small Business Advocate (OSBA) filed a Formal Complaint (Docket No. C-2022-3031902) in this matter. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on April 22, 2022. The OCA filed a Notice of Intervention and Public Statement on May 19, 2022.

On May 12, 2022, the Commission entered 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. 40 until December 30, 2022 by operation of law. The Commission assigned the case to Administrative Law Judges Haas and Coogan. A Prehearing Conference is scheduled for June 6, 2022.

The OCA intervened in this matter to protect the interests of Ambler's outside-Borough customers, and seeks to ensure that Ambler is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent Ambler 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 Ambler'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

The OCA will examine the reasonableness and accuracy of Ambler's calculation pertaining to the water utility plant in service at the time relevant to this proceeding, including the Borough's claims for plant additions during the Future Test Year and the Fully Projected Future Test Year. The OCA will review the reasonableness and accuracy of the Borough's revenue projections and supporting water consumption assumptions. 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

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. In addition, the OCA will examine the embedded cost of debt claimed by the Borough and the cost of common equity claimed by the Borough. Also, the OCA will carefully examine Ambler's methodologies and supporting data used to develop its final cost of common equity claim. The OCA will examine whether any adjustments proposed by the Borough are justified.

C. Rate Design/Cost of Service

The OCA will examine Ambler's water rate study, depreciation rate 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. 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. 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. 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

The OCA will examine the quality of service provided by the Borough to assure that Ambler'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:

Revenue Requirement and Policy:

Morgan N. DeAngelo
Regulatory Analyst

Office of Consumer Advocate
555 Walnut St., 5th Floor
Harrisburg, PA 17101-1923
Mdeangelo@paoca.org

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 will work with the parties to develop a litigation schedule that adheres to the deadlines established by the Presiding Officer and is acceptable to the parties.

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 Christine Maloni Hoover. Documents should be served on the OCA as follows:

Christine Maloni Hoover
Deputy Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
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As a courtesy, the OCA requests that all electronic correspondence be copied to the OCA's support person, Lauren Myers (lmyers@paoca.org).

VII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VIII. DISCOVERY

The OCA has served discovery on Ambler. Going forward, the OCA proposes the following modifications to the Commission's discovery regulations.

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production be communicated orally to the propounding party within three (3) days of service; unresolved objections be served in writing to the propounding party within five (5) days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production be filed within three (3) days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production be filed within three (3) days of service of such motions.

E. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

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 aware that informal comments/objections have been filed with the PUC but the OCA has not yet had an opportunity to review those informal complaints. The OCA is aware

of Mr. Shorin's formal complaint. At this time, the OCA is not requesting a public input hearing but reserves the right to do so if the OCA becomes aware of additional information.

Respectfully Submitted,

/s/Christine Maloni Hoover
Christine Maloni Hoover
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Counsel for:
Patrick M. Cicero
Acting Consumer Advocate

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Dated: June 2, 2022

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