


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 20, 2022

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

Re: Pennsylvania Public Utility Commission  
v.  
The York Water Company  
Docket Nos. R-2022-3031340 (Water)  
R-2022-3032806 (Wastewater)

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby  
Christy M. Appleby  
Assistant Consumer Advocate  
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Enclosures:

cc: The Honorable Katrina L. Dunderdale (**email only**)  
Certificate of Service

\*332585

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
 : Docket Nos. R-2022-3031340 (Water)  
 v. : R-2022-3032806 (Wastewater)  
 :  
 :  
 The York Water Company :

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 20<sup>th</sup> day of July 2022.

**SERVICE BY E-MAIL ONLY**

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Dated: July 20, 2022  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket Nos. R-2022-3031340
	:	R-2022-3032806
	:	C-2022-3032868
	:	C-2022-3032869
	:	
The York Water Company	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the July 15, 2022 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On May 27, 2022, The York Water Company (York or the Company) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 143 to its Tariff Water – Pa. P.U.C. No. 14 (Supplement No. 143) and Supplement No. 14 to its Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 14) to become effective on August 1, 2022. York is engaged in the business of providing water service to more than 70,440 customers and wastewater service to 3,357 customers. The Company provides water service in parts of York and Adams Counties and wastewater service in parts of York, Franklin, and Adams Counties. Through Supplement No. 143, the Company proposes a general increase in annual water revenues of \$18,853,758. Through Supplement No. 6, the Company proposes a general increase in wastewater revenues of \$1,456,792 per year.

Under the Company’s proposal, the typical monthly water bill for residential gravity customers using 4,525 gallons per month would increase from \$40.54 to \$53.02 per month, or by 30.8%. The typical water bill for residential repumped customers using 3,784 gallons of water per month would increase from \$48.89 to \$62.27 per month, or by 27.4%. According to the customer notices included in York’s filing, under the Company’s proposal, the typical wastewater bill for residential customers would increase as follows:

Area	Usage	Present Rate	Proposed Rate	\$ Increase	% Increase
Asbury Pointe Subdivision, East Prospect Borough, and Lower Windsor Area	3,586 gallons per month	\$62.50	\$80.55	\$18.05	28.9%
Felton Borough	Per month per dwelling unit	\$79.50	\$80.55	\$1.05	1.3%
Jacobus Borough	3,570 gallons per month	\$55.00	\$80.55	\$25.55	46.5%
Letterkenny Township	Per month per dwelling unit	\$45.00	\$80.55	\$35.55	79.0%
Straban Township Area	3,465 gallons per month	\$62.50	\$80.55	\$18.05	28.9%
West Manheim Township	3,333 gallons per month	\$61.67	\$75.87	\$14.20	23.0%
West York Borough	Per month per dwelling unit	\$32.71	\$55.61	\$22.90	70.0%

York also proposes to increase the 5/8-inch water customer charge (for gravity and repumped customers) from \$16.25 to \$20.71 per month, which is an increase

of 27.4%. York's proposed rate increase for water and wastewater, if approved, would produce an overall rate of return of 7.93% that includes a common equity cost rate of 11.25% and a cost of debt rate of 3.91%.

## **II. PROCEDURAL HISTORY**

As detailed above, York filed its water and wastewater base rate filings on May 27, 2022. On June 8, 2022, the OCA filed a Formal Complaint and Public Statement in this proceeding. The OCA filed a Formal Complaint in order to protect the interests of York's customers and seeks to ensure that the Company is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent the Company from collecting all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise in violation of the Public Utility Code. The OCA submits that York's current rates and the rates sought by the Company may be unjustifiable and unlawful based upon the information filed by the Company in support of its claim.

On June 1, 2022, the Bureau of Investigation and Enforcement (I&E) filed its Notice of Appearance in Docket No. R-2022-3031340 (water), and on June 8, 2022, I&E filed its Notice of Appearance in Docket No. R-2022-3032806 (wastewater). On June 13, 2022, the Office of Small Business Advocate filed its Formal Complaint and Public Statement in Docket No. R-2022-3031340 (water), and on June 15, 2022, the OSBA filed its Formal Complaint and Public Statement in Docket No. R-2022-3032806 (wastewater).

On July 14, 2022, the Commission entered two Orders suspending Tariff Supplement Nos. 143 (water) and 14 (wastewater) until March 1, 2023, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d), and initiated an investigation into the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations. The Company's

filing was subsequently assigned to the Office of Administrative Law Judge (OALJ) and further assigned to Administrative Law Judge Katrina L. Dunderdale. On July 15, 2022, ALJ Dunderdale issued a Prehearing Conference Order and scheduled a Prehearing Conference for July 21, 2022. The OCA files this Prehearing Memorandum in accordance with ALJ Dunderdale's July 15, 2022 Order.

### **III. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of York's filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of York's rate increase request. The OCA has served seven (7) sets of interrogatories on the Company to date. The OCA anticipates that other issues will arise and may be pursued throughout the course of discovery. Accordingly, the OCA specifically reserves the right to raise additional issues as this matter proceeds. The presently identified issues include the following:

#### **A. Rate of Return**

1. The OCA will perform a detailed analysis of the 11.25% cost of common equity claimed by York.
2. The OCA will also examine the methodologies and supporting data used to develop the Company's cost of common equity claim.
3. The OCA will review the cost of equity models and how the Company implemented those models.
4. The OCA will also examine the capital structure proposed by York to determine whether it is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

5. The OCA will further examine whether any Company-specific adjustments proposed by York are justified.

B. Rate Base/Measure of Value

1. The OCA will examine the reasonableness and accuracy of the Company's projections related to the water/wastewater utility plant in service at the time relevant to this proceeding.

2. The OCA will review the Company's claim for plant additions during the fully projected future test year.

3. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer deposits, customer advances for construction, and contributions in aid of construction.

4. The OCA will examine the Company's claim for materials and supplies.

5. The OCA will examine the Company's calculation and amount of cash working capital.

6. The OCA will also review the deduction of depreciation reserve and capitalization of expenses.

7. The OCA will examine issues related to York's acquisitions, including potential acquisitions that are included in its filing, and will ensure that the acquisition adjustments reflected in the filings comply with the requirements set forth in Section 1327 of the Public Utility Code. The OCA will examine issues related to deferred capital expenses related to acquisitions and potential acquisitions.

C. Revenues and Expenses

1. The OCA will analyze York's sales projections and expenses.

2. The OCA will evaluate the reasonableness of the Company's claims regarding revenues, including the various inputs and assumptions used by York.

3. The OCA will also examine the Company's projected decline in revenues from declining consumption.

4. The OCA will review, *inter alia*, the Company's claims for wages and benefits, depreciation expense, rate case expense, corporate and A&G expenses, uncollectible accounts, rent expense, property tax, insurance, and bank trustee, credit rating, and directors' fees.

5. The OCA will also examine the amortizations associated with the various acquisitions.

D. Taxes

1. The OCA will examine issues related to the calculation of taxes including, but not limited to, calculation of federal and state income taxes and the amount of those taxes included as expenses for ratemaking purposes, and will examine whether the Company is in compliance including with Act 40 of 2016 (Act 40).

2. The OCA will examine the Company's level of PURTA and property tax expense.

3. The OCA will review the Company's treatment of the reduction in Corporate Net Income Tax (CNIT).

E. Rate Structure/Rate Design

1. The OCA will examine the reasonableness of York's proposed distribution of the revenue increase among customer classes and types of utility service.

2. The OCA will examine York's cost of service studies, including the methodology used and the reasonableness of the allocations.



3. The OCA will examine York's proposal to allocate a portion of the wastewater cost of service to the combined water and wastewater customer base to ensure that it is consistent with Act 11 of 2012 and that it is reasonable and consistent with the public interest.

4. The OCA will also examine the Company's proposal to increase the customer charge from \$16.25 to \$20.71 per month.

5. The OCA will also review the reasonableness of York's proposed rate design and any proposed tariff changes.

F. Quality of Service

1. The OCA will review the Company's quality of service to ensure that it is providing safe, adequate, and reliable service, and water that is usable for all household purposes, and that its wastewater service is consistent with the requirements of Section 1501 of the Public Utility Code.

2. The OCA will investigate the water and wastewater quality of service and water and wastewater service complaints of York customers.

3. If possible, the OCA will inspect a sampling of York facilities to evaluate operation and maintenance procedures.

G. Low-Income Programs

1. The OCA will review the Company's low income assistance programs and any proposed changes to the program.

H. Customer Service

1. The OCA will review the Company's consumer protection policies and programs in order to ensure compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

2. The OCA will examine the Company's customer service, including the operation of its call center, handling customer complaints, and internal training and management oversight policies and programs.

3. The OCA will examine the Company's consumer education programs, particularly with regard to changes in billing and collection rights and remedies.

I. Other Issues

1. The OCA will examine any relevant issues that arise as a result of the Company's operations.

2. The OCA will investigate to ensure that the Company is complying with all prior orders.

3. The OCA will examine other issues affecting the Company's revenue requirements, rates, charges, and other tariff provisions as they are identified through discovery.

**IV. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that, in addition to emailing copies to OCA counsel, parties email copies of all interrogatory answers and testimony directly to the expert witness(es) responsible for the appropriate area of the case. The OCA also requests that CDs/thumb drives containing any interrogatory responses be mailed directly to the applicable consultant.

Accounting and Regulatory Policy

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Tariffs/Customer Service/Low-income Programs

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The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify the ALJ and all parties of record.

**V. SERVICE ON THE OCA**

Deputy Consumer Advocate Christine Maloni Hoover and Assistant Consumer Advocate Christy M. Appleby will represent the OCA in this proceeding. The OCA has created a group e-

mail address provided below. This is the only e-mail address that is required for service on the OCA; it will provide the emailed materials to all members of the OCA team including the consultants listed above. At this time, as a result of the COVID-19 pandemic, the OCA will not be providing service via mail and does not expect other parties to serve the OCA by mail. All documents should be served on the OCA by email as follows:

Christine Maloni Hoover, Deputy Consumer Advocate  
Christy M. Appleby, Assistant Consumer Advocate  
[OCAYorkWater2022@paoca.org](mailto:OCAYorkWater2022@paoca.org)

## **VI. EVIDENCE**

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

## **VII. DISCOVERY**

Appendix A contains proposed amendments to the Commission's discovery regulations. These amendments were circulated to all of the parties in advance of this hearing. The OCA believes that these amendments will assist the parties in clarifying issues and to bring this proceeding to a conclusion.

## **VIII. PROPOSED PROCEDURAL SCHEDULE**

The OCA proposes the following schedule which incorporates the ALJ's Reply Brief date identified in the July 15 Prehearing Conference Order. It is the OCA's understanding that OSBA and I&E both agree to the proposed schedule:

Direct Testimony	August 23
Rebuttal Testimony	September 20
Surrebuttal Testimony	October 3
Rejoinder Outline	October 6
Hearings	October 11-13
Main Brief	October 26, 2022
Reply Brief	November 4, 2022

## **IX. PUBLIC INPUT HEARINGS**

York has proposed a substantial increase of \$18.8 million in water revenues and \$1.4 million in wastewater revenues. The OCA is aware of two Formal Complaints filed in this case.<sup>1</sup> The OCA has received a consumer request for a public input hearing in this matter. Given the substantial nature of the water and wastewater increase request and the individual consumer request for a public input hearing, the OCA requests that a single telephonic public input hearing be scheduled to allow interested members of the public to testify. The OCA also requests that the Company be directed to advertise the public input hearing. Newspaper notice must be advertised in the general readership sections of local newspapers, not in the legal section. Other methods of

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<sup>1</sup> One of the Formal Complainants, Larry Wolfe, requested in his Prehearing Memorandum filed on Monday, July 18, 2022 in this matter to withdraw his Formal Complaint.

informing its customers of the public input hearings, including social media and the Company's website, should be utilized as well.

In addition, the OCA requests the other parties involved in the proceeding be permitted to review these public input announcements prior to their publication and distribution and have input into which publications the ads are placed.

**X. SETTLEMENT**

The OCA will fully participate in settlement discussions with the parties.

Respectfully Submitted,

/s/ Christy M. Appleby

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DATE: July 20, 2022  
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**APPENDIX A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket Nos. R-2022-3031340
	:	R-2022-3032806
	:	C-2022-3032868
	:	C-2022-3032869
	:	
The York Water Company	:	

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**PROPOSED AMENDMENTS TO DISCOVERY REGULATIONS**

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In conjunction with its proposed schedule, the OCA would propose to amend the Commission’s discovery regulations in accordance with the following:

1. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
5. Requests for admissions will be 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 five (5) calendar days of the requests.
7. Any discovery or 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 before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.