



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

October 26, 2023

**Via Electronic Filing**

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

Re: Tanya J. McCloskey, Acting Consumer Advocate v.  
Hidden Valley Utility Services, L.P. – Water and  
Hidden Valley Utility Services, L.P. – Wastewater  
Docket Nos. C-2014-2447138 and C-2014-2447169  
**I&E Exceptions**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's (I&E) Exceptions to the Initial Decision on Remand of Administrative Law Judge Katrina L. Dunderdale that was issued on October 6, 2023 in the above-captioned proceeding.

Copies are being served on parties of record as evidenced in the attached Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Allison C. Kaster'.

Allison C. Kaster  
Deputy Chief Prosecutor  
Bureau of Investigation and Enforcement  
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[akaster@pa.gov](mailto:akaster@pa.gov)

ACK/ac  
Enclosures

cc: Administrative Law Judge Katrina L. Dunderdale (*via email*)  
Nicholas Miskanic, Legal Assistant (*via email*)  
Office of Special Assistants (*via email* – [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tanya J. McCloskey,	:	
Acting Consumer Advocate	:	
	:	
v.	:	Docket Nos. C-2014-2447138
	:	C-2014-2447169
Hidden Valley Utility Services, L.P. - Water	:	
Hidden Valley Utility Services, L.P. -	:	
Wastewater	:	

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**EXCEPTIONS OF  
THE BUREAU OF INVESTIGATION & ENFORCEMENT**

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Allison Curtin Kaster  
Deputy Chief Prosecutor  
PA Attorney ID No. 93176

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

Dated: October 26, 2023

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**TABLE OF AUTHORITIES**

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## I. INTRODUCTION

Pursuant to 66 Pa. C.S. § 332(h) of the Public Utility Code and 52 Pa. Code § 5.533 of the Public Utility Commission regulations, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits these Exceptions to the Initial Decision on Remand of Administrative Law Judge Katrina L. Dunderdale (“ALJ”) issued on October 6, 2023 (“Remand I.D.”).

The extensive procedural history was detailed in the Remand I.D.<sup>1</sup> The parties filed a Joint Petition for Approval of Unanimous Settlement (“Settlement”) on May 25, 2023 on behalf of the Hidden Valley Utility Services (“HVUS” or “Company”), I&E, the Office of Consumer Advocate (“OCA”) and active customer complainants. On October 6, 2023, the ALJ issued the Remand I.D. approving the Settlement stating that “the signatories achieved a fair and reasonable compromise that resolves issues which have consumed so much time, energy and effort since 2014.”<sup>2</sup> I&E supports ALJ Dunderdale’s well-reasoned recommendation, but files these timely Exceptions to clarify the ALJ’s approval of one of the Settlement terms as set forth below.

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<sup>1</sup> Remand I.D. at 2-14.

<sup>2</sup> Remand I.D. at 44.

## II. EXCEPTIONS

**I&E Exception No. 1: The Remand I.D.'s Ordering Paragraph provides 150 days to file an independent financial audit; however, the Settlement mandates that the audit be filed in 120 days. Remand I.D. at 47.**

The Settlement provided a 120-day timeframe to complete and file an independent financial audit, which the ALJ accepted in her discussion of this term. However, that 120-day period was erroneously modified in the Ordering Paragraphs and extended to 150 days. I&E respectfully requests that the Commission clarify that the compliance period is 120 days as provided in the Settlement.

The confusion arises in Ordering Paragraphs 2-3 of the Remand I.D. Ordering Paragraph 2 directs HVUS to conduct an independent audit of the Company's financial statements within 120 days of entry of a Commission Order. Ordering Paragraph 3 directs HVUS to file the completed audit with the Commission within 150 days:

That Hidden Valley Utility Services, L.P. will file a completed independent audit with the Secretary's Bureau and the Bureau of Technical Utility Services in the dockets of these complaint proceedings and in Docket Nos. R-2018-3001306 and R-2018-3001307 within 150 days of the entry of the Commission's final Order approving the Joint Petition for Approval of Unanimous Settlement.<sup>3</sup>

The Settlement did not contain these two deadlines. Rather, under the Settlement, HVUS agreed to complete and file the financial audit within 120 days:

Within 120 days of the entry of an Order approving this settlement, or the deadline established in the rate proceedings at Docket Nos. R-2018-3001306 and R-2018-3001307,

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<sup>3</sup> Remand I.D. at 47.

whichever is earlier,<sup>4</sup> HVUS will file this completed independent audit with the Secretary's Bureau and the Bureau of Technical Utility Services...<sup>5</sup>

Additionally, Appendix D to the Settlement contained Joint Proposed Ordering Paragraphs, which summarized the financial audit term as follows:

(b) That HVUS be directed to cause to be conducted an independent audit of its financial statements, prepared in accordance with Generally Accepted Accounting Principles, from 2020 through 2022 by an outside, independent Certified Public Accounting firm which has not previously provided any services to HVUS. Within 120 days of the entry of an Order approving this settlement, or the deadline established in the rate proceedings at Docket Nos. R-2018-3001306 and R-2018-3001307, whichever is earlier, HVUS will file this completed independent audit with the Secretary's Bureau and the Bureau of Technical Utility Services in the docket of this proceeding and Docket Nos. R-2018-3001306 and R-2018-3001307, and serve a copy on the parties to the complaint proceedings. HVUS will also notify all parties to the rate case proceeding that the audit has been filed, will provide information as to where it can be found on the PUC's website, and will offer to provide a copy to any rate case party who requests it.<sup>6</sup>

Ordering Paragraph 3 of the Remand I.D. did not mirror the language of the Settlement or Joint Proposed Ordering Paragraphs because it extended the period to file the financial audit from 120 days to 150 days. However, the 150-day timeframe contained in the Remand I.D. Ordering Paragraphs appears to be in error given that, in the discussion of the audit term, the ALJ expressly approved the 120-day period:

The presiding officer agrees the Settlement provides more current and more beneficial information by conducting the

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<sup>4</sup> In addition to changing the agreed upon timeframe, Remand I.D. Ordering Paragraph 3 failed to include the entire language of the financial audit Settlement term. Specifically, the Remand I.D. did not include the underlined language contained in the Settlement.

<sup>5</sup> Settlement para 41.

<sup>6</sup> Settlement, Appendix D, Joint Proposed Ordering Paragraphs.

audit for the three previous years and agrees that the 120-day time period is a sufficient time period in which to produce and provide the audit.<sup>7</sup>

Although the 120-day period was erroneously extended to 150 days in the Remand I.D. Ordering Paragraphs, it appears that the ALJ intended to adopt the 120 day period contained in the Settlement without modification. Accordingly, I&E respectfully requests that the Remand I.D. Ordering Paragraphs be clarified to conform with the timeframe contained in the Settlement.

### **III. CONCLUSION**

Wherefore, the Bureau of Investigation and Enforcement respectfully requests that the Initial Decision on Remand of Administrative Law Judge Katrina Dunderdale issued on October 6, 2023, be modified as recommended above.

Respectfully submitted,



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Deputy Chief Prosecutor  
PA Attorney ID No. 93176

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400 North Street  
Harrisburg, PA 17120

Dated: October 26, 2023

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<sup>7</sup> Remand I.D. at 42.

**BEFORE THE  
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Tanya J. McCloskey,	:	
Acting Consumer Advocate	:	
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v.	:	Docket Nos. C-2014-2447138
	:	C-2014-2447169
Hidden Valley Utility Services, L.P. – Water	:	
Hidden Valley Utility Services, L.P. –	:	
Wastewater	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Exceptions** dated October 26, 2020, in the manner and upon the persons listed below:

**Served via Electronic Mail**

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