

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

May 20, 2024

Via Electronic Filing Only

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

Re: Venango Water Company - Ex Parte
Emergency Order Naming Aqua Pennsylvania, Inc.
as Receiver
Docket No. M-2023-3042180

Section 529 Investigation of Venango
Water Company
Docket No. I-2023-3042312

Section 529 Investigation of Sugarcreek
Water Company, West Hickory Water Company,
Plumer Water Company, Fryburg Water Company,
Cooperstown Water Company, and
Blaine E. Rhodes Sewer Company
Docket No. P-2024-3045205

Dear Secretary Chiavetta:

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

Secretary Rosemary Chiavetta
May 20, 2024
Page 2

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
CAappleby@paoca.org

Enclosures:

cc: The Honorable Mark A. Hoyer (email only: mhoyer@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Venango Water Company - Ex Parte : Docket No. M-2023-3042180
Emergency Order Naming Aqua Pennsylvania, :
Inc. as Receiver :

Section 529 Investigation of Venango : Docket No. I-2023-3042312
Water Company :

Section 529 Investigation of Sugarcreek : Docket No. P-2024-3045205
Water Company, West Hickory Water :
Company, Plumer Water Company, Fryburg :
Water Company, Cooperstown Water :
Company, and Blaine E. Rhodes Sewer :
Company :

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memo, 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 20th day of May 2024.

SERVICE BY E-MAIL ONLY

Rebecca Lyttle, Esq.
Steven C. Gray, Esq
Office of Small Business Advocate
555 Walnut Street
1st Floor Forum Place
Harrisburg, PA 17101
relyttle@pa.gov
sgray@pa.gov
Counsel for OSBA

Frances Orth, Esq.
Kim Joyce, Esq.
Aqua Pennsylvania, Inc
762 W. Lancaster Ave.
Bryn Mawr, PA 19010
fpoth@aquaamerica.com
kajoyce@aquaamerica.com
Counsel for Aqua PA

Scott B. Granger, Esq
Michael Podskoch, Esq
Carrie B. Wright, Esq
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
sgranger@pa.gov
mpodskoch@pa.gov
carwright@pa.gov
Counsel for I&E

Elizabeth Triscari, Esq.
PA American Water Company, Inc.
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com
Counsel for PAWC

SERVICE BY E-MAIL ONLY(Continued)

Gregory J. Merkel, Esq.
Dale Woodard Gent McFate Law Firm
1030 Liberty Street
Franklin, PA 16323
merkel@dwgmlaw.com
Counsel for The Blaine E. Rhodes Estate

Rouseville Borough
c/o Joseph Dengel
64 Main Street
P.O. Box 317
Rouseville, PA 16344
rouseville@verizon.net

Anthony D. Kanagy, Esquire
Post & Schell, P.C.
7 North Second Street 12th Floor
Harrisburg, PA 17101
akanagy@postschell.com

Alexander R. Stahl, Esq
Aqua Pennsylvania, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
astahl@aquaamerica.com
Counsel for Aqua PA

Joseph J. Ferguson, Esq.
Cressman Erde Ferguson
300 Arch Street
Meadville, PA 16335
jferguson@cressmanerdelaw.com
Counsel for Randall & Kevin Rhodes

Randall L. Rhodes, Esquire
Venango Water Company
P.O. Box 397
Reno, PA 16343
vwc-rlr@pa.rr.com
Counsel for Venango Water

Matthew Postlethwaite
Environmental Program Manager
PA Dept of Environmental Protection
230 Chestnut Street
Meadville, PA 16335
mpostlewai@pa.gov
Dept of Environmental Protection

Courtney L. Schultz, Esq.
Saul Ewing LLP
1500 Market Street, 38th Floor
Philadelphia, PA 19102
courtney.schultz@saul.com

/s/Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
CAppleby@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
Phone: (717) 783-5048

Dated: May 20, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Venango Water Company - Ex Parte : Docket No. M-2023-3042180
Emergency Order Naming Aqua Pennsylvania, :
Inc. as Receiver :

Section 529 Investigation of Venango : Docket No. I-2023-3042312
Water Company :

Section 529 Investigation of Sugarcreek : Docket No. P-2024-3045205
Water Company, West Hickory Water :
Company, Plumer Water Company, Fryburg :
Water Company, Cooperstown Water :
Company, and Blaine E. Rhodes Sewer :
Company :

PREHEARING CONFERENCE MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order issued on May 7, 2024, in the above-captioned proceeding, by the Honorable Deputy Chief Administrative Law Judge (ALJ) Mark A. Hoyer of the Office of Administrative Law Judge (OALJ) of the Pennsylvania Public Utility Commission (Commission), and pursuant to Section 333 of the Public Utility Code (Code), 66 Pa. C.S. § 333, and the Commission’s regulations at 52 Pa. Code §§ 5.221-5.224, the Pennsylvania Office of Consumer Advocate (OCA) submits the following Prehearing Conference Memorandum.

I. INTRODUCTION AND PROCEDURAL HISTORY

This matter involves the consolidated dockets involving the Section 529 proceedings for Venango Water Company (Venango) and the Sugarcreek Water Company, West Hickory Water

Company, Plumer Water Company, Fryburg Water Company, Cooperstown Water Company, and Blaine E. Rhodes Sewer Company (collectively, the Rhodes Utilities). Venango and the Rhodes Utilities have a common owner, the Rhodes Estates.

Venango

Venango is a certificated public utility and provides water service to approximately 550 people in Venango County, PA. On July 20, 2023, the Commission's Bureau of Technical Utility Services (TUS) received a notification from the Pennsylvania Emergency Management Agency (PEMA) that the Pennsylvania Department of Environmental Protection (DEP) required Venango to issue a "Do Not Consume" Advisory due to possible contamination of the water supply impacting the Bellows Spring water source.

On August 11, 2023, the Commission issued an Ex Parte Emergency Order Naming Aqua Pennsylvania, Inc. as Receiver of Venango. An investigation of Venango was further ordered under Section 529 of the Public Utility Code because Venango has not provided safe and adequate water service under Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. Venango does not have the financial capability to make necessary repairs to provide adequate service, and as such it is not a viable system. The purpose of the investigation is to determine whether the Commission should order a capable public utility to acquire Venango.

The OCA filed a Notice of Intervention on August 23, 2023.

Rhodes Utilities

On January 3, 2024, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Petition (Petition) requesting that the Commission initiate an investigation under Section 529 of the Public Utility Code, 66 Pa. C.S. § 529, to determine whether the Commission should order a capable public utility to acquire any or all of the certificated small water and wastewater

utilities collectively referred to as the Rhodes Utilities (listed above). In the Petition, I&E avers that the Rhodes Utilities were previously owned and operated by Blaine Edwin Rhodes, deceased 2020, and are currently owned and operated by the Rhodes Estates. I&E explained that TUS had identified that each of the Rhodes Utilities had been issued notices of violations and/or deficiencies by DEP and had referred the matter to I&E for investigation.

I&E also avers in the Petition that the current officers of the Rhodes Estates sought to cease their roles as certified operators of the Rhodes Utilities as of December 31, 2023. These individuals have since agreed to continue to fulfill the role of certified operators until the matters were resolved.

On February 15, 2024, I&E filed a Petition for Consolidation of the Venango Section 529 Investigation and the Rhodes Utilities Section 529 Investigation.

An initial Prehearing Conference was held on February 20, 2024. Pursuant to ALJ Hoyer's directive, the matters were consolidated.

The OCA filed a Notice of Intervention on March 15, 2024. On April 1, 2024, Pennsylvania-American Water Company (PAWC) filed a Petition to Intervene, and the Office of Small Business Advocate (OSBA) filed a Notice of Intervention on April 4, 2024.

On April 14, 2024, the Commission issued a Notice of the consolidated Section 529 proceedings to proximate providers.

On May 7, 2024, ALJ Hoyer issued a Prehearing Conference Order in the above-captioned proceeding.

Pursuant to the Prehearing Conference Order, the OCA files this Prehearing Memorandum.

II. ISSUES

The OCA is participating in this proceeding to ensure that the interests of the customers of both Venango and the Rhodes Utilities are protected. Based upon its investigation and review of the filing, the issues to be addressed in the consolidated Section 529 proceeding include, but are not limited to, the following:

- The technical, managerial, and financial fitness, or lack thereof, of Venango, the Rhodes Utilities, and the Rhodes Estates;
- Failures to comply with DEP and/or Commission orders and regulations by Venango, the Rhodes Utilities, and the Rhodes Estates; and
- Whether the Commission should order a capable public utility to acquire Venango and the Rhodes Utilities. If so, which capable public utility should be ordered to acquire Venango and the Rhodes Utilities.
- Examine the reasonableness of any purchase price for the Venango or the Rhodes Utilities.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of the below witness. The witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, as may be necessary. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed and/or emailed directly to the OCA's expert witness:

Morgan N. DeAngelo
Regulatory Analyst
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923

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

IV. PROPOSED SCHEDULE

The OCA will work with the ALJ and the parties to develop a procedural schedule.

V. PUBLIC INPUT HEARINGS

At this time, the OCA is not requesting a Public Input Hearing. However, the OCA reserves the right to make such a request if the OCA determines that one is necessary.

VI. DISCOVERY

The OCA does not request any discovery rule modifications at this time.

VII. OCA COUNSEL / SERVICE ON THE OCA

The OCA will be represented in this case by the attorney listed below.

Christy, M. Appleby, Senior Assistant Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
E-Mail: cappleby@paoca.org

The OCA will accept email service without provision of a hard copy. To the extent that materials are available electronically, it is requested that copies be served upon all of the following:

Christy M. Appleby
CApplby@paoca.org

Morgan N. DeAngelo
MDeangelo@paoca.org

Ryan F. Marshall
RMarshall@paoca.org

VIII. SETTLEMENT

The OCA will participate in settlement discussions in this matter.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
PA Bar ID# 85824
cappleby@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
DATED: May 20, 2024