

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Aqua Pennsylvania, Inc	:	
and its subsidiary, Honesdale Consolidated	:	
Water Company, for the approval of: (1) the	:	
transfer to Aqua, through merger, of all property	:	A-2024-3049920
of Honesdale used or useful in the public service	:	A-2024-3049921
(2) the right of Aqua to begin to offer, render	:	
furnish, and supply water service in portions of the	:	
Borough of Honesdale Townships of Texas and	:	
Dyberry, Wayne County Pennsylvania nunc	:	
pro tunc and (3) the abandonment by Honesdale:	:	
of public utility service in portions of the Borough	:	
Honesdale, Townships of Texas and Dyberry,	:	
Wayne County Pennsylvania, and Request for	:	
Approval of Merger Between Affiliates	:	

PREHEARING ORDER

On July 3, 2024, the Joint Applicants filed with the Commission an Application (Application) requesting approval of: (1) the transfer to Aqua, through merger, of all property of Honesdale used or useful in the public service; (2) the right of Aqua to begin to offer, render, furnish, and supply water service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County, Pennsylvania nunc pro tunc; and (3) the abandonment by Honesdale of public utility service in portions of the Borough of Honesdale, Townships of Texas and Dyberry, Wayne County, Pennsylvania, and Request for Approval of Merger Between Affiliates pursuant to Sections 1102 and 2102 of the Public Utility Code (“Code”), 66 Pa. C.S. §§ 1102 and 2102 (“Joint Application”).

By Secretarial Letter dated July 5, 2024 the Commission directed Aqua to publish notice of the Joint Application and to serve a copy of the Joint Application on various municipalities, water and wastewater providers, and the Pennsylvania Department of Environmental Protection (“DEP”).

On July 15, 2024, the Office of Small Business Advocate (“OSBA”) entered the Appearance of Rebecca Lyttle. On July 22, 2024, OSBA filed a Notice of Intervention and Public Statement.

The proceeding was transferred to ALJ on July 22, 2024 and I was assigned to preside over the Joint Application proceedings in this matter.

On July 25, 2024, Notice of a Telephonic Prehearing Conference was issued for a Prehearing Conference on August 9, 2024, at 10:00 AM. The same day, I issued a Prehearing Conference Order directing each party to file and serve a prehearing memorandum on or before 4:00 PM on Tuesday, August 6, 2024.

On August 6, 2024, the Joint Applicants and OSBA each filed a Prehearing Memorandum. No other statutory advocate, entity or individual filed a Prehearing Memorandum.

The Prehearing Conference was held as scheduled on August 9, 2024. The participants were: Alexander Stahl, Esquire, for Joint Applicants and Rebecca Lyttle for OSBA. Frances Orth, Esquire co-counsel to the Joint Applicants was also present at the Prehearing Conference.

This Prehearing Order memorializes the matters decided and agreed upon by the parties attending the conference and orders a litigation schedule for this proceeding.

Litigation Schedule

The following litigation schedule is hereby ordered:

<u>Date</u>	<u>Event</u>
Tuesday September 3, 2024	Status / Settlement Conference (Parties Only)
Tuesday September 17, 2024	Aqua Direct Testimony
Friday October 18, 2024	Other Parties Direct
Friday November 8, 2024	Rebuttal Testimony
Friday November 22, 2024	Surrebuttal Testimony
Tuesday December 3 and Wednesday December 4, 2024	Evidentiary Hearings (Telephonic)
Monday December 20, 2024	Main Brief
Friday January 15, 2025	Reply Brief

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. The above-stated dates are in-hand dates for service on the parties and the presiding ALJ. The parties at the prehearing conference and the presiding ALJ agreed to accept electronic service of such material, so long as the subject email is received by the date due. The email address of the presiding ALJ is aashton@pa.gov. The ALJ’s legal assistant, Laythan Foster, can be reached at pmcneal@pa.gov.

All parties and the court reporter will appear telephonically for any scheduled hearing. Exhibits admitted at the hearing must be electronically served on all parties, pursuant to the litigation schedule above. The undersigned will address any procedural issues or objections that may arise as a result of a party offering a hearing exhibit that was not served in advance of the scheduled hearing either during the hearing or in an order following the hearing.

Unless otherwise specified, any scheduled telephonic hearing will begin promptly at **10:00 a.m.** The parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing.

Service List

Parties who did not appear for the hearing have been removed from the Service List for this proceeding. The updated Service List for this proceeding is attached to this Prehearing Order.

Consolidation

The Dockets at A-2024-3049920 and A-2024-3049921 are hereby consolidated under Docket Number A-2024-3049920.

Issues

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

Discovery

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission's procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et seq.* The parties must not send the presiding ALJ discovery material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the presiding ALJ will contact the parties and direct them to pursue informal discovery.

Settlement and Stipulations

The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility.

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

If the Parties are able to settle this matter such that an evidentiary hearing is not required, they must promptly notify the presiding ALJ by **noon on Wednesday, November 27, 2024.**

Cross-Examination

Friendly cross-examination or cumulative cross-examination during the hearing will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

Briefs, Reply Briefs and Petitions for Settlement

The parties must comply with 52 Pa.Code §§ 5.501, *et seq.*, regarding the preparation and filing of briefs. Briefs must include proposed findings of fact **with citations to the record evidence relied upon as the basis for the proposed findings of fact**, proposed conclusions of law and proposed ordering paragraphs. Common brief outlines and page limitations on briefs will be discussed at the hearing.

Any petition for settlement or partial settlement filed must include proposed findings of fact **with citations to the record evidence relied upon as the basis for the proposed findings of fact**, proposed conclusions of law and proposed ordering paragraphs. A

petition for settlement or partial settlement must be accompanied by statements in support from the signatory parties.

Any petition for settlement or partial settlement with accompanying statements in support must be filed by **January 15, 2025**.

Modification

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: August 9, 2024

/s/
Arlene Ashton
Administrative Law Judge

A-2024-3049920 - JOINT APPLICATION OF AQUA PENNSYLVANIA, INC., (“AQUA” OR THE “COMPANY”) AND ITS SUBSIDIARY, HONESDALE CONSOLIDATED WATER COMPANY, (“HONESDALE”), FOR THE APPROVAL OF: (1) THE TRANSFER TO AQUA, THROUGH MERGER, OF ALL PROPERTY OF HONESDALE USED OR USEFUL IN THE PUBLIC SERVICE; (2) THE RIGHT OF AQUA TO BEGIN TO OFFER, RENDER, FURNISH, AND SUPPLY WATER SERVICE IN PORTIONS OF THE BOROUGH OF HONESDALE, TOWNSHIPS OF TEXAS AND DYBERRY, WAYNE COUNTY PENNSYLVANIA NUNC PRO TUNC; AND (3) THE ABANDONMENT BY HONESDALE OF PUBLIC UTILITY SERVICE IN PORTIONS OF THE BOROUGH OF HONESDALE, TOWNSHIPS OF TEXAS AND DYBERRY, WAYNE COUNTY PENNSYLVANIA, AND REQUEST FOR APPROVAL OF MERGER BETWEEN AFFILIATES.

ALEXANDER R STAHL ESQUIRE
AQUA PENNSYLVANIA INC
762 W LANCASTER AVE BRYN
MAWR PA 19010 610.645.1130
astahl@aquaamerica.com
Accepts eService
(Counsel for Aqua Pennsylvania, Inc.)

FRANCES P ORTH ESQUIRE
AQUA PENNSYLVANIA INC
762 W LANCASTER AVENUE BRYN
MAWR PA 19010 610.645.1126 fpoorth@essential.co
Accepts eService
(Counsel for Honesdale Consolidated Water Co.)

REBECCA LYTTLE
OFFICE OF SMALL BUSINESS ADVOCATE
555 WALNUT STREET
1ST FLOOR
HARRISBURG PA 17101
717.783.2525
relyttle@pa.gov
Served via email