

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

Public Meeting held August 22, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Joint Application of Deer Haven, L.L.C. and PL Utilities, LLC for approval of: (1) PL Utilities, LLC's acquisition of certain wastewater system assets of Deer Haven, L.L.C.; (2) the abandonment by Deer Haven, L.L.C. of wastewater service to the public in Palmyra Township, Pike County, Pennsylvania; and (3) authorization of PL Utilities, LLC to offer, render, furnish and supply wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania

Docket Numbers
A-2024-3049591
A-2024-3049587

ORDER

BY THE COMMISSION:

By the application (Joint Application) filed on June 18, 2024, Deer Haven L.L.C. (Deer Haven), Utility Code 230106, and PL Utilities, LLC (PL Utilities, and together with Deer Haven, the Joint Applicants), Utility Code 2127226, seek certificates of public convenience (CPCs) pursuant to Sections 1101 and 1102(a)(2) and (3) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. §§ 1101 and 1102(a)(2) and (3), evidencing Pennsylvania Public Utility Commission (Commission) approval of: (1) PL Utilities' acquisition of certain wastewater system assets of Deer Haven; (2) the abandonment by Deer Haven of wastewater service to the public in Palmyra Township, Pike County, Pennsylvania; and (3) authorization of PL Utilities to offer, render, furnish

and supply wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania.

For the reasons stated below, we shall stay the Joint Application pending the outcome of the proceeding under Section 529 of the Code, 66 Pa.C.S. § 529, initiated at Docket No. P-2024-3050549.

I. AFFECTED ENTITIES AND BACKGROUND

Deer Haven is a regulated public utility company, duly organized and existing under the laws of the State of New Jersey under the provisions of the New Jersey Limited Liability Company Act, with an address of 839 Route 507, Greentown, Pennsylvania 18426. Deer Haven furnishes wastewater service to approximately 61 residential customers in a portion of Palmyra Township, Pike County, pursuant to its CPC issued on March 25, 2010.¹ Deer Haven started to operate its wastewater facilities and provide service in or around June 2004.²

Haven Development is a New Jersey limited liability company with a registered office address of 165 Township Line Road Suite 1500, Jenkintown, Pennsylvania 19046. Haven Development is, or was, a wholly-owned subsidiary of Deer Haven that was formed on June 8, 2004.³ Deer Haven and Haven Development owned approximately 85 acres of property in Palmyra Township, Pike County (the Property), including the site of Deer Haven's wastewater treatment plant (Deer Haven WWTP) and most of its wastewater collection system (the Deer Haven Collection System, and together with the Deer Haven WWTP, the Deer Haven Wastewater System or Wastewater System).

¹ See, CPC at Docket A-230106.

² See, *Complete Amended Application* of Deer Haven filed on April 18, 2008, at Docket A-230106, Page 7.

³ *Id.*, Pages 1-2.

PL Utilities is a Pennsylvania limited liability company formed in 2015 whose sole member is Jacob Goren (Goren).⁴ PL Utilities has a mailing address of 61 West 62nd Street, #22E, New York, New York 10023. In 2015, the Pennsylvania Department of Environmental Protection (DEP) issued Water Quality Management Permit No. 5215401, allowing PL Utilities to construct, but not operate, a new wastewater treatment plant (PL Utilities WWTP) and associated wastewater lines and connections. In the Joint Application, PL Utilities noted that it is the owner of the PL Utilities WWTP, which was funded through a loan from Goren. PL Utilities also noted that the PL Utilities WWTP was substantially completed in 2023.

Pocono Lakefront, LLC (Pocono Lakefront) is a Pennsylvania limited liability company with a registered office address of 865 Route 507, Greentown, Pennsylvania 18426.⁵ Pocono Lakefront was formed in 2010 to develop property within the requested territory. The sole member of Pocono Lakefront is a trust (the Trust) formed by Goren.

Empire Industries, Inc. (Empire) is a corporation with a principal place of business located at 40 Warren Street, Paterson, New Jersey 07524. Empire is a multinational corporation with more than 50 employees and is equipped with the necessary personnel to handle PL Utilities' business needs. Empire manufactures and sells vanities, closets, and cabinets to meet the needs of showrooms and construction projects. Goren is Empire's President. In supplemental information filed with the Commission, PL Utilities provided a copy of an organizational chart that depicted Goren and his relevant business interests connected to PL Utilities' public utility operations, including Pocono Lakefront, the Trust, Goren, and Empire (collectively, the Goren Affiliates).

⁴ Supplemental information filed with the Commission appears to reflect that an individual named Bonnie Goren may have interests related to PL Utilities and the Trust.

⁵ See, Pennsylvania Department of State Corporation Search at <https://file.dos.pa.gov/search/business>. Retrieved August 13, 2024.

In 2010, Pocono Lakefront entered into a Purchase and Sale Agreement with Deer Haven and Haven Development for the sale of the Property, including the land on which the Deer Haven Wastewater System is located. The Purchase and Sale Agreement was provided in supplemental information filed with the Commission as Attachment U. The Joint Applicants indicated that the parties closed on this agreement and that Pocono Lakefront is the current owner of the Property.

In 2014, Pocono Lakefront and Deer Haven entered into a Purchase Agreement (APA), provided as Attachment 3 to the Joint Application, under which Pocono Lakefront would purchase the Deer Haven Wastewater System. The APA also allowed for Pocono Lakefront to form a new company to hold the CPC. In accordance with the APA, PL Utilities was formed in 2015 to own and operate the Deer Haven Wastewater System and is the entity seeking the CPC.

PL Utilities is requesting a CPC to provide public wastewater service for the existing 61 residential customers and noted that approval is requested to allow for the decommissioning of the Deer Haven WWTP and commencement of service of the PL Utilities WWTP. In addition, Attachment B to the Joint Application noted DEP approval for a Phase I development project consisting of the construction of 218 townhouses, a clubhouse, and a new WWTP, *i.e.*, the PL Utilities WWTP. DEP's approval noted that water would be supplied by the existing public water supply system.

Water service to Deer Haven's wastewater customers is provided by Deer Haven, L.L.C. – Water, Utility Code 210124. In supplemental information filed with the Commission, PL Utilities indicated that at this time, it does not expect to make any filings relating to Deer Haven's water system (Water System) and does not intend to acquire the Water System.

The Joint Applicants submitted proofs of publication and service to the appropriate entities. Notice of the Joint Application was published in the *Pennsylvania Bulletin*, 54 Pa.B. 3766, on Saturday, June 29, 2024. The protest period ended July 15, 2024. No protests were filed, and no hearings were held.

On August 1, 2024, Deer Haven filed a Petition with the Commission at Docket Nos. P-2024-3050549 (wastewater) and P-2024-3050545 (water) that requested an *ex parte* emergency order allowing Aqua Pennsylvania, Inc. (Aqua) to act as a temporary receiver to operate the Deer Haven Water System and Wastewater System. On August 7, 2024, the Commission entered an *ex parte* emergency order that granted, in part, and denied, in part, Deer Haven's Petition, with respect to Deer Haven's Water System only, as modified by the Commission. The portion of the Petition concerning the Deer Haven Wastewater System is discussed in Section II, below.

II. EX PARTE EMERGENCY ORDER

On August 1, 2024, Deer Haven filed the Petition with the Commission that requested the issuance of an *ex parte* emergency order appointing Aqua to act as a temporary receiver to operate its Water System⁶ and its Wastewater System.⁷ On August 7, 2024, the Commission issued a Secretarial Letter, at Docket No. P-2024-3050549, denying Deer Haven's request for an *ex parte* emergency order with respect to its Wastewater System and declining to impose a receivership for the Wastewater System. Subsequently, on August 13, 2024, Deer Haven filed a letter (Letter), at Docket No. P-2024-3050549, informing the Commission of intervening developments regarding its Wastewater System that are relevant to its Petition.

⁶ As noted above, on August 7, 2024, the Commission entered an *ex parte* emergency order that granted, in part, and denied, in part, Deer Haven's Petition, with respect to Deer Haven's Water System only, as modified by the Commission, at Docket No. P-2024-3050545.

⁷ With respect to the Wastewater System, in its Petition, Deer Haven requested the issuance of an *ex parte* emergency order directing Aqua to take temporary receivership of the Wastewater System until Pocono Lakefront has secured all regulatory approvals to consummate the transfer of the wastewater utility assets to PL Utilities.

In its Letter, Deer Haven explained that, on August 7, 2024, Environmental Services Corp. (ESC) informed Deer Haven that it would terminate service as operator of Deer Haven's Wastewater System effective August 9, 2024, due to a past due balance on the account. Deer Haven stated that, notwithstanding recent payments toward the outstanding balance, ESC terminated service on August 9, 2024, leaving Deer Haven without a certified operator. Deer Haven also stated that its financials continue to deteriorate to the point where it is considering declaring bankruptcy. Thus, Deer Haven requested that the Commission reconsider its disposition as to the Wastewater System. Under the circumstances, Chairman Stephen M. DeFrank treated Deer Haven's Letter as a renewed request for *ex parte* emergency relief.

On August 15, 2024, the Chairman entered an *ex parte* emergency order (*August 15th Emergency Order*), at Docket No. P-2024-3050549, that granted Deer Haven's renewed request with respect to Deer Haven's Wastewater System, consistent with the *August 15th Emergency Order*. The *August 15th Emergency Order* initiated an investigation into whether the Commission should order a capable public utility to acquire Deer Haven's Wastewater System pursuant to 66 Pa.C.S. § 529 (Section 529). The Commission's *August 15th Emergency Order* also directed Aqua to act as the Receiver for Deer Haven's Wastewater System beginning August 15, 2024, and to continue during the pendency of a proceeding pursuant to Section 529(g) of the Code, 66 Pa.C.S. § 529(g).

At Public Meeting on August 22, 2024, the Commission rescinded the Secretarial Letter issued August 7, 2024, and ratified the *August 15th Emergency Order*.

III. DISCUSSION

As required by 66 Pa. C.S. § 1103(a), a certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. However, the timeline by which this determination must be reached is not prescribed. Pursuant to 66 Pa. C.S. § 1103(b), the Commission

may conduct any inquiries, physical examinations, valuations, and investigations as it may deem necessary or proper in enabling it to reach a finding or determination.

As both the Joint Application proceeding and the Section 529 proceeding impact the ownership and operation of Deer Haven's wastewater system and the Commission's responsibility to ensure that this system is capable of providing customers with safe and reliable service, a stay of the Joint Application proceeding is in the public interest and will serve judicial efficiency and economy.

IV. CONCLUSION

Based on the foregoing facts, we find that the appropriate course of action is to stay the Commission's evaluation of the Joint Application shall be stayed, pending the outcome of the Section 529 proceeding; **THEREFORE,**

IT IS ORDERED:

1. That the Joint Application of Deer Haven L.L.C. and PL Utilities, LLC at Docket Nos. A-2024-3049591 and A-2024-3049587 is stayed pending the outcome of the Section 529 proceeding initiated at Docket No. P-2024-3050549.

2. That a copy of this Order be served upon Deer Haven L.L.C., PL Utilities, LLC, Aqua Pennsylvania, Inc., the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Palmyra Township Board of Supervisors, the Palmyra Township Planning Commission, the Pike County Commissioners, the Pike County Planning Commission and the Pennsylvania Department of Environmental Protection – Northeast Regional Office and its Bureau of Regulatory Counsel.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 22, 2024

ORDER ENTERED: August 26, 2024