

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3050208
Office of Consumer Advocate	:	C-2023-3050613
Office of Small Business Advocate	:	C-2023-3050625
	:	
v.	:	
	:	
Newtown Artesian Water Company	:	

PREHEARING CONFERENCE ORDER

A Prehearing Conference is scheduled in the above-referenced cases for **Monday, September 9, 2024, at 10:00 a.m.** Administrative Law Judge Eranda Vero will preside telephonically. To participate in the hearing, you must dial the toll-free number listed below. You will be prompted to enter a PIN number, which is also listed below. You will be asked to speak your name and then the telephone system will connect you to the hearing.

Toll-free Bridge Number: 1.866.560.8322
PIN Number: 36676820

You must call into the conference on the scheduled day and time. Failure of any party to attend the prehearing conference without good cause shall constitute a waiver of all objections to the agreements reached and matters decided at the prehearing conference. You will not be called by the Administrative Law Judge (ALJ).

The parties are hereby directed to comply with the following requirements:

1. Each party must e-file and/or serve by email, prior to **12:00 p.m. on Friday, September 6, 2024**, a Prehearing Conference Memorandum which sets forth the history of the proceeding, the issues you intend to present, a proposed plan and schedule of discovery, a listing of your proposed witnesses and the subject of their testimony, and a proposed litigation schedule,

agreed to by all parties, if possible, which requires the filing of **Reply Briefs by December 27, 2024**. 52 Pa.Code § 5.222(d). **Parties represented by multiple attorneys must designate a primary speaker for the purposes of the prehearing conference.**

2. A request for a change of the scheduled Prehearing Conference date must state the agreement or opposition of other parties and must be submitted by email no later than three (3) days prior to the Prehearing Conference. 52 Pa.Code § 1.15(b). Requests for changes of initial prehearing conferences must be sent by email, with copies to all parties of record. Only the undersigned Administrative Law Judge or the Office of Administrative Law Judge Scheduling Unit may grant a request for a change of a prehearing conference. Such changes are granted only in rare situations where sufficient cause exists. Requests for changes of subsequent Prehearing Conferences or hearings, if any, should also be served directly on the presiding Administrative Law Judge.

In accordance with the foregoing, absent a continuance for good cause, all parties must be prepared to participate in the scheduled Prehearing Conference.

3. In response to this Prehearing Order, you may proceed one of three ways:

a. **Do nothing.** If you do nothing after receiving this Prehearing Conference Order, your name will be removed from the full-service list. After the Prehearing Conference, you will not receive any pleadings, filings, discovery requests, written testimony or orders and decisions in this matter. You will be placed on a limited-service list and receive copies of orders, hearing notices and the Recommended Decision and the Commission's final Decision. You may still attend and testify at a public input hearing, if one is scheduled, as explained in the next paragraph.

b. **Attend a public input hearing if one is scheduled.** Public input hearings, if scheduled, may be held for the purpose of giving citizens who do not wish to participate in the formal litigation an opportunity to express their opinions regarding the Company's proposal. In order to testify at a public input hearing, all a citizen has to do is to show up (for in-person

hearings) or pre-register (for telephonic hearings). If you testify at a public input hearing, you will not be permitted to also testify at the technical evidentiary hearings. If you want to attend a public input hearing and do not wish to remain on the service list for pleadings, filings, discovery requests or orders and decisions in this matter, you are not required to do anything. Notice of the public input hearing, if one is scheduled, will be published in your local newspaper two weeks before it is held.

c. **Become a party of record.** As a party of record, you will be served with all of the pleadings, filings, discovery requests, written testimony and orders and decisions served and issued in this proceeding. These documents will be voluminous. Your *rights* as a party of record include the ability to present your own testimony and to cross-examine other witnesses at the formal hearings, and to file exceptions to the presiding officer's recommended decision. Your *duties* as a party of record are that you must answer all discovery requests served upon you in accordance with the rules. You will be required to serve a copy of anything that you *file* upon the presiding officer and each party appearing on the service list, as modified after the Prehearing Conference. If you intend to present evidence at the formal evidentiary hearings, you will be required to submit your testimony in writing in advance, in accordance with the schedule to be set after the Prehearing Conference and to provide a copy of your written testimony to each party on the service list at that time. You will be expected to participate in accordance with the rules of Commission practice appearing in Title 52 of the Pennsylvania Code Chapters 1, 3 and 5. **The Pennsylvania Code is available on-line** at <http://www.pacodeandbulletin.gov/>. Although a natural person or a sole proprietor may appear on his or her own behalf, if you are any entity other than a natural person or a sole proprietor, (e.g., a corporation, partnership, municipality, etc.), you will be required to have an attorney represent you in accordance with the laws of Pennsylvania. *See Ordering Paragraph 6.*

4. Please review the regulations pertaining to prehearing conferences, 52 Pa.Code § 5.221-§ 5.224, and in particular, § 5.222(d) which provides, in part:

(d) Parties and counsel will be expected to attend the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto.

(1) The preparation must include submission of a prehearing memorandum and list:

(i) The presently identified issues.

(ii) The names and addresses of the witnesses.

(iii) The proposed area of testimony of each witness.

(2) The preparation may include:

(i) Development of a proposed procedural schedule.

(ii) Advance study of all relevant materials.

(iii) Advance informal communication between the parties, including requests for additional data and information, to the extent it appears feasible and desirable.

(Emphasis added.)

5. Parties should review the regulations relating to discovery, specifically 52 Pa.Code § 5.331(b), which provides, *inter alia*, that “a party shall endeavor to initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa.Code § 5.322, which encourages parties to exchange information on an informal basis. All parties are urged to cooperate in discovery and advise us at the Prehearing Conference as to discovery problems which have not been resolved. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

6. Pursuant to 52 Pa.Code §§ 1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney

licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

7. Failure of a party to attend the Prehearing Conference or notify the ALJ of their desire to fully participate without good cause shown, shall constitute a waiver of all objections to the agreements reached and matters decided at the Prehearing Conference, including, but not limited to, any special discovery rules and the litigation schedule established for these cases. 52 Pa.Code §§ 5.222(e) & 5.224.

8. Any party may email the undersigned presiding officer a request to be moved from either the full-service list to the limited-service list, or to be moved from the limited-service list to the full-service list. Upon the receipt of such a request, the undersigned presiding officer will issue an Order revising the service lists for these cases. Such changes will be effective as of the date of the Order and will not apply to any document filed and served prior to the date of that Order.

9. You must serve the presiding Administrative Law Judge directly with a copy of any document that you file in this proceeding. The undersigned ALJ may be served by email at evero@pa.gov and there is no need to follow email service by hard copy until further notice. If you send the undersigned any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission's current service list of the parties to this proceeding is enclosed with this Order.

Date: August 29, 2024

/s/
Eranda Vero
Administrative Law Judge

**R-2024-3050208 et al. – PENNSYLVANIA PUBLIC UTILITY COMMISSION v.
NEWTOWN ARTESIAN WATER COMPANY**

COURTNEY L SCHULTZ ESQUIRE
SHANE SIMON ESQUIRE
SAUL EWING LLP
1500 MARKET STREET
38TH FLOOR
PHILADELPHIA PA 19102
215.972.7717
Courtney.schultz@saul.com
shane.simon@saul.com
Accepts eService
(*Counsel for Newtown Artesian Water Company*)

SHARON E WEBB ESQUIRE
OFFICE OF SMALL BUSINESS ADVOCATE
FORUM PLACE
555 WALNUT STREET 1ST FLOOR
HARRISBURG PA 17101
717.783.2525
717.783.2831
swebb@pa.gov
Served via email

MICHAEL PODSKOCH ESQUIRE
PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION &
ENFORCEMENT
400 NORTH STREET
HARRISBURG PA 17120
717.783.6151
mpodskoch@pa.gov
Accepts eService

CHRISTY APPLEBY ESQUIRE
PATRICK M CICERO ESQUIRE
KATHERINE M KENNEDY ESQUIRE
OFFICE OF CONSUMER ADVOCATE
555 WALNUT STREET 5TH FLOOR
FORUM PLACE
HARRISBURG PA 17101
717.780.4517

cappleby@paoca.org
pcicero@paoca.org
kkennedy@paoca.org

Accepts eService

NAZAARAH SABREE
OFFICE OF SMALL BUSINESS ADVOCATE
555 WALNUT STREET FORUM PLACE 1ST FLOOR
HARRISBURG PA 17101
717.783.2525

ra-sba@pa.gov

Served via email

ALLISON KASTER ESQUIRE
DIRECTOR
PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION &
ENFORCEMENT KEYSTONE BUILDING
400 NORTH STREET
2ND FLOOR WEST
PO BOX 3265
HARRISBURG PA 17105-3265 akaster@pa.gov
Accepts eService

THOMAS J WALSH III ESQUIRE
3655 ROUTE 202
SUITE 105
DOYLESTOWN PA 18902
twalsh@walshlaw.com
Accepts eService
(*Counsel for Newtown Artesian Water Company*)