

COMMONWEALTH OF PENNSYLVANIA



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September 6, 2024

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

Re: PA PUC v. Newtown Artesian Water Co
Docket No. R-2024-3050208

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum.

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

Very truly yours,

/s/ Christy Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
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Enclosures:

cc: The Honorable Eranda Vero
Certificate of Service

CERTIFICATE OF SERVICE

PA PUC v. Newtown Artesian Water Co : Docket No. R-2024-3050208
 :
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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 Memorandum 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 6th day of September 2024.

SERVICE BY E-MAIL ONLY

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Date: September 6, 2024

/s/ Christy M. Appleby
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Newtown Artesian Water Company : Docket No. R-2024-3050208
Application for Increase in Base Rates for :
Water Service :
: :
: :

PREHEARING CONFERENCE MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order issued on August 29, 2024 in the above-captioned proceeding, by the Honorable Administrative Law Judge (ALJ) Eranda Vero, 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, 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

On July 19, 2024, the Newtown Artesian Water Company (NAWC or the Company) filed proposed Supplement No. 158 to its Water Service Tariff – Pa. P.U.C. No. 9 (Supplement No. 158) with the Commission. The Company proposes to increase rates to produce additional overall revenues of \$992,419 effective September 18, 2024, an approximate 14.2% increase in overall distribution revenue requirement. NAWC provides water distribution service to approximately 11,167 residential, commercial, and industrial customers in Newtown Borough, Newtown Township, and the northern portion of Middletown Township in Bucks County, Pennsylvania.

Under the Company's proposal, the total bill for a residential customer purchasing a thousand gallons per month would increase by \$1.225 per thousand gallons from \$6.635 to \$7.860 per thousand gallons, or by approximately 18.5%. The Company has proposed increasing the monthly residential customer charge from \$22.71 per quarter to \$26.90 per quarter, or by 18.5%. The filing, if approved in full, would produce a revenue increase on the bill for a typical metered residential customer with a 5/8-inch meter using 12,000 gallons per quarter from \$106.45 per quarter to \$121.23 per quarter, or 13.9%.

The Company proposes a cost of capital claim based upon a capital structure comprised of 45% debt and 55% equity. The Company's proposed cost of debt is 4.64% with a claimed 11.00% return on equity for an overall weighted cost of capital of 8.03%. The quarterly bill under present rates includes surcharges for Purchased Water Adjustment Clause (PWAC), Distribution System Improvement Charge (DSIC), and State Tax Adjustment Surcharge (STAS).

On or about August 8, 2024, the OCA filed a Formal Complaint, Public Statement, and Notice of Appearance in this proceeding to protect the interests of consumers in the Company's service territory and to ensure that the Company is permitted to implement only a level of rates that is just and reasonable and in accordance with sound ratemaking principles.

On August 13, 2024, the Commission's Bureau of Investigation & Enforcement (I&E) filed a Notice of Appearance. On August 8, 2024, the Office of Small Business Advocate (OSBA) filed a Complaint.

On August 22, 2024, the Commission issued a Suspension Order that initiated an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase in this filing in addition to the Company's existing rates, rules, and regulations, assigned this matter to the OALJ for further proceedings as appropriate, and suspended the effective date of the tariff until

April 18, 2025. The Commission assigned this proceeding to the Office of Administrative Law Judge and further assigned this proceeding to Administrative Law Judge (ALJ) Eranda Vero. ALJ Vero issued a Prehearing Conference Order on August 29, 2024, directing the parties to file and serve a Prehearing Memorandum on or before noon on September 6, 2024, and scheduled a telephonic Prehearing Conference on September 9, 2024 at 10:00 A.M.

The OCA filed a formal complaint against the proposed rate increase to protect the interests of NAWC's customers and seeks to ensure that the Company is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent the Company from implementing rate changes that are not fully justified, unjust and/or unreasonable, unduly discriminatory, and/or otherwise in violation of sound ratemaking principles under the Public Utility Code, Commission regulations and orders, and case law. The OCA submits that NAWC's current rates and its proposed rate changes may be unjustifiable and unlawful based upon information filed by the Company in support of its claim.

II. ISSUES

Based upon a preliminary analysis of the Company's general rate increase filing, the OCA has compiled a list of issues and sub-issues which it anticipates will be included in its investigation of the Company's rate request. It is anticipated that other issues may arise and may be pursued once the answers to all the OCA's interrogatories have been received and analyzed. The issues and sub-issues set forth below, and others that may develop during discovery, will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses:

A. Rate of Return

1. The OCA will perform a detailed analysis of the cost of common equity claimed by the Company as well as the overall rate of return as claimed by the Company. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim.

2. The OCA will examine whether the capital structure proposed by the Company is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

3. The OCA will examine the embedded cost of debt claimed by the Company to determine whether it is reasonable and appropriate for ratemaking purposes.

4. The OCA will examine whether any company-specific adjustments proposed by the Company are justified.

B. Rate Base/ Measure of Value

1. The OCA will examine the reasonableness and accuracy of Company's projections related to the utility plant in service at the time relevant to this proceeding including, but not limited to, whether the test year plant will be completed as claimed and whether retirements are accurately reflected.

2. The OCA will review the Company's claim for plant additions during the FTY and FPFTY to determine if the Company has demonstrated that all such costs are prudently incurred.

3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer deposits, customer advances for construction, and contributions in aid of construction.

5. The OCA will examine the Company's proposal to include unamortized balances in rate base.

6. The OCA will examine the Company's claim for materials and supplies.

7. The OCA will examine the Company's calculation and amount of cash working capital.

8. The OCA will examine the Company's calculation and amount of plant in service and construction work in progress.

9. The OCA will examine the reasonableness and accuracy of the Company's claimed valuation of its investment.

C. Revenues and Expenses

1. The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues. The OCA will seek to ascertain whether the Company's claimed revenues are supported, reasonable, and appropriate.

2. The OCA will examine whether the projected number of customers at the time periods relevant to this proceeding is reasonable and accurate. The OCA will examine whether the Company's estimates of the volume of water to be sold during the future periods is reasonable and accurate.

3. The OCA will examine and evaluate NAWC's claimed operating expenses for the 2024 and 2025 fiscal year period.

4. The OCA will examine whether the salary and wage annualizations and increases included by the Company in the Future Test Year and Fully Projected Future Test Year are reasonable and accurate.

5. The OCA will examine the reasonableness of the Company's projected price increases for purchased water expense.

6. The OCA intends to examine the appropriateness of the Company's pro forma claim for rate case expense.

7. The OCA will review the Company's request for depreciation expenses to determine whether it is just and reasonable.

D. Taxes

1. The OCA will examine issues related to the calculation of taxes including, but not limited to, calculation of federal and state income taxes and the amount of those taxes included as expenses for ratemaking purposes and will examine whether the Company is in compliance including with Act 40 of 2016 (66 Pa. C.S. § 1301.1).

2. The OCA will examine issues regarding deferred income taxes.

3. The OCA will examine the effect of the Tax Cuts and Jobs Act on the Company's tax expense and its ADIT accounts and the amount, if any, that needs to be returned to ratepayers as a result.

H. Quality of Service

1. The OCA will review the Company's quality of service to ensure that it is providing safe, adequate, and reliable service that is consistent with the requirements of Section 1501 of the Public Utility Code.

2. The OCA will investigate any quality of service complaints by the Company's customers.

J. Other Issues

1. The OCA will review the NAWC Purchased Water Adjustment Clause and whether other alternatives should be explored.

2. The OCA will examine any relevant issues that arise as a result of the Company's operations.

3. The OCA will investigate to ensure that the Company is complying with all prior orders.

4. The OCA reserves the right to examine other issues affecting the Company's revenue requirements, rates, charges, and other tariff provisions as they are identified through discovery.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of the below witnesses. Each 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 group email formed particularly for this proceeding.

Accounting and Regulatory Policy

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Rate of Return / Cost of Capital /
Capital Structure

Morgan DeAngelo, Regulatory
Analyst
PA Office of Consumer Advocate
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The OCA specifically reserves the right to call additional witnesses, as necessary, and retains the flexibility to have the witnesses above address other areas of this case as the case proceeds. If the OCA determines that additional witnesses will be necessary for any portion of its case, it will notify all parties of record immediately.

IV. PROPOSED SCHEDULE

The OCA continues to work with the Company and the parties on a procedural schedule that is a reasonable compromise of the parties' competing interests within the time afforded for litigation of this matter. The OCA proposes the following schedule:

Other Parties' Direct Testimony	October 4, 2024
Rebuttal Testimony (all parties and all issues)	November 1, 2024
Surrebuttal Testimony (all parties and all issues)	November 15, 2024
Written Rejoinder Outline (by noon)	November 20, 2024
Evidentiary Hearings (telephonic)	November 21-22, 2024
Main Briefs	December 13, 2024
Reply Briefs	December 27, 2024

The OCA requests that the dates included in any litigation schedule in this matter be considered "in-hand" dates and that electronic service on the due date will satisfy the "in-hand" requirement.

V. PUBLIC INPUT HEARINGS

The OCA has been contacted by one consumer regarding the proposed rate increase and is aware of three informal rate protests filed at the Commission. The OCA requests that a telephonic public input hearing be scheduled for customers impacted by this rate filing. The OCA will be prepared to discuss dates and times for the proposed telephonic public input hearing at the prehearing conference. Attached as Appendix A is the OCA's proposed draft Notice for the Public Input Hearing (to be completed with details as determined by ALJ Vero).

VI. DISCOVERY

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission's procedural rules regarding discovery. The OCA requests that the Presiding Officers direct that the modifications will take effect when addressed during the on the record prehearing conference and apply to all future discovery requests served on and after the date of the prehearing conference (September 9, 2024). The OCA also requests that any outstanding interrogatories or requests for admissions are due no later than 10 calendar days after the Prehearing Conference, in accordance with Paragraph A below.

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
- E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the OCA proposes that the deadlines should be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within five (5) calendar days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

VII. PREHEARING PROCEDURES

The OCA requests that the ALJs in their Prehearing Conference Order and Evidentiary Hearing Notice clarify that:

- A. Evidentiary hearing exhibits need not include all pre-served testimony which is circulated to the ALJs and parties in this proceeding in accordance with the above-referenced procedural schedule. However, such pre-served testimony may be identified for movement into the record at the hearing through an inventory of pre-served testimony which is provided as a hearing exhibit.
- B. Evidentiary hearing exhibits, including cross examination exhibits, may be provided to the ALJs and parties on the morning of evidentiary hearings.

VIII. OCA COUNSEL / SERVICE ON THE OCA

The OCA will be represented in this case by the attorneys listed below. During the prehearing conference, Christy Appleby will speak as lead attorney for the OCA.

Christy Appleby, Senior Assistant Consumer Advocate
Katie Kennedy, Assistant Consumer Advocate

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
E-Mail: OCANAWC2024@paoca.org

The OCA has created a group e-mail address provided above. This is the only email address that is required for service on the OCA; it will provide the emailed materials to all members of the OCA team including the consultants listed above.

The OCA requests that service by email by 4:30 p.m. on the due date will satisfy the in-hand service requirement, without the need for follow-up hard copies to the parties. The OCA notes that the Presiding Officers directed they should receive hard copies (in addition to electronic service) of any document filed in this proceeding.

IX. COMMON BRIEFING OUTLINE

The OCA requests that, when the ALJs issue their Instructions for Briefs, the common outline provided by the ALJs will include Roman numeral-level headers for an Overall Position on Rate Increase section following the Summary of Argument section, as well as Quality of Service and Tariff Issues (not otherwise briefed) sections of the brief which precede the Conclusion. The OCA also recommends removing the “Fair Value” second-level heading from the Rate Base section. The OCA’s proposals for the common briefing outline are attached as Appendix B to this Prehearing Memorandum.

X. SETTLEMENT

The OCA will participate in settlement discussions in this matter.

Respectfully submitted,

/s/ Christy M. Appleby

Christy Appleby

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Katie Kennedy

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Counsel for:
Patrick M. Cicero
Consumer Advocate

DATED: September 6, 2024

OCA APPENDIX A

NOTICE OF IN-PERSON AND TELEPHONIC PUBLIC INPUT HEARINGS

For Newtown Artesian Water Company Rate Increase Requests

Docket No. R-2024-3050208

The Pennsylvania Public Utility Commission (PUC) will conduct [#] Public Input Hearings concerning the general rate increase requests filed by Newtown Artesian Water Company on [date], seeking to increase water distribution rates by \$992,419 per year. The telephonic hearings will be held at the following times and dates:

Presiding Officer: Administrative Law Judge Eranda Vero

TELEPHONIC PUBLIC INPUT HEARINGS

Date: [Here]
Time: [Here]

Date: [Here]
Time: [Here]

Toll-free Conference Number: xxx.xxx.xxxx
PIN Number: xxxxxxxx

- You must dial the toll-free Conference number above
- You must enter the PIN number above when instructed
- You must speak your name when prompted, and press #
 - Then, the telephone system will connect you to the hearing

REQUESTS FOR INTERPRETERS: If you require an interpreter, please pre-register as soon as possible. If you register too close to the hearing date, we may not have enough time to arrange for an interpreter. If you request an interpreter, the PUC will make reasonable efforts to have one present. AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

HEARING EXHIBITS: If you have any hearing exhibits to which you will refer during the hearing, please email them to the PUC Judge's Legal Assistant, [name], at [email address]. The PUC Judge will forward your exhibits to all the parties. Exhibits for the public input hearing must be received by the PUC Judge by [the day before the hearing] at 10AM.

QUESTIONS? The Pennsylvania Office of Consumer Advocate (OCA) represents the interests of utility customers before the PUC. If you have questions about the public input hearings or the

Company's requested rate increase, please contact the OCA toll free at 1-800-684-6560 or by email at consumer@paoca.org.

OTHER WAYS TO BE HEARD: If you want to be heard about the proposed rate increase but do not want or cannot testify at the Public Input Hearings, you may file a formal complaint or comment to the proposed rate increase. Please visit the PUC's website to use the applicable form available at <https://www.puc.pa.gov/complaints/formal-complaints/>

OCA APPENDIX B

OCA's Proposed Common Briefing Outline
For General Rate Increase Proceeding

- I. Introduction
- II. Summary of Argument
- III. Overall Position on Rate Increase
- IV. Rate Base
 - A. Plant in Service
 - B. Depreciation Reserve
 - C. Additions to Rate Base
 - D. Deductions from Rate Base
- V. Revenues
- VI. Expenses
- VII. Taxes
- VIII. Rate of Return
- IX. Customer Service/ Quality of Service
- X. Tariff Issues
- XI. Miscellaneous Issues
- XII. Conclusion