

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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
	:	

**ANSWER OF AQUA PENNSYLVANIA, INC. AND AQUA PENNSYLVANIA
WASTEWATER, INC. TO THE JOINT PETITION OF THE OFFICE OF
CONSUMER ADVOCATE AND THE COMMISSION’S BUREAU OF
INVESTIGATION AND ENFORCEMENT FOR THE ISSUANCE OF AN INTERIM
EMERGENCY ORDER ON AN EXPEDITED BASIS**

AND NOW, comes Aqua Pennsylvania, Inc. (“AP”) and Aqua Pennsylvania Wastewater, Inc. (“APW”) (AP and APW together “Aqua” or the “Company”), by and through their attorneys, pursuant to Sections 3.6 and 5.61 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code §§ 3.6 and 5.61, and submit this Answer to the Petition of the Office of Consumer Advocate (“OCA”) and the Commission’s Bureau of Investigation and Enforcement (“I&E”) For The Issuance Of An Interim Emergency Order On An Expedited Basis (“Emergency Petition”) which requests that Aqua be named as receiver for Sugarcreek Water Company (“SWC”), West Hickory Water Company (“WHWC”), Plumer Water Company (“PWC”), Fryburg Water Company (“FWC”), Cooperstown Water Company (“CWC”), and Blaine E. Rhodes Sewer Company (“BERSC”) (together the “Rhodes Utilities”). In acceptance

of the requested Receivership in the Emergency Petition and upon the consideration of certain items related to the Receivership, Aqua submits the following:

I. BACKGROUND

1. This consolidated proceeding involves the Section 529, 66 Pa. C.S. § 529, Investigation of Venango Water Company (“VWC”) (“VWC 529 Proceeding”) and the Section 529 Investigation of SWC, WHWC, PWC, FWC, CWC, and BERSC (“Rhodes Utilities 529 Proceeding”).

2. The current employees of the Rhodes Utilities Randall Rhodes, Kevin Rhodes, Cinda Walentoski (“Rhodes Employees”) through counsel, provided a letter to counsel for the Blaine E. Rhodes Estate (“Rhodes Estate”) dated September 25, 2024 indicating that the Rhodes Employees would be resigning their positions and ceasing operations effective October 31, 2024.

3. Deputy Chief Administrative Law Judge (“ALJ”) Mark A. Hoyer and the parties are familiar with the detailed procedural history of this proceeding and Aqua will not, in the interest of brevity and avoiding needless duplication, repeat here the procedural history applicable to this proceeding.

II. ANSWER TO EMERGENCY PETITION

4. Aqua, recognizing the emergency nature of the situation, is willing to act as the Receiver for the Rhodes Utilities, but to be clear Aqua is not agreeing at this time to acquire the Rhodes Utilities or VWC. In addition, Aqua would request that ALJ Hoyer consider certain items in granting the Emergency Petition as discussed further herein.

5. AP is a regulated Pennsylvania public utility that provides water service to approximately 456,000 customers throughout the Commonwealth of Pennsylvania. APW is a

regulated Pennsylvania public utility that provides wastewater service to approximately 62,000 customers throughout the Commonwealth of Pennsylvania.

6. Aqua has standing to participate in the above-captioned proceeding because the Emergency Petition requests the Commission issue an order appointing Aqua as a Receiver of the Rhodes Utilities. *See* 52 Pa. Code § 5.61(e)(2) (requiring a party to state its standing to participate); *see also* 52 Pa. Code § 3.6(c) (permitting a party to file an answer to a petition for interim emergency relief in the form set forth in 52 Pa. Code § 5.61). As such, Aqua has a direct, immediate, and substantial interest in the outcome of this proceeding, and its interest is not and cannot be adequately represented by any other party.

7. As stated above, Aqua will agree to act as the Receiver for the Rhodes Utilities during the pendency of the Rhodes Utilities 529 Proceeding. Based on Aqua's experience in serving as Receiver in other proceedings, Aqua requests that in addition to the provisions to implement the Receivership, ALJ Hoyer include in his order the following in granting the Emergency Petition:

- a. The Rhodes Employees shall provide full cooperation in the time leading up to October 31, 2024 with the provision of information and access to Rhodes Utilities facilities. Facilities include office buildings and buildings that include customer data and control center information. Data includes all financial and customer data.
- b. To allow for smooth transition of operations, Aqua shall be allowed to install certain equipment or improvements prior to November 1, 2024 for the Rhodes Utilities systems, as needed, to facilitate Aqua's start of operations on November 1, 2024.

- c. The Commission will coordinate with the Pennsylvania Department of Environmental Protection (“DEP”) to provide to Aqua all data and reports associated with the Rhodes Utilities as soon as possible.
- d. Aqua shall not be responsible for (i) any legal bills associated with litigation concerning the Rhodes Estate; (ii) legal bills of the Rhodes Employees or the Rhodes Estate concerning participation in the VWC 529 Proceeding or Rhodes Utilities 529 Proceeding; and (iii) any outstanding legal bills of the Rhodes Utilities.
- e. Aqua shall neither be responsible, nor shall it pay, for any amounts either owed or claimed to be owed (i) between or among the Rhodes Utilities, (ii) by the Rhodes Utilities to the Rhodes Estate, or (iii) by the Rhodes Utilities or Rhodes Estate to B.P. Rhodes & Son, Inc.¹
- f. The Lead Service Line Replacement (“LSLR”) Plan filed by AP, as Receiver for VWC currently pending at Docket No. P-2024-3050248, shall apply to the Rhodes Utilities and the requirements of 52 Pa. Code § 65.55(a)² shall be waived so that Aqua shall not be separately required to file LSLR Plans for each of the Rhodes Utilities. To Aqua’s knowledge the Rhodes Utilities have not filed LSLR Plans in accordance with 52 Pa. Code § 65.51 et seq., nor have the Rhodes Utilities requested waiver of the Commission’s regulations regarding LSLR Plans.

¹ In response to Interrogatories of the OCA to the Rhodes Utilities in the Rhodes Utilities 529 Proceeding, each of the Rhodes Utilities responded to OCA-I-48 indicating amounts owed either between the Rhodes Utilities or amounts owed by individual Rhodes Utilities to B.P. Rhodes & Son, Inc.

² 52 Pa. Code § 65.55(a) states: “[a] Class A public utility or authority shall file a LSLR program within 1 year of the effective date of this section. A Class B public utility, Class C public utility or municipal corporation shall file a LSLR program within 2 years of the effective date of this section. An entity that received prior Commission approval to perform LSLR activities shall comply with § 65.61 (relating to preexisting LSLR activities).”

- g. The Rhodes Employees shall provide all documents evidencing ownership or right of access to property upon which Rhodes Utilities facilities are situate.
- h. Based on the Rhodes Utilities answers to Aqua's Interrogatories in the Rhodes Utilities 529 Proceeding, all Rhodes Utilities' customers have meters that are not capable of radio frequency readings, and based on Aqua's prior experience having had issues accessing properties to manually read meters in VWC, Aqua shall be permitted to defer capital expenditures associated with the installation of new meters and radio frequency transmitters for accounting purposes. Such deferred accounting for the stated meter-related expenditures shall be in addition to the provisions regarding deferred accounting that are typically stated in an order issued in connection with a receiver's duties.

8. In addition to the above, based upon an initial walkthrough of the Rhodes Utilities facilities on September 6, 2024, and a review of the financial information provided through discovery in the Rhodes Utilities 529 Proceeding, the revenues associated with each of the Rhodes Utilities are likely insufficient to cover the operating and capital expenditures needed to immediately address system viability, compliance with DEP requirements, and safety issues. Aqua notes that it may (and specifically reserves the right to), during the pendency of the Rhodes Utilities 529 proceeding, request rate relief to cover these costs.

9. The Company also requests that the Commission encourage the DEP and Commission staff to attend a site visit situational awareness meeting at the Rhodes Utilities as soon as Aqua takes over as Receiver for the Rhodes Utilities systems.

10. Finally, based upon Aqua's acceptance of the Emergency Petition request to act as Receiver of the Rhodes Utilities, Aqua does not believe a hearing on this matter is necessary and requests that the Call-In Telephonic Hearing on October 15, 2024 be cancelled.

III. CONCLUSION

WHEREFORE, Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. respectfully requests that Deputy Chief Administrative Law Judge Mark A. Hoyer approve the Joint Petition of the Office of Consumer Advocate and Bureau of Investigation and Enforcement For Issuance Of An Interim Emergency Order On An Expedited Basis, subject to the consideration of the items discussed above that would facilitate Aqua's operation of six additional systems under Receivership. Aqua further respectfully requests that the hearing scheduled for October 15, 2024 at 10:00 a.m. to address the Emergency Petition be cancelled in light of the foregoing.

Respectfully submitted,



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Date: October 11, 2024

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Aqua Pennsylvania Wastewater, Inc.*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Honorable Mark A. Hoyer, Presiding

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

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of October, 2024, served a true and correct copy of Aqua Pennsylvania, Inc.’s and Aqua Pennsylvania Wastewater, Inc.’s Answer to OCA and I&E’s Petition for Issuance of an Interim Emergency Order, upon the persons and in the manner set forth below:

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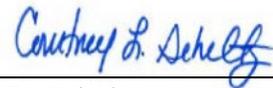
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