



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 12, 2024

Via Electronic Filing

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

Re: Section 529 Investigation of Conneaut Lake Park Water Corporation, Inc.
Docket Nos. P-2024-3051855
I-2024-3051857
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation & Enforcement's (I&E) **Prehearing Memorandum** in the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in grey ink that reads 'Michael Podskoch'.

Michael A. Podskoch, Jr.
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 330132
(717) 783-6151
mpodskoch@pa.gov

MAP/ac
Enclosures

cc: Per Certificate of Service
Eranda Vero, Esq., Administrative Law Judge (*via email - evero@pa.gov*)
Arlene Ashton, Esq., Administrative Law Judge (*via email - aashton@pa.gov*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Section 529 Investigation of Conneaut Lake : Docket Nos. P-2024-3051855
Park Water Corporation, Inc. : I-2024-3051857

**PREHEARING MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

**TO ADMINISTRATIVE LAW JUDGE ERANDA VERO AND ADMINISTRATIVE
LAW JUDGE ARLENE ASHTON:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned proceeding.

The Bureau of Investigation and Enforcement Prosecutor in this proceeding will be Michael A. Podskoch, Jr. Contact information is as follows:

By mail: Michael A. Podskoch, Jr.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By e-mail: mpodskoch@pa.gov

By telephone: (717) 783-6151

I. INTRODUCTION

On August 31, 2023, Conneaut Lake Park Water Corporation, Inc. (“CLPWC” or “Company”) filed proposed Supplement No. 1 to Tariff – Water Pa. P.U.C. No. 1 to become effective October 31, 2023 at Docket No. R-2023-3041575. Simultaneously with the base rate filing (“rate case”), CLPWC filed a Petition for Approval of a Metering Exception (“metering petition”) at Docket No. P-2023-3042648. The parties to the rate case included: CLPWC, I&E, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), several individual customers, and approximately 67 Conneaut Lake residents represented by Joshua D. Brown, Esquire.

On October 19, 2023, the Commission entered an Order suspending the implementation of the proposed rates by operation of law until May 31, 2024, and opening an investigation into the lawfulness, justness, and reasonableness of the proposed rates, rules, and regulations contained therein. On October 26, 2023, a telephonic Prehearing Conference was held before Administrative Law Judges Eranda Vero and Arlene Ashton (the “ALJs”) during which the rate case and the metering petition were consolidated and the parties agreed to engage in mediation.

During the course of the rate case, I&E confirmed that CLPWC has been in violation of several Commission Regulations and provisions of the Public Utility Code.¹ Additionally, at the public input hearings held on December 7, 2023, many customers testified about customer service issues, water quality issues, the poor state of the water system, retaliatory

¹ See I&E Petition for Section 529 Investigation, pp. 7-8.

and threatening communications with customers by the Company's owner Todd Joseph, and about being charged tapping fees to connect their residences to the water system.²

The mediation proceedings culminated in a Settlement among the parties. The Settlement contained certain provisions wherein I&E agreed to initiate a Section 529³ proceeding no later than three months after entry of a Commission Order. On July 1, 2024, ALJs Vero and Ashton issued a Recommended Decision recommending that the Commission approve the Settlement. On August 1, 2024, the Commission entered an Order approving the Settlement. Pursuant to the terms of the Settlement, I&E filed a Petition on October 28, 2024 requesting that the Commission open a Section 529 Investigation into whether the Commission should order a capable public utility to acquire Conneaut Lake Park Water Corporation, Inc. owned by Todd Joseph.

Pursuant to the Prehearing Conference Order issued on November 5, 2024,⁴ a telephonic Prehearing Conference is scheduled on November 13, 2024 at 2:00 p.m. before ALJs Vero and Ashton.

II. ISSUES

The following list represents I&E's preliminary determination of the potential issues in this proceeding:

1. Should the Commission order a capable public utility to acquire Conneaut Lake Park Water Corporation, Inc.?
2. Are the six elements of 66 Pa. C.S. § 529(a) met?
3. Is Aqua Pennsylvania, Inc. or another utility a capable public utility for purposes of 66 Pa. C.S. § 529?

² See I&E Petition for Section 529 Investigation, p. 8.

³ 66 Pa. C.S. § 529.

⁴ A Corrected Prehearing Order was issued on November 6, 2024 correcting the due date for the parties' prehearing memoranda to November 12, 2024.

The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues as it deems appropriate if any such relevant issues arise.

III. WITNESSES

It is currently expected that I&E may call the following expert witnesses without being limited thereto:

1. Zachari Walker, Fixed Utility Financial Analyst; and
2. Ethan Cline, Fixed Utility Valuation Engineer

The I&E witnesses may be contacted through the information listed above for Mr. Podskoch. The witness list is provided without the benefit of complete discovery or analysis of the positions of the other parties to this proceeding. Accordingly, I&E reserves the right to call additional witnesses or withdraw the name of the witnesses listed above.

IV. EVIDENCE

I&E expects to present all written direct, rebuttal, and surrebuttal testimony and accompanying exhibits at the evidentiary hearings. Moreover, I&E intends to rely on the Company's filing, supplemental testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources, and other public documents and reports. However, there may be issues of law or Commission policy that are not properly the subject of testimony or factual issues that are clear on the record and need not be supported by testimony. I&E thereby reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed through briefing.

V. DISCOVERY

I&E has not proposed any discovery modifications. I&E will work with the parties to determine the appropriate discovery modifications in this proceeding.

VI. SCHEDULE

I&E will work with the parties and the ALJs to develop a mutually agreeable litigation schedule in this proceeding. As of this date, the parties have not yet agreed on a schedule. I&E proposes the following litigation schedule:

| | |
|---------------------------------|-------------------|
| I&E Direct Testimony | January 30, 2025 |
| Other Parties' Direct Testimony | February 27, 2025 |
| Rebuttal Testimony | March 27, 2025 |
| Surrebuttal Testimony | April 24, 2025 |
| Hearings | May 6-7, 2025 |
| Main Briefs | May 27, 2025 |
| Reply Briefs | June 12, 2025 |

I&E proposes the use of telephonic hearings in this proceeding. However, to the extent that evidentiary hearings will be convened in person, I&E requests that those hearings be held in Harrisburg in order to save the Commission the expense of sending the I&E prosecutor and witnesses to out-of-town hearings.

VII. PUBLIC INPUT HEARINGS

To the extent that public input hearings be deemed necessary, I&E proposes the use of telephonic hearings to encourage increased participation by the ratepayers.

VIII. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony, briefs, and other documents during this proceeding, and consistent with Commission regulations and policy, I&E proposes to both only serve and accept electronic delivery of documents.

IX. ALTERNATIVE DISPUTE RESOLUTION

As the rate case reached resolution through mediation, I&E supports utilizing either the Commission's mediation or settlement judge processes in the instant proceeding if the other parties are in agreement.

X. SETTLEMENT

I&E will maintain an open dialogue and is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully submitted,



Michael A. Podskoch, Jr.
Prosecutor
PA Attorney ID No. 330132

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: November 12, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Section 529 Investigation of Conneaut Lake : Docket Nos. P-2024-3051855
Park Water Corporation, Inc. : I-2024-3051857

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated November 12, 2024, in the manner and upon the persons listed below.

Served via Electronic Mail Only

Todd Joseph
Conneaut Lake Park Water Corp Inc.
P.O. Box 242
Harmonsburg, PA 16422
tjosephproperties@hotmail.com

Steven C. Gray, Esq.
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov

Mark J. Shaw, Esq.
MacDonald Illeg Jones & Britton LLP
100 State Street, Suite 700
Erie, PA 16507-1459
mshaw@mijb.com

Joshua D. Brown, Esq.
Lund Metcalfe, LLC
1900 Main Street, Suite 257
Canonsburg, PA 15317
jbrown@lundmetcalfe.com

Harrison W. Breitman, Esq.
Jacob D. Guthrie, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
hbreitman@paoca.org
jguthrie@paoca.org

James Tolbert
21986 Russet Drive
Meadville, PA 16335
jtoltbert@zoominternet.net

Douglas Smith
12554 Reed Avenue
Conneaut Lake, PA 16316
ds42@windstream.net

Conneaut Lake Joint Municipal Authority
9888 State Highway 285
P.O. Box 277
Conneaut Lake, PA 16316
office@cljma.com

George Malloy
213 Cobblestone Drive
Pittsburgh, PA 15237
shellyhuf@hotmail.com

Meadville Area Water Authority
18160 Rogers Ferry Road
Meadville, PA 16335
customerservice@mawa.us

Sharon Arneson
1218 Forest Avenue
New Kensington, PA 15068
arnesonsharon@ymail.com

Jamestown Municipal Water and Sewer
Authority
406 Jackson Street
P.O. Box 188
Jamestown, PA 16134
jamestown@zoominternet.net

Tera Powell
719 10th Street
New Brighton, PA 15066
Tera.malekovic@gmail.com

Reynolds Water Company
301 Arlington Drive
Greenville, PA 16125
grdc@greenvillereynolds.com

Alexander R. Stahl, Esq.
Aqua Pennsylvania, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
astahl@aquaamerica.com

Served via First Class Mail Only

Municipal Authority of Conneaut Lake
395 High Street
P.O. Box 345
Conneaut Lake, PA 16316

Greenville Water Authority
44 Clinton Street
Greenville, PA 16125

Vernon Township Water Authority
16678 McMath Avenue
Meadville, PA 16335

Linesville Municipal Water Authority
103 W. Erie Street
Linesville, PA 16424

Saegertown Water Department
603 Erie Street
P.O. Box 558
Saegertown, PA 16433



Michael A. Podskoch, Jr.
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 330132
(717) 783-6151
mpodskoch@pa.gov