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November 12, 2024

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**RE: Pennsylvania Public Utility Commission v. Deer Haven, L.L.C. (Water and Wastewater);
Docket Nos. P-2024-3050545, I-2024-3051540, P-2024-3050549 and I-2024-3051541**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Prehearing Memorandum of Deer Haven, L.L.C., in the above-referenced proceedings.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a light blue horizontal line.

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC

Counsel to Deer Haven, L.L.C.

cc: Christopher P. Pell, Deputy Chief Administrative Law Judge
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA E-MAIL OR FIRST-CLASS MAIL

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Office of Consumer Advocate Melanie J. El Atieh, Esq. Barrett C. Sheriden 555 Walnut Street 5th Floor Forum Place Harrisburg, PA 17101-1923 MElAtieh@paoca.org bsheridan@paoca.org</p> | <p>Office of Small Business Advocate Steven C. Gray, Esq. Office of Small Business Advocate Commonwealth of Pennsylvania Forum Place 555 Walnut Street, 1st Floor Harrisburg, PA 17101 sgray@pa.gov</p> |
| <p>Bureau of Investigation and Enforcement Scott B. Granger, Esq. Allison C. Kaster, Esq. Pennsylvania Public Utility Commission Commonwealth Keystone Building P. O. Box 3265 Harrisburg, PA 17105-3265 sgranger@pa.gov akaster@pa.gov</p> | <p>Dept. of Environmental Protection Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 RA-epwater@pa.gov RA-epwaste@pa.gov</p> |
| <p>Dept. of Environmental Protection Rachel Carson State Office Building 400 Market Street Harrisburg, PA 17101 RA-epwater@pa.gov RA-epwaste@pa.gov</p> | <p>Pike County Planning Commission 506 Broad Street Milford, PA 18337 planning@pikepa.org</p> |
| <p>Pike County Commissioners 506 Broad Street Milford, PA 18337 mosterberg@pikepa.org rschmalzle@pikepa.org ccaceres@pikepa.org</p> | <p>Palmyra Township 115 Buehler Lane Paupack, PA 18451 administrator@palmyrapike.org</p> |

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Palmyra Township Planning Commission 115 Buehler Lane Paupack, PA 18451</p> | <p>Pocono Water Works, Inc. Joseph R. Bonamico Sr., President Box 189 Hamlin, PA 18427 jbona@aol.com</p> |
| <p>Mark Shaw – Counsel for Pocono Lakefront, Inc., Pocono Utilities, LLC Mark J. Shaw, Esq. MacDonald Illig 100 State St. Suite 700 Erie, PA 16507 mshaw@mijb.com</p> | <p>Aqua Pennsylvania Marc A. Lucca, President 762 W. Lancaster Avenue Bryn Mawr, PA 19010 MALucca@aquaamerica.com</p> |
| <p>Aqua Pennsylvania Alexander R. Stahl, Esq. Kimberly Joyce, Esq. Vice President Regulatory Counsel & Corporate Secretary 762 W. Lancaster Avenue Bryn Mawr, PA 19010 astahl@aquaamerica.com KAJoyce@essential.co</p> | <p>Aqua Pennsylvania Inc Courtney L Schultz, Esq. Kruti B Patel, Esq. Saul Ewing LLP 1500 Market Street, 38th Floor Philadelphia, PA 19102 Courtney.schultz@saul.com kruti.patel@saul.com</p> |
| <p>Paul Diskin, Director PUC Bureau of Technical Utility Services 400 North Street Harrisburg, PA 17120 pdiskin@pa.gov</p> | |



Adeolu A. Bakare

Counsel to Deer Haven, L.L.C.

Dated this 12th day of November, 2024, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|----------------------------------------|---|----------------|
| Pennsylvania Public Utility Commission | : | |
| | : | P-2024-3050545 |
| v. | : | I-2024-3051540 |
| | : | |
| Deer Haven, L.L.C. (Water) | : | |

| | | |
|----------------------------------------|---|----------------|
| Pennsylvania Public Utility Commission | : | |
| | : | P-2024-3050549 |
| v. | : | I-2024-3051541 |
| | : | |
| Deer Haven, L.L.C. (Wastewater) | : | |

**PREHEARING MEMORANDUM OF
DEER HAVEN L.L.C.**

As requested by Deputy Chief Administrative Law Judge ("ALJ") Christopher P. Pell in the Prehearing Conference Order dated October 18, 2024, Deer Haven L.L.C. ("Deer Haven") hereby submits this Prehearing Memorandum in anticipation of the Prehearing Conference scheduled for November 15, 2024.

I. BACKGROUND AND HISTORY OF THE PROCEEDING

On August 4, 2024, for reasons detailed therein, Deer Haven filed a Petition for Emergency Order with the Pennsylvania Public Utility Commission ("PUC" or "Commission") requesting that the Commission, immediately appoint Aqua Pennsylvania, Inc. ("Aqua") as temporary receiver to ensure continued provision of water and wastewater services to Deer

Haven's customers.¹ On August 7, 2024 and August 15, 2024, respectively, the Commission issued *Ex Parte* Emergency Orders at the above-captioned dockets naming Aqua as Receiver of the Deer Haven water and wastewater systems subject to further proceedings pursuant to Section 529 of the Public Utility Code, 66 Pa. C.S. § 529, to determine the appropriate means to transition operation and ownership of Deer Haven's water and wastewater systems to a competent service provider. The Commission entered Ratification Orders for the water and wastewater *Ex Parte* Emergency Orders on August 26, 2024.

On October 10, 2024, the ALJ issued a Prehearing Conference Notice to Deer Haven and to all parties scheduling the Prehearing Conference for the water and wastewater Section 529 proceedings for November 15, 2024. The ALJ additionally issued a Prehearing Conference Order on October 18, 2024 ("Prehearing Order"). Deer Haven hereby submits this Prehearing Memorandum pursuant to the Prehearing Order.

II. SERVICE LIST

For purposes of service in the above-captioned proceedings, please direct all communications to:

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¹ Deer Haven's Petition for Emergency Order requested that Aqua be appointed Receiver for the sewer system until the anticipated transfer of the sewer system to PL Utilities, LLC. ("PLU") pursuant to the pending Joint Application for Certificates of Public Convenience at PUC Dockets A-2024-3049587 and A-2024-3049591.

III. ANTICIPATED ISSUES AND SUB-ISSUES

As detailed in Deer Haven's Petition for Emergency Order and affirmed in the Commission's *Ex Parte* Emergency Orders, Deer Haven is unable to provide adequate, safe and reasonably continuous service without unreasonable interruption or delay and has no economically practical or feasible alternatives to continue furnishing water or wastewater service. 66 Pa. C.S. § 1501; *see also* 66 Pa. C.S. § 529. Pursuant to the Commission's *Ex Parte* Emergency Orders, Deer Haven has not operated the water or wastewater systems since August 7 and August 15, respectively. Since that time, Aqua has been directly responsible for operation of the water and wastewater systems. As directed in the *Ex Parte* Emergency Orders, Aqua filed status reports regarding its operation of the water and wastewater systems on October 7, 2024, and October 15, 2024. These status reports reviewed the status of Aqua's operations for both systems, including confirming that Aqua notified the Deer Haven water and wastewater customers of its appointment as Receiver. Throughout this proceeding Deer Haven intends to rely on the evidence set forth in its Petition for Emergency Order, the findings in Aqua's Initial Status Report, and additional evidentiary presentations as may be necessary to establish that Deer Haven lacks the capacity to furnish, safe, adequate and reasonably continuous service such that the Commission should permanently transition operations and ownership of the water and wastewater operations to a more capable service provider.

IV. PROPOSED WITNESSES

Deer Haven has not determined whether it will be necessary to present a witness for these proceedings. To the extent Deer Haven determines to call a witness, Deer Haven will immediately inform the parties and the ALJ of any intended witnesses and topics of testimony. The Deer Haven believes the parties should seek an amicable resolution of this proceeding, but

will be prepared to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions, and reply exceptions, if necessary.

V. PROPOSED SCHEDULE AND DISCOVERY RULES

Deer Haven recommends that the ALJ refrain from developing a litigation schedule at this time and direct parties to engage in settlement discussions as set forth below.

VI. POSSIBILITY OF SETTLEMENT

The Deer Haven is willing to participate in settlement discussions with the other parties to amicably resolve the issues in this proceeding, subject to the approval of the Commission.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Counsel to Deer Haven L.L.C.

Dated: November 12, 2024.