

MARK J. SHAW, ESQ.
ADMITTED IN PA AND OH
DIRECT DIAL 814-870-7607
E-MAIL MSHAW@MIJB.COM

November 12, 2024

VIA ELECTRONIC FILING

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

Re: Pennsylvania Public Utility Commission v. Deer Haven, L.L.C. (Water
Docket Nos. P-2024-3050545 and I-2024-3051540

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

Dear Secretary Chiavetta:

Attached for electronic filing is a Notice of Entry of Appearance on behalf of Pocono Lakefront LLC, PL Utilities, LLC.

Also attached is a Petition to Intervene of Pocono Lakefront LLC, PL Utilities, LLC to the Commission's Section 529 Proceeding.

Finally, attached for electronic filing is a Prehearing Memorandum of Pocono Lakefront LLC and PL Utilities, LLC in the above-captioned matter.

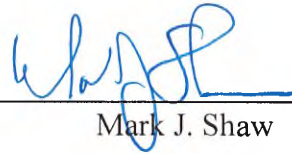
Copies have been served on the parties listed on the attached Certificate of Service.

November 12, 2024
Page -2-

Very truly yours,

MacDONALD, ILLIG, JONES & BRITTON LLP

By



Mark J. Shaw

MJS/lmf/1901873.1

Attachments as stated

cc w/attachments: The Honorable Chistopher P. Pell (*Via electronic mail*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals and in the manner listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA ELECTRONIC MAIL

Allison C. Kaster, Esq.
Scott B. Granger, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105
akaster@pa.gov
sgranger@pa.gov
Counsel for I&E

Adeolu A. Bakare, Esq.
Harrison R. Block, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17101
abakare@mcneeslaw.com
Counsel for Deer Haven, LLC

Alexander R. Stahl, Esq.
Kimberly Joyce, Esq.
Aqua Pennsylvania Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
astahl@aquaamerica.com
kajoyce@essential.com
(Counsel for 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
Counsel for Aqua Pennsylvania, Inc.

Joseph R. Bonamico, Sr., President
Pocono Water Works Inc.
P.O. Box 189
Hamlin, PA 18427
jbona@aol.com

Palmyra Township Planning Commission
115 Buehler Lane
Paupack, PA 18451
administrator@palmyrapike.org

Palmyra Township
115 Buehler Lane
Paupack, PA 18451
administrator@palmyrapike.org

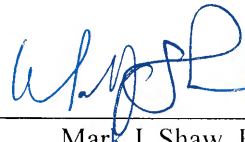
Pike County Planning Commission
506 Broad Street
Milford, PA 18337
planning@pikepa.org

Pennsylvania Dept. of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101
RA-epwater@pa.gov

Pike County Commissioners
506 Broad Street
Milford, PA 18337
mosterberg@pikepa.org
rschmalzle@pikepa.org
ccaceres@pikepa.org

Pennsylvania Dept. of Environmental Protection
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18701
RA-epwater@pa.gov

Emily A. Farren, Assistant Consumer Advocate
Barrett C. Sheridan, Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
efarren@paoca.org
bsgerudab@paoca.org
Counsel for Patrick M. Cicero, Consumer Advocate



Mark J. Shaw, Esq.

November 12, 2024

PL Utilities, LLC ("PLU") is a Pennsylvania Limited Liability Company whose sole member is Jacob Goren. PLU was established to own and operate a wastewater system that will support the development to be undertaken by the related development company, Pocono.

Deer Haven is the Certificated public utility that owns and operates all of the existing wastewater collection system, most of which is located west of Route 507, between Route 507 and Lake Wallenpaupack. A large portion of the property covered by the service territory is undeveloped and is now owned by Pocono; prior to 2010, the property was owned by Haven Development, which was a development company related to Deer Haven.

B. The Property and Sewer System Acquisition

In 2010, Deer Haven and Haven Development entered into a Purchase and Sale Agreement with Pocono for the sale of approximately 85 acres of property in Palmyra Township, Pike County, Pennsylvania, including the land on which the wastewater sewer system is located. The parties closed on the Agreement, and Pocono is the current owner of the property. At the same time, Deer Haven and Pocono entered into a Grant of Capacity and Option to Purchase Agreement for the Sewer System associated with the property subject to PUC approval. Under that Agreement Deer Haven granted to Pocono, its successors and assigns, the option to purchase the Deer Haven Sewer Company for \$1.00, subject to approval by the PUC of the transfer of the Certificates of Public Convenience to Pocono.

In 2014, Deer Haven and Pocono entered into an agreement to transfer the existing wastewater collection system to either Pocono or another entity formed for the purpose of operating the sewer system (in this case, PLU) once the PUC (1) allows the transfer of the system, (2) allows Deer Haven to abandon the system, and (3) allows PLU to obtain a Certificate of Public Convenience over the system. For various reasons the transfer never occurred.

As a result of a settlement of a lawsuit in New Jersey, the parties agreed to move forward with the transfer of the Deer Haven sanitary sewer system with PLU being the sewer utility. Under

that Settlement, Deer Haven was to continue operating the treatment plant with its majority owner being responsible for any costs Deer Haven could not cover.

C. Actions Taken to Consummate Sewer System Transfer

PLU has permitted and constructed a new 70,000 gpd wastewater treatment plant to replace the aged and failing existing wastewater treatment plant owned and operated by Deer Haven at a cost in excess of \$2.5 million. This work includes the construction of new wastewater collection lines that are located on both sides of Route 507 that were installed to enable the connections with the existing wastewater collection system, as well as pump stations to pump wastewater to the new treatment plant.

PLU has obtained approval from Palmyra Township of an amendment to the Township's Act 537 Plan allowing the transfer of the sewer system from Deer Haven to PLU, and has submitted the Act 537 Plan amendment to the Pennsylvania Department of Environmental Protection ("PaDEP") for approval.

PLU has worked with PaDEP to transition the NPDES discharge permit from Deer Haven to PLU, to approve the start-up of the new treatment plant in place of the existing failing treatment plant and to decommission the existing failing treatment plant as part of a draft Consent Order and Agreement ("COA") that PaDEP, PLU and Deer Haven will enter into. The negotiations of the COA have been delayed due to the pendency of this proceeding.

PLU also is working with the Delaware River Basin Commission ("DRBC") to extend the permit from the DRBC that was granted in 2014 for the construction of the new treatment plant and the Pocono development.

PLU negotiated an agreement with Environmental Services Corporation of Pennsylvania ("ESC") under which ESC will operate the wastewater system upon approval of the transfer by the PUC and the issuance of the permits from PaDEP and DRBC. ESC has more than 50 years

combined experience in waste removal and water management, offering both certified wastewater and water operators to oversee, operate and management their client's facilities.

PLU will enter into an agreement with a related company, Empire Industries, to provide administrative services, which will be effective upon the PUC granting the Certificate to PLU. Empire Industries, founded in 1976, is a national company with distribution centers in New Jersey and California and a manufacturing facility in New Jersey. It manufactures and sells a variety of kitchen and bathroom vanities, closets and medicine cabinets to meet the needs of high end showrooms and new construction projects. It also has operations in four Asian and three European countries. Empire has a management team and more than 50 employees. Jacob Goren is the President of Empire Industries. Empire Industries has the personnel qualified to perform the types of administrative services that are needed for PLU.

The property on which the sewer system and new WWTP are located is owned by Pocono. Pocono is willing to enter into an Easement Agreement with PLU granting PLU a permanent easement relating to the Sewer System. The proposed Easement Agreement will be executed and recorded upon the PUC granting the Certificate to PLU.

Lastly, on June 18, 2024, Deer Haven and PLU filed a Joint Application for Issuance of Certificate of Public Convenience and Abandonment seeking approval of the transfer of the sewer system from Deer Haven to PLU; granted a Certificate of Public Convenience to PLU; granting the Application for Abandonment by Deer Haven; approving the affiliate agreements between PLU, Pocono, Empire Industries and Jacob Goren, approving the proposed Tariff of PLU and approving any and all waivers deemed necessary to grant the relief requested.

3. Issues

The issues in this case are as follows:

- a. Whether the six (6) factors justifying the Commission to order a capable public utility to acquire the sewer system have been met?

- b. Whether PLU is an alternative to an acquisition order that the Commission will not determine to be impracticable and not economically feasible?
- c. If the Commission determines that Aqua should be ordered to acquire the sewer and water systems, what compensation is due to Pocono for the use of its property by each system?
- d. If the Commission determines that Aqua should be ordered to acquire the sewer system, what compensation is due to PLU for the existing system and for the new conveyance system lines and components and the new wastewater treatment plant?

4. Potential Witnesses

- a. Jacob Goren
- b. Brian Book, PE, cb3 Solutions, LLC regarding environmental permitting and approvals
- c. An undetermined valuation expert

The potential witnesses may be contacted through counsel for Pocono and PLU. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding. Accordingly, Pocono and PLU reserve the right to call additional witnesses or withdraw the name of the witnesses listed above.

5. Evidence

The Pocono and PLU expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. The evidence it intends to present is recited above is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding. Accordingly, Pocono and PLU reserve the right to present additional evidence as may be necessary.

6. Discovery

Pocono and PLU will work with the other parties to ensure an smooth and efficient discovery process. In that vein, to the extent the parties seek to settle this matter, Pocono and PLU requests that discovery be stayed during such efforts.

7. **Schedule**

The Pocono and PLU will work with the parties and the Administrative Law Judges, to develop a schedule in this proceeding.

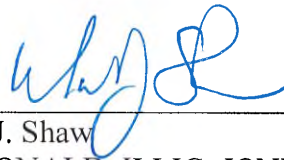
8. **Service of Documents**

In accordance with 52 Pa. Code § 1.54(b)(3)(i), Pocono and PLU agree to accept electronic mail delivery of documents on the due date¹ as satisfying the in-hand requirement. The Company also requests that all parties serve an electronic copy of all interrogatory responses upon the Company.

9 **Settlement**

Pocono and PLU 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,



Mark J. Shaw
MacDONALD, ILLIG, JONES & BRITTON LLP
100 State Street, Suite 700
Erie, Pennsylvania 16507-1459
(814) 870-7607

Attorneys for Pocono Lakefront Inc., Pocono
Utilities, LLC

Dated: November 12, 2024

¹ In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 3:00 p.m.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals and in the manner listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA ELECTRONIC MAIL

Allison C. Kaster, Esq.
Scott B. Granger, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105
akaster@pa.gov
sgranger@pa.gov
Counsel for I&E

Adeolu A. Bakare, Esq.
Harrison R. Block, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17101
abakare@mcneeslaw.com
Counsel for Deer Haven, LLC

Alexander R. Stahl, Esq.
Kimberly Joyce, Esq.
Aqua Pennsylvania Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
astahl@aquaamerica.com
kajoyce@essential.com
(Counsel for 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
Counsel for Aqua Pennsylvania, Inc.

Joseph R. Bonamico, Sr., President
Pocono Water Works Inc.
P.O. Box 189
Hamlin, PA 18427
jbona@aol.com

Palmyra Township Planning Commission
115 Buehler Lane
Paupack, PA 18451
administrator@palmyrapike.org

Palmyra Township
115 Buehler Lane
Paupack, PA 18451
administrator@palmyrapike.org

Pike County Planning Commission
506 Broad Street
Milford, PA 18337
planning@pikepa.org

Pennsylvania Dept. of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101
RA-epwater@pa.gov

Pike County Commissioners
506 Broad Street
Milford, PA 18337
mosterberg@pikepa.org
rschmalzle@pikepa.org
ccaceres@pikepa.org

Pennsylvania Dept. of Environmental Protection
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18701
RA-epwater@pa.gov

Emily A. Farren, Assistant Consumer Advocate
Barrett C. Sheridan, Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
efarren@paoca.org
bsgerudab@paoca.org
Counsel for Patrick M. Cicero, Consumer Advocate



Mark J. Shaw, Esq.

November 12, 2024