



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 13, 2024

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission v.
Audubon Water Company
Docket No. R-2024-3051816
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Prehearing Memorandum of the Bureau of Investigation and Enforcement in the above-captioned proceeding.

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

Sincerely,

A handwritten signature in black ink that reads 'Scott B. Granger'.

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641
(717) 425-7593
sgranger@pa.gov

SBG/ac
Enclosures

cc: Administrative Law Judge Katrina L. Dunderdale (via email – kdunderdal@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2024-3051816
	:	
Audubon Water Company	:	
Base Rates	:	

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

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

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 Scott B. Granger. Contact information is as follows:

By mail: Scott B. Granger
 Pennsylvania Public Utility Commission
 Bureau of Investigation and Enforcement
 Commonwealth Keystone Building
 400 North Street, 2nd Floor West
 Harrisburg, PA 17120

By e-mail: sgranger@pa.gov

By telephone: (717) 425-7593

I. INTRODUCTION

On October 25, 2024, Audubon Water Company (“Audubon” or “AWC” or the “Company”) (Utility Code 210060) filed Supplement No. 7 to Tariff - Water Pa. PUC No. 4 (“Supplement 7”) and the supporting data required by 52 Pa. Code § 53.52.¹ Supplement 7 represents a general base rate increase request pursuant to 1308(d) of the Public Utility Code (66 Pa. C.S. § 1308(d)) and seeks to increase rates 35.31% as of December 26, 2024. In its filing, the Company argues that it needs to adjust its rates to continue providing water service, and, to improve its ongoing financial viability.² The water rate study provided by the Company allegedly supports an overall indicated increase in rates of \$1,264,096 or a 44.64% increase.³ The Company states, however, in an effort to moderate the impact on customers, it proposes an increase of \$999,975 or 35.31% over current rates.⁴

Also applicable to this proceeding, there is a merger application pending before the Commission that is directly relevant to this base rate increase request. In summary, on September 21, 2023, Audubon and the Pennsylvania American Water Company (“PAWC”) filed a joint application (“Joint Application”) pursuant to Section 1102(a) of the Pennsylvania Public Utility Code, at dockets A-2023-3043194 and A-2023-3043196, to request that the Commission approve the transfer by merger, to American Water Works Company, Inc. (“American Water”), and subsequently to PAWC, of all of the

¹ Supplement No. 7 to Tariff Water – Pa. PUC No. 4 and Supporting Data (“Supplement 7”), prepared by Utility Rate Resources and file with the Pennsylvania Public Utility Commission October 25, 2024.

² Supplement 7, p. A-1.

³ *Id.*

⁴ *Id.*

property and rights of Audubon’s water facilities infrastructure (the "System") which will be accomplished through American Water's acquisition of all of the issued and outstanding capital stock of Audubon.⁵ On September 30, 2024, PAWC, the Office of Consumer Advocate, the Office of Small Business Advocate, and Audubon (collectively, the “Joint Petitioners”) filed a Joint Petition for Approval of Settlement of All Issues for Commission approval of the transfer.⁶ The Settlement is still pending before the Commission’s Office of Administrative Law Judge. Audubon now argues that regardless of the status of this rate case, AWC’s rates in effect upon the date when PAWC closes the purchase of Audubon will be the PAWC tariff rates applicable to Audubon’s current customers under the above noted settlement agreement.⁷

On October 31, 2024, I&E filed a Notice of Appearance in this proceeding.

On November 6, 2024, the Office of Consumer Advocate (“OCA”) filed a Notice of Appearances, Formal Complaint, and Public Statement in this base rate proceeding.

On November 15, 2024, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance, Complaint, and Public Statement in this base rate proceeding.

Various individuals filed a protest and opposition to Audubon’s proposed base rate increase.

On December 5, 2025, the Commission issued an Order suspending Audubon’s requested rate increase for investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Supplement 7. Further,

⁵ *Id.*, p. A-2.

⁶ *Id.*

⁷ *Id.*

Supplement 7 was suspended by operation of law until July 26, 2025, unless otherwise directed by Order of the Commission. Finally, the Commission's Order assigned this proceeding to the Office of Administrative Law Judges for further adjudication.

A telephonic Prehearing Conference is scheduled for Monday, December 16, 2024, beginning at 9:00 am before Administrative Law Judge Katrina L. Dunderdale presiding telephonically from Pittsburgh.

II. WITNESSES AND ISSUES

I&E currently expects that it may call the following expert witnesses, without being limited thereto, who will address the issues listed *infra*. The list represents I&E's preliminary determination of the potential issues in these proceedings. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues as deemed appropriate if any such relevant issues arise. The witnesses and issues are as follows:

Witnesses:

- Christopher Keller, Fixed Utility Financial Analyst.
- Anthony Spadaccio, Fixed Utility Financial Analyst Supervisor.
- Ethan Cline, Fixed Utility Valuation Engineer.

Issues:

- Rate Case Expense
- Labor Expense
- Outside Professional Services Expense
- Purchased Water Expense
- Storage Tank Maintenance Expense
- Insurance Expense
- Employee Welfare Expense
- Dues and Subscriptions
- Operation Supplies Expense

- Officer and Office Employee Expense
- Payroll Tax Expense
- Taxes Other than Income
- State/Federal Taxes
- Cash Working Capital
- Deferred Acquisition Expenses
- Unamortized Rate Case Expense
- Purchased Water Adjustment Charge
- TCJA Amortization
- Cost of Equity
- Cost of Debt
- Capital Structure
- Overall Rate of Return
- Plant Additions
- Projected Revenue
- Projected Customers
- Unaccounted for Water
- Water Quality Issues
- Revenue Allocation
- Rate Design

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

III. EVIDENCE

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, answers to data requests and interrogatories, quarterly and 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.

IV. DISCOVERY

Discovery in these proceedings will be conducted according to 52 Pa. Code §§5.321 et. seq. No modifications to the rules of discovery have been proposed by I&E. I&E will give due consideration to any discovery modifications proposed by any other party. In the past, I&E has not opposed the discovery modifications as routinely proposed by the OCA. Also, pursuant to 52 Pa. Code §§5.322 and 5.331(b), discovery has begun and is ongoing.

V. SCHEDULE

As of this date, the parties are actively negotiating an amicable litigation schedule. I&E tentatively proposes the following schedule.

Filed	October 25, 2024
Prehearing Conference	December 16, 2024
Other Parties Direct	January 22, 2025
Rebuttal Testimony	February 13, 2025
Surrebuttal Testimony	February 26, 2025
Rejoinder Outline	March 3, 2025
Evidentiary Hearings ⁸	March 5–6, 2025
Main Brief	March 21, 2025
Reply Brief	April 4, 2025

⁸ Upon the rescinding of Governor Tom Wolf's Proclamation of Disaster Emergency, and the re-opening of the Keystone Commonwealth Building, if in-person Hearings are requested, I&E requests that Hearings be held in Harrisburg, PA.

VI. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs during the closure of Commission offices, and consistent with Paragraph 8 of the Commission's March 20, 2020 Emergency Order,⁹ I&E will both only serve and accept electronic delivery of documents. Upon re-opening of Commission offices, and only on a forward-moving basis from that point forward, I&E requests parties provide a follow-up hard copy by regular first-class mail in addition to electronic delivery.

VII. SETTLEMENT

I&E 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,



Scott B. Granger

Prosecutor

PA Attorney ID No. 63641

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

Dated: December 13, 2024

⁹ *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements*, Docket No. M-2020-3019262.

