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December 13, 2024

VIA ELECTRONIC FILING

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

RE: Audubon Water Company; Docket No. R-2024-3051816; **AUDUBON WATER COMPANY'S PREHEARING CONFERENCE MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Audubon Water Company's Prehearing Conference Memorandum in the above-captioned matter.

If you have any questions regarding this filing, please contact me at (717) 236-1300.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder
Thomas J. Sniscak
Erich W. Struble

Counsel for Audubon Water Company

WES/das/jld
Enclosures

cc: Honorable Katrina Dunderdale (via email kdunderdal@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	Docket No. R-2024-3051816
v.	:	
	:	
AUDUBON WATER COMPANY	:	

**PREHEARING CONFERENCE MEMORANDUM
OF AUDUBON WATER COMPANY**

TO THE HONORABLE KATRINA DUNDERDALE:

Pursuant to the December 4, 2024 Prehearing Conference Order in the above-referenced proceeding, Audubon Water Company (AWC, Audubon, or the Company), by and through its attorneys in this matter, HMS Legal LLP, submits this Prehearing Conference Memorandum.

A. PROCEDURAL HISTORY

On October 25, 2024, Audubon, Utility Code 210060, filed Supplement No. 7 to Tariff Water – Pa. PUC No. 4 (Supplement No. 7) to become effective December 26, 2024. Supplement No. 7 would increase Audubon’s total annual operating revenues for water service by approximately \$999,975, or 35.3%.

On October 31, 2024, the Bureau of Investigation and Enforcement (I&E) entered the appearance of Scott B. Granger.

On November 5, 2024, the Bureau of Technical Utility Services served data requests on the Company.

On November 6, 2024, the Office of Consumer Advocate (OCA) filed a Formal Complaint to the rate filing docketed at C-2024-3051996.

On November 8, 2024, Audubon filed a Verification of Notice verifying the Notice of Supplement No. 7 to Tariff Water – Pa. PUC No. 4 was mailed to all Audubon customers on October 25, 2024, as well as posting the notice in the Company’s office and delivered to the local newspaper, *The Times Herald*, for publication in the October 26, 2024 edition.

On November 15, 2024, the Office of Small Business Advocate (OSBA) entered its appearance and filed a Formal Complaint to the rate filing docketed at C-2024-3052127.

On November 19, 2024, Audubon withdrew the appearance of Aaron Rosengarten and entered the appearance of Erich Struble.

On December 4, 2024, an E-serve Notice was issued by the Commission setting a Prehearing Conference in the above-captioned proceedings for December 16, 2024 before the Honorable Katrina Dunderdale (“ALJ Dunderdale”). By Prehearing Conference Order dated December 5, 2024, ALJ Dunderdale directed the parties to file Prehearing Conference Memoranda.

On December 5, 2024, pursuant to the Public Utility Code, 66 Pa. C.S. § 1308(d), the Commission suspended the filing by operation of law until July 26, 2025, unless permitted by Commission Order to become effective at an earlier date. The Commission also ordered an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Audubon’s proposed Supplement No. 7 to Tariff Water – Pa. PUC No. 4.

B. MATTERS FOR DISCUSSION

1. A Proposed Plan and Schedule of Discovery

Audubon has responded to extensive discovery requests received from I&E and OCA. Audubon will work with the parties to develop a final discovery schedule.

Due to the statutory time constraints in this proceeding, Audubon proposes modifications to the Commission’s normal discovery timelines as are commonly adopted in rate cases such as the water rate case for Community Utilities of Pennsylvania, Inc. at both R-2019-3008947 and R-

2016-2538660 as well as Appalachian Utilities Inc. at docket R-2015-2478098. Audubon also proposes the parties agree to accept service of all documents by email only by 4:30 pm as satisfying in-hand delivery.

Discovery Modifications:

- A. Answers to interrogatories shall be served in-hand within best efforts for seven (7) calendar days and no later than ten (10) calendar days unless otherwise agreed to by the parties. Interrogatories served after 12:00 p.m. on a Friday or the day before a Commission holiday shall be deemed served on the next business day.
- B. Objections to interrogatories to be communicated orally within three (3) calendar days of service; unresolved objections shall be served on the propounding party in writing within five (5) calendar days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- E. Rulings over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.
- G. Requests for admission to be deemed admitted unless answered within seven (7) calendar days or objected to within five (five) calendar days of service.

2. Possibility of Settlement

AWC will actively seek to participate in settlement discussions with the other parties. AWC will not be utilizing the Commission's mediation process.

3. Issues

Substantive Rate Case Issues. The adjustments and reasons for the revenue, expense, rate base, and return are listed or appear in the Company's filings and the Direct Testimony of Audubon's witness, Dennis Kalbarczyk, Principal of Utility Rate Resources. This testimony addressed issues involving: (1) the reasonableness of the revenue increases Audubon is seeking in this proceeding; (2) the reasonableness of the proposed allocations of the requested increases among the various customer classes; (3) the reasonableness of the rate of return proposed by Audubon; and (4) general water system operations and projects to continue to provide safe and reliable service to its customers.

Suspension Period. On December 5, 2024, the Commission suspended the filing of Supplement No. 7 until July 26, 2025 in accordance with 66 Pa. C.S. § 1308(d), which provides, in relevant part, that:

Before the expiration of such seven-month period, a majority of the members of the commission . . . shall make a final decision and order . . . granting or denying, in whole or in part, the general rate increase requested. If, however, such an order has not been made at the expiration of such seven-month period, the proposed general rate increase shall go into effect The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension

66 Pa. C.S. § 1308(d).

Audubon does not consent to further suspension of this proceeding. The Commission cannot extend this statutory requirement without Audubon's consent. *See Bell Tel. Co. v. Pa. Pub. Util. Comm'n*, 452 A.2d 86 (Pa. Cmwlth. 1982) ("Before the close of the suspension period, to

avoid the automatic implementation of the proposed increase, the Commission must issue a *final* order in the matter.”). Moreover, a further suspension would not be in the interest of Audubon’s ratepayers and, therefore, it is not in the public interest. *See Pa. Pub. Util. Comm’n v. Pa. Power Co.*, 64 Pa. P.U.C. 185 (1987) (“a further suspension to what could be as much as ten months beyond the seven-month suspension period is not in the interest of the [utility’s] ratepayers and therefore is not in the public interest.”).

Acquisition by Pennsylvania American Water Company (PAWC). An Application and Joint Petition for Settlement are pending before the Commission seeking approval for PAWC to acquire AWC. As part of the settlement of the acquisition, PAWC has agreed to implement Audubon’s current rates and has already submitted as part of the Joint Petition for Settlement pro forma tariff pages reflecting same. Any rate increase granted in this proceeding would not apply under PAWC ownership.

AWC acknowledges that this rate increase request will become moot if and when the transaction closes. AWC further acknowledges that the transaction may close before a final order is issued in this base rate proceeding. However, AWC cannot predict with any certainty when or what the Commission will rule regarding the acquisition and settlement. After Commission approval, time is also required to close the transaction. Thus, AWC has filed this rate case as a prudent measure in the event that the acquisition does not close in the near future. The Company has been operating at a loss essentially since its last rate increase. With the increase in purchased water and related costs, AWC submits it would not be prudent for the Company to merely wait and hope that the Commission approves the acquisition and that closing occurs soon. Accordingly, AWC believes it is prudent to move forward with this base rate increase and if the proceeding becomes moot prior to a final order, AWC will seek to withdraw its rate increase request.

Audubon reserves the right to present additional testimony and exhibits on any other issues that may arise during the course of this proceeding.

4. Amount of Hearing Time

AWC believes that two days will be sufficient for hearing in this matter.

5. Witnesses

Audubon will present the Direct testimony of:

Dennis M. Kalbarczyk
910 Piketown Road, Harrisburg, PA 17112
Principal of Utility Rate Resources

The subject matter of Mr. Kalbarczyk’s testimony is identified above.

Audubon may present additional testimony from the following persons as witnesses in this proceeding:

J.H. Russel
2650 Eisenhower Ave, P.O. Box 7337, Audubon, PA 19407
Audubon Water Company – Operation Manager

The subject matter of Mr. Russel’s possible testimony includes topics and issues regarding Audubon’s operations.

6. Proposed Litigation Schedule

AWC, OCA, OSBA, and I&E are continuing to work to develop a mutually agreeable schedule. The schedule that is currently under consideration by the parties is as follows:

Company Direct Testimony	December 13, 2024
Other Parties Direct Testimony	January 22, 2025
Rebuttal Testimony	February 13, 2025
Surrebuttal Testimony	February 26, 2025

Rejoinder Testimony	March 3, 2025
Hearings	March 5-6, 2025
Main Brief	March 21, 2025
Reply Brief	April 4, 2025
PUC Public Meeting	July 10, 2025

7. Public Input Hearings

AWC submits that public input hearings are not necessary in these proceedings because substantial public interest has not been shown. As of December 12, 2024, no formal complaints have been filed against the rate case. The Commission’s policy statement regarding public input hearings states:

If the Commission determines that substantial public interest in a rate proceeding has been shown, at least one public input hearing will be held in the utility’s service area.

52 Pa. Code § 69.321(b).

Nonetheless, the Company is willing to work with the parties to schedule two public input hearings.

8. Any Other Appropriate Matter

a. Acceptance of Service and Lead Attorney

Service of paper documents in this proceeding shall be accepted on behalf of AWC by:

Whitney E. Snyder, Esquire
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
Phone: 717-236-1300
Fax: 717-236-4841
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Ms. Snyder will be the lead attorney for AWC in this proceeding. Counsel for AWC also requests that any electronic service list utilized by the parties in this proceeding include Whitney E. Snyder (wesnyder@hmslegal.com), Thomas J. Sniscak (tjsniscak@hmslegal.com) and Erich W. Struble (ewstruble@hmslegal.com). AWC is willing to extend the same courtesy upon request of any other party for any e-mails or electronic service to the parties.

b. Service of Documents

AWC proposes that all due dates for any documents in this proceeding are in-hand the day they are due. Service of documents by email only by 4:30 pm on the due date will be considered in-hand delivery on that date. Any pleading or discovery request served after noon on a Friday or day before a holiday shall be considered served the next business day.

c. Simplification of the issues and stipulations

AWC will actively seek to participate in discussions with the other parties regarding the simplification of the issues, possibility of admissions or stipulations, and other matters to streamline the issues in this case.

d. Limitations as to the number of witnesses

AWC has no position on this matter at this time.

e. Limitations of time and scope for direct and cross-examinations

As indicated above, AWC believes that one day of evidentiary hearings will be sufficient to cover the scope of direct and cross-examination in this matter and does not have a position on further limitations on testimony.

f. Protective Order

AWC, I&E, OCA, and OSBA have entered into a stipulated protective agreement. Once all parties reach agreement on terms of a stipulated protective agreement, AWC will file a Motion

for Protective order prior to hearing or receipt of evidence that reflects the terms of the stipulated protective agreement.

Respectfully submitted,

/s/ Whitney E. Snyder

Whitney E. Snyder, Esquire, Attorney ID No. 316625

Thomas J. Sniscak, Esquire, Attorney ID No. 33891

Erich W. Struble, Esquire, Attorney ID No.

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Counsel for Audubon Water Company

Date: December 13, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

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/s/ Whitney E. Snyder

Whitney E. Snyder, Esq.
Thomas J. Sniscak, Esq.
Erich W. Struble, Esq.

Dated: December 13, 2024