

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

Public Meeting held February 20, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Joint Application of Deer Haven, L.L.C. and PL Utilities, LLC for approval of: (1) PL Utilities, LLC's acquisition of certain wastewater system assets of Deer Haven, L.L.C.; (2) the abandonment by Deer Haven, L.L.C. of wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania; and (3) authorization of PL Utilities, LLC to offer, render, furnish, or supply wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania

Docket Numbers
A-2024-3049587
A-2024-3049591

ORDER

BY THE COMMISSION:

Pending before the Commission is Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc. (collectively "Aqua") along with Deer Haven, LLC (Deer Haven) Joint Motion to Lift the Stay filed in the above-captioned dockets on December 17, 2024 (Joint Motion to Lift the Stay). All parties to the proceeding were served with this Joint Motion to Lift the Stay. As no Objections were filed to the Joint Motion to Lift the Stay the Commission determines that it is in the public interest to lift the stay at the above-captioned dockets that was implemented by its August 26, 2024 Order.

Background

On June 18, 2024, Deer Haven, L.L.C (Deer Haven), Utility Code 230106, and PL Utilities, LLC (PL Utilities), Utility Code 2127226, (Deer Haven and PL Utilities, collectively referred to as “Joint Applicants”), filed a Joint Application at the above-captioned dockets whereby they sought certificates of public convenience (CPCs) pursuant to Sections 1101 and 1102(a)(2) and (3) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. §§ 1101 and 1102(a)(2) and (3), evidencing Pennsylvania Public Utility Commission (Commission) approval of: (1) PL Utilities’ acquisition of certain wastewater system assets of Deer Haven; (2) the abandonment by Deer Haven of wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania; and (3) authorization of PL Utilities to offer, render, furnish, or supply wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania.

Deer Haven is a regulated public utility company, duly organized and existing under the laws of the State of New Jersey under the provisions of the New Jersey Limited Liability Company Act, with an address of 839 Route 507, Greentown, Pennsylvania 18426. Deer Haven provides wastewater service to approximately 61 residential customers in a portion of Palmyra Township, Pike County, pursuant to its Certificate of Public Convenience (CPC) issued on March 25, 2010.¹ Deer Haven started operating its wastewater facilities and providing service to the public in or around June 2004.² The service territory is comprised of approximately 140 acres of land along the southeastern shore of Lake Wallenpaupack in Palmyra Township, Pike County.

Haven Development is a New Jersey limited liability company with a registered office address of 165 Township Line Road Suite 1500, Jenkintown, Pennsylvania 19046.

¹ See CPC at Docket A-230106.

² See *Complete Amended Application* of Deer Haven filed on April 18, 2008, at Docket A-230106, Page 7.

Haven Development is, or was, a wholly-owned subsidiary of Deer Haven that was formed on June 8, 2004.³ Deer Haven and Haven Development owned approximately 84 acres of property in Palmyra Township, Pike County (the Property), including the site of Deer Haven's wastewater treatment plant (Deer Haven WWTP) and most of its wastewater collection system (the Deer Haven Collection System, and together with the Deer Haven WWTP, the Deer Haven Wastewater System or Wastewater System).

PL Utilities is a Pennsylvania limited liability company formed in 2015 whose sole member is Jacob Goren (Goren).⁴ PL Utilities has a mailing address of 61 West 62nd Street, #22E, New York, New York 10023. In the Joint Application, PL Utilities noted that it is the owner of a new wastewater treatment plant (PL Utilities WWTP), which was funded through a loan from Goren and is discussed below in Section II. PL Utilities also noted that the construction of the PL Utilities WWTP was substantially completed in 2023.

Pocono Lakefront, LLC (Pocono Lakefront) is a Pennsylvania limited liability company with a registered office address of 865 Route 507, Greentown, Pennsylvania 18426.⁵ Pocono Lakefront was formed in 2010 to develop property within the requested territory. The sole member of Pocono Lakefront is a trust (the Trust) formed by Goren. In 2015, the Pennsylvania Department of Environmental Protection (DEP) issued Water Quality Management Permit No. 5215401, allowing Pocono Lakefront to construct/operate the PL Utilities WWTP and associated wastewater lines and connections. However, DEP approval of the PL Utilities Wastewater Treatment Plant

³ *Id.*, Pages 1-2.

⁴ Supplemental information filed with the Commission appears to reflect that an individual named Bonnie Goren may have interests related to PL Utilities, the Trust, and conveyances pursuant to the Assignment AIA discussed in Section VI, below.

⁵ See Pennsylvania Department of State Corporation Search at <https://file.dos.pa.gov/search/business>. Retrieved August 13, 2024.

(PL Utilities WWTP) by PL Utilities is conditional on terms discussed in Section II below.

Empire Industries, Inc. (Empire) is a corporation with a principal place of business located at 40 Warren Street, Paterson, New Jersey 07524. Empire is a multinational corporation with more than 50 employees and is equipped with the necessary personnel to handle PL Utilities' business needs. Empire manufactures and sells vanities, closets, and cabinets to meet the needs of showrooms and construction projects. Goren is Empire's President. In supplemental information filed with the Commission, PL Utilities provided a copy of an organizational chart that depicted Goren and his relevant business interests connected to PL Utilities' public utility operations, including Pocono Lakefront, the Trust, Goren, and Empire (collectively, the Goren Affiliates).

The Joint Applicants submitted proofs of publication and service to the appropriate entities. Notice of the Joint Application was published in the *Pennsylvania Bulletin*, 54 Pa.B. 3766, on Saturday, June 29, 2024. The protest period ended July 15, 2024. No protests were filed, and no hearings were held.

Deer Haven Water and Wastewater Section 529 Proceedings

On August 1, 2024, Deer Haven filed a Petition with the Commission requesting the issuance of an *ex parte* emergency order appointing Aqua to act as a temporary receiver to operate both its Water System and its WTTP (or Wastewater System).⁶ Petition at 1, 8.

⁶ The Petition was assigned two separate docket numbers due to the involvement of both Deer Haven's Water System and its Wastewater System. In particular, with respect to the Wastewater System, Deer Haven requested the issuance of an *ex parte* emergency order directing Aqua to take temporary receivership of the Wastewater System until Pocono Lakefront has secured all regulatory approvals to consummate the transfer of the wastewater utility assets to PL Utilities. The Deer Haven Water System was assigned to Docket No. P-2024-3050545 while Deer Haven's Wastewater System was assigned to Docket No. P-2024-3050549.

On August 7, 2024, the Chairman issued an *ex parte* emergency order that granted, in part, and denied, in part, Deer Haven's Petition. Specifically, at Docket No. P-2024-3050545, the Chairman granted the Petition with respect to Deer Haven's Water System only by appointing Pocono Water Works as the Receiver for the Deer Haven Water System and initiating a proceeding pursuant to Section 529 of the Public Utility Code, 66 Pa.C.S. § 529, requiring Deer Haven to appear before the Commission to demonstrate whether it is capable of providing safe, reliable, and reasonably continuous water service. Concomitantly, on August 7, 2024, the Commission issued a Secretarial Letter at Docket No. P-2024-3050549, denying Deer Haven's request for an *ex parte* emergency order with respect to its Wastewater System and declining to impose a receivership for the Wastewater System. In particular, the Commission concluded that Deer Haven failed to present facts demonstrating the existence of an emergency in its Petition and, in light of the pending Joint Application regarding the Sewer System, denied Deer Haven's request for an *ex parte* emergency order with respect to the Sewer System and declined to impose a receivership for the Sewer System. Secretarial Letter at 4-5.

By letter dated August 13, 2024, filed at Docket Nos. P-2024-3050545 and P-2024-3050549, Aqua expressed its willingness to accept an appointment as receiver of both the Deer Haven Water System and the Deer Haven Wastewater System.⁷ Also, on August 13, 2024, Deer Haven filed a letter informing the Commission of intervening developments regarding its Sewer System that are relevant to its Petition (Deer Haven Letter). In this Letter, Deer Haven explained that, on August 7, 2024, ESC informed Deer Haven it would terminate service as operator of the Sewer System effective August 9, 2024, due to a past due balance on the account. Deer Haven stated that, notwithstanding recent payments toward the outstanding balance, ESC terminated service on August 9, 2024, leaving Deer Haven without a certified operator. Deer Haven also stated that its

⁷ In its August 13, 2024 letter, Aqua requested that the Commission include in an Order appointing it as Receiver, *inter alia*, the establishment of deferred accounting for capital expenditures and operating expenditures in allowing the establishment of deferred expense accounts.

financials continue to deteriorate to the point where it is considering declaring bankruptcy. Thus, Deer Haven requested that the Commission reconsider its disposition as to the its Wastewater System. Deer Haven Letter at 1. Deer Haven’s Letter was accompanied by an Appendix, which is the communication from ESC, as well as a Verification.

Consequently, on August 15, 2024, at Docket No. 2024-3050549, Chairman Stephen M. DeFrank issued an Ex Parte Emergency Order (August 15th Emergency Order) because he deemed Deer Haven’s August 13, 2024 letter that had informed the Commission of new developments regarding its Sewer System as a renewed request for ex parte emergency relief. Based on the circumstances that were outlined in the Deer Haven Letter, the August 15th Emergency Order granted Deer Haven’s renewed request for *ex parte* emergency relief with respect to its Sewer System. Specifically, the August 15th Emergency Order initiated a Section 529 proceeding involving Deer Haven’s Wastewater System⁸ and also appointed Aqua as temporary receiver during the pending Section 529 Deer Haven Wastewater System proceeding.

Consequently, on August 22, 2024, the Commission entered a Ratification Order at Docket No. P-2024-3050549 regarding the appointment of Aqua as a temporary Receiver for the Deer Haven Water System during the pendency of the Section 529 proceeding involving the Deer Haven Water System. Additionally, on August 26, 2024, the Commission also entered a Ratification Order at Docket No. P-2024-3050545 that modified the August 7th Emergency Order by appointing Aqua as a temporary Receiver for the Deer Haven Water System during the pendency of the Section 529 involving Deer Haven’s Water System.

⁸ Wastewater operations are conducted through Aqua Pennsylvania, Inc’s subsidiary Aqua Pennsylvania Wastewater, Inc. (APW).

Deer Haven and PL Utilities Joint Application

On August 26, 2024, the Commission entered an Order that stayed the Joint Application proceeding at Dockets A-2024-3049591 and A-2024-3049587, pending the outcome of the aforementioned Section 529 proceedings, initiated at Docket Nos. P-2024-3050545 and P-2024-3050549, respectively (Section 529 Proceedings). As previously mentioned, on December 17, 2024, Aqua along with Deer Haven filed a Joint Motion to Lift Stay at Docket Nos. A-2024-3049591 and A-2024-3049587. In the Joint Motion to Lift Stay, Aqua argued that as the Receiver for the Deer Haven Wastewater System it has an interest in having the Commission determine whether to grant a CPC to PL Utilities. If the Commission approves the transfer and grants the CPC, then Aqua's responsibilities and its customers' burden, regarding expenses incurred related to the receivership for the Deer Haven Wastewater System, will be alleviated.

On December 18, 2024, the Pennsylvania Office of Consumer Advocate (OCA) filed a letter in reply to the Joint Motion to Lift Stay, that indicated the OCA does not oppose the Joint Motion to Lift Stay and submitted that the Deer Haven wastewater customers, who currently rely upon the efforts of Aqua as receiver and operator for utility service, may benefit from the Commission's evaluation and investigation of the Joint Application, pursuant to Section 1103(a) and (b). 66 Pa.C.S. § 1103(a), (b). According to the OCA, lifting the stay would allow the Commission to review and determine whether the grant of certificate of public convenience authority, as requested, is necessary or proper for the service, accommodation, convenience, or safety of the public, pursuant to Section 1103.

On December 30, 2024, the Commission's Bureau of Investigation and Enforcement (BIE) filed a letter to confirm that BIE supports the Joint Motion to Lift Stay.

Discussion

All parties to the proceeding were served with the December 17, 2024 Joint Motion to Lift the Stay. The Commission's Regulations at 52 Pa. Code § 5.61 provide, *inter alia*, that Answers to Motions shall be filed with the Commission within 20 days of service and no Objections have been received. As such, this matter is now ripe for disposition.

As required by Section 1103(a) of the Code, 66 Pa.C.S. § 1103(a), a certificate of public convenience shall be granted by order of the Commission, only if the Commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The "substantial public interest" standard is satisfied by a simple preponderance of the evidence of benefits. *Popowsky v. Pa. Pub. Util. Comm'n*, 611, 937 A.2d 1040, 1057 (Pa. 2007). In the Joint Motion to Lift Stay, Aqua averred that it has discovered deficiencies in the Deer Haven WWTP's treatment process leading to partially treated wastewater being discharged into Lake Wallenpaupack and that the Deer Haven WWTP is so unsafe that it cannot permit its employees to enter the facility. As such, Aqua has implemented a pump and haul operation for treatment of the sewage as a temporary solution. In Aqua's Initial Status Report, filed with the Commission on October 15, 2024, at Docket No. P-2024-3050549, it was noted that this continuing pumping and hauling effort requires, on average, one truckload per day at an average cost of \$26,310 per month.

Further in the Joint Motion to Lift Stay, Aqua averred that the brand-new PL Utilities Wastewater System is located approximately 1,000 feet away from the existing Deer Haven WWTP with the same flow rating and is available to put into operation.

Aqua claimed that interconnecting the Wastewater System (System Interconnection) with the PL Utilities Wastewater System would provide a long-term solution to cure the significant deficiencies present in the current Deer Haven WWTP.

However, the Commission notes that DEP has imposed certain conditions that will need to be met by PL Utilities and Deer Haven prior to PL Utilities completing the System Interconnection and operating the PL Utilities Wastewater System. Additionally, Aqua noted that it has no interest in acquiring the Deer Haven WWTP at this time and PL Utilities has expressed such interest, as evidenced by its construction of the PL Utilities WWTP and by filing the Joint Application.

Based on foregoing facts, we agree with the OCA that lifting the stay would allow the Commission to finally review and determine whether it is in the public interest to grant of certificate of public convenience authority that allows Deer Haven to abandon wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania and authorizes PL Utilities to offer, render, furnish, or supply wastewater service to the public in a portion of Palmyra Township, Pike County, Pennsylvania and also acquire the wastewater system assets of Deer Haven. Accordingly, we determine that it is no longer in the public interest to stay the Commission's evaluation of the Joint Application at Dockets A-2024-3049591 and A-2024-3049587 pending the outcome of the Section 529 proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the stay of the proceeding at Docket Nos. A-2024-3049591 and A-2024-3049587 that was implemented by our August 26, 2024 Order is lifted.

2. That a copy of this Order be served upon Deer Haven L.L.C., PL Utilities, LLC, Aqua Pennsylvania, Inc., the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Palmyra Township Board of Supervisors, the Palmyra Township Planning Commission, the Pike County Commissioners, the Pike County Planning Commission

and the Pennsylvania Department of Environmental Protection – Northeast Regional Office and its Bureau of Regulatory Counsel.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: February 20, 2024

ORDER ENTERED: February 20, 2025