

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation & Enforcement	:	
Petition to Request the Commission Open	:	P-2024-3051313
a Section 529 Investigation into the	:	
Acquisition of Rock Spring Water Company	:	

ORDER
GRANTING MOTION TO STAY

On September 20, 2024, the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E) filed a Petition to Request the Commission Open a Section 529 Investigation into the Acquisition of Rock Spring Water Company (Petition).

On October 9, 2024, the Office of Consumer Advocate (OCA) filed a Notice of Intervention. On October 10, 2024, Pennsylvania-American Water Company (PAWC) filed a Petition to Intervene.

On October 11, 2024, a hearing notice was issued establishing a telephonic prehearing conference for Wednesday, October 30, 2024 at 10:00 a.m. and assigning me as the Presiding Officer. A Prehearing Conference Order was issued on October 15, 2024 setting forth rules that would govern the prehearing conference.

On October 16, 2024, Aqua Pennsylvania, Inc. (Aqua) filed a Petition to Intervene. On October 21, 2024, State College Borough Water Authority (SCBWA) filed a Petition to Intervene. On October 23, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention. On October 28, 2024, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) filed a Petition to Intervene.

No party filed an answer to I&E's Petition.

On October 28, 2023, prehearing memoranda were filed by the following parties: I&E, OCA, OSBA, PAWC, Aqua, SCBWA, and DEP. On October 29, 2024, Veolia Water Pennsylvania, Inc. (Veolia) filed a prehearing conference memorandum.

The prehearing conference convened on October 30, 2024, as scheduled. Counsel for I&E, OCA, OSBA, PAWC, Aqua, SCBWA, DEP, and Veolia appeared. J. Campbell Roy, President of Rock Spring Water Company, appeared, but was not represented by counsel.

On November 5, 2024, I issued a Prehearing Order, setting forth the procedural matters addressed during the Prehearing Conference, including establishment of a litigation schedule.

On November 11, 2024, Ferguson Township filed a Petition to Intervene.

On December 2, 2024, I issued an order granting Ferguson Township's Petition to Intervene.

On January 15, 2025, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for the Petition for April 29 and 30, 2025 at 10:00 a.m.

On February 6, 2025, the OCA filed a Petition for Issuance of an Interim Emergency Order (Interim Emergency Petition) pursuant to 52 Pa. Code §§ 3.1–3.11.

On February 7, 2025, the Commission issued a telephonic hearing notice setting a formal call-in telephonic hearing for the Interim Emergency Petition for February 14, 2025 at 10:00 a.m. In anticipation of that hearing, I issued a prehearing order on February 7, 2025 setting forth various rules that would govern that proceeding.

On February 11, 2025, PAWC and DEP filed answers to the Interim Emergency Petition. On February 13, 2025, SCBWA filed an answer and new matter to the Interim Emergency Petition.

On February 14, 2025, the telephone hearing on the Interim Emergency Petition was held. Counsel for I&E, RSWC, OCA, OSBA, PAWC, Aqua, DEP, SCBWA, and Ferguson Township appeared at the hearing.

On February 14, 2025, I issued a Briefing Order, directing parties that briefs may be filed by Tuesday, February 18, 2025. On February 18, 2025, I&E, RSWC, OCA, PAWC, Aqua, DEP, and SCBWA filed briefs. On February 18, 2025, OSBA filed a letter in lieu of a brief.

On February 20, 2025, I issued an order granting the Interim Emergency Petition and certifying the Material Question to the Commission.

On February 27, 2025, PAWC and SCBWA filed briefs on the Material Question.

On March 5, 2025, counsel for RSWC filed a Motion to Withdraw as Counsel.¹

On March 13, 2025, the Commission voted 5-0 to adopt a Joint Motion by Chairman Stephen M. DeFrank and Commissioner John F. Coleman, Jr. (Joint Motion) which, among other things, answered the Material Question in the affirmative, and directed RSWC to negotiate in earnest for the transfer of its water system to SCBWA and, if an agreement is reached, to file within 90 days of entry of an Opinion and Order an Application for Approval of Abandonment of its Certificate of Public Convenience (Abandonment Application).

¹ On March 18, 2025, I e-mailed the parties stating that Commission regulations at 52 Pa. Code § 1.24(b)(3) permit attorneys to withdraw their appearance by filing a written notice of withdrawal. Additionally, I stated that I was unaware of any need to formally grant withdrawal of an attorney's appearance, and that I therefore intended to treat the Motion to Withdraw as Counsel as a notice of withdrawal. I additionally stated that if any party was intending to file a response to the motion to withdraw, to inform me by the end of March 18, 2025, otherwise, I would memorialize the withdrawal through an update to the Commission's service list. No responses were received.

On March 17, 2025, PAWC filed a Motion to Stay the Proceeding (Motion to Stay). PAWC's Motion to Stay indicated that no party to this proceeding, i.e., I&E, OCA, OSBA, Aqua, DEP, SCBWA, Ferguson Township, or RSWC² opposed the Motion to Stay.

On March 18, 2025, I e-mailed the parties to this proceeding, stating that, since no party opposes PAWC's Motion to Stay and rebuttal testimony is due by March 20, 2025, I intended to formally grant the order by March 19, 2025. Although PAWC indicated there was no opposition to its Motion to Stay, I directed parties to inform me by March 18, 2025, if there were any objections. No objections were received.

Commission regulations allow motions, and motions may make a request for relief. 52 Pa. Code §§ 5.1(a)(6), 5.103(a). Requests for an extension of time may be made by motion where good cause is shown. 52 Pa. Code § 1.15. The Commission has recognized the Supreme Court's definition of good cause as "conduct which is reasonable under all the circumstances, thereby justifying the [c]laimaint's actions." *See In re Application of Penn Access Corporation and Digital Direct of Pittsburgh, Inc.*, Docket No. A-310006, 1992 Pa. PUC LEXIS 56, at *9 (1992) (citing *Frumento v. Unemployment Comp. Bd. of Review*, 351 A.2d 631 (Pa. 1976)).

Additionally, Commission regulations provide presiding officers with the authority to regulate the course of proceedings. 52 Pa.Code § 5.483(a). Presiding officers are required to conduct fair and impartial hearings and maintain order. 52 Pa.Code § 5.485(a). Furthermore, the Commission's regulations are to be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding and the presiding officer may, at any stage, disregard an error or defect of procedure which does not affect the substantive rights of parties. 52 Pa.Code § 1.2(a).

PAWC requests that this proceeding be stayed until 90 days after the issuance of an order formalizing the Joint Motion. PAWC avers a stay is appropriate because the potential

² PAWC's Motion to Stay indicated that Rod Beard currently represents RSWC. If Mr. Beard is currently representing RSWC, he should file a notice of appearance pursuant to 52 Pa. Code § 1.24(b).

filing of an Abandonment Application and associated execution of an asset purchase agreement are substantial factual developments that likely will impact parties' positions and the final disposition in this proceeding. PAWC avers no party will be substantially prejudiced if the stay is granted because PAWC will act as receiver for the duration of this proceeding.

I find there is good cause to grant the Motion to Stay for the reasons asserted by PAWC. The Commission has directed RSWC to negotiate in earnest for the transfer of its water system to SCBWA and, if an agreement is reached, to file within 90 days of entry of an Opinion and Order an Abandonment Application. Under the current litigation schedule, parties are expected to further submit testimony, participate in evidentiary hearings, and submit main and reply briefs before the end of period contemplated by the Commission for possible submission of an Abandonment Application.³ I agree with PAWC that unknown developments between now and the possible submission of an Abandonment Application could materially impact parties' positions so that a stay is necessary. If the current litigation schedule is not stayed, parties would need to continue to expend resources pursuing positions that may be rendered moot by intervening circumstances. Further, PAWC notes that no party will be prejudiced because it will act as receiver during this proceeding, and no party to this proceeding opposed PAWC's Motion to Stay.⁴ Therefore, I find it appropriate to stay this proceeding and suspend the litigation schedule.

However, parties will be directed to provide a status report after either an Abandonment Application is filed or the end of the period contemplated by the Commission for possible submission of an Abandonment Application, whichever occurs first. After receipt of status reports, a status conference and/or further prehearing conference may be scheduled, and a litigation schedule may be reestablished, if necessary.

³ Reply briefs are currently due to be filed by June 5, 2025. As of the date of issuance of this Order, the Commission has not yet entered an Opinion and Order formally adopting the Joint Motion. However, even were an Opinion and Order to be entered today, the period contemplated by the Commission for possible submission of an Abandonment Application would end on June 17, 2025.

⁴ Relatedly, although this order is being issued before the end of the 20 day response period provided for in Commission regulations, as stated above, a presiding officer may disregard an error or defect of procedure which does not affect the substantive rights of parties. Here, no party indicated they had an objection to the Motion to Stay. Given the absence of objections and continuing litigation schedule, I find it necessary to rule on this motion on an expedited basis.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Pennsylvania-American Water Company's Motion to Stay the Proceeding is granted;
2. That the litigation schedule established by Prehearing Order issued on November 5, 2024 is suspended;
3. That if Rock Spring Water Company files an Application for Approval of Abandonment of its Certificate of Public Convenience, a copy of such Application shall be contemporaneously provided to the undersigned and each party to this proceeding;
4. That, five days following Rock Spring Water Company's filing of an Application for Approval of Abandonment of its Certificate of Public Convenience, or 95 days following entry of the Commission's Opinion and Order answering the Material Question, whichever occurs first, all parties shall file a status report at the docket of this proceeding, either separately or jointly, to include the parties' understanding of what issues are still in dispute and the need for further proceedings;
5. That a status conference and/or further prehearing conference may be scheduled if necessary.

Date: March 19, 2025

/s/
John M. Coogan
Administrative Law Judge

P-2024-3051313 - PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION & ENFORCEMENT PETITION TO REQUEST THE COMMISSION OPEN A SECTION 529 INVESTIGATION INTO THE ACQUISITION OF ROCK SPRING WATER COMPANY

Revised: March 18, 2025

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