

**BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	P-2024-3051313
v.	:	
	:	
Rock Spring Water Company	:	

PREHEARING CONFERENCE ORDER

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 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.

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).

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 RSWC opposed the Motion to Stay.

On March 19, 2025, I issued an order granting the Motion to Stay. The order directed that, five days following RSWC's filing of an Abandonment Application, 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. Also on March 19, 2025, the Commission issued a notice cancelling the initial telephonic hearing for the Petition for April 29 and 30, 2025 at 10:00 a.m.

On March 21, 2025, the Commission entered its Opinion and Order which, among other things, answered the Material Question 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 Abandonment Application.

On June 19, 2025, PAWC filed a letter stating that SCBWA and RSWC have not reached an agreement and, because 90 days have passed without an agreement between SCBWA and RSWC and no Abandonment Application has been filed, PAWC requests that a further prehearing conference be scheduled. No other status reports have been filed.

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). I agree with PAWC that, since an Abandonment Application has not been filed pursuant to the Commission's March 21, 2025 Opinion and Order, the Section 529 proceeding before the Office of Administrative Law Judge should continue. Therefore, I will lift the stay and a Prehearing Conference is scheduled in this case for **Wednesday, July 23, 2025, at 10:00 a.m.**

To participate in the Prehearing Conference, you must dial the toll-free number listed below. You will be prompted to enter a PIN number, which is also listed below. You will be asked to speak your name and then the telephone system will connect you to the conference.

CALL-IN INFORMATION

Toll-free Bridge Number: 1-888-456-5124

PIN Number: 9563241

You must call into the conference on the scheduled day and time. Failure of any party to attend the prehearing conference without good cause shall constitute a waiver of all objections to the agreements reached and matters decided at the prehearing conference. You will not be called by the Administrative Law Judge.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the stay implemented by the March 19, 2025 order is lifted.

2. That each party must file and serve, **prior to 4:30 p.m. on Friday, July 18, 2025**, a Prehearing Conference Memorandum that at minimum sets forth the history of the proceeding, the issues you intend to present, and a listing of your proposed witnesses and the subject of their testimony. 52 Pa.Code § 5.222(d). All parties must receive copies of the Prehearing Conference Memorandum and the undersigned should be served a copy by email at jcoogan@pa.gov.

3. A request for a change of the scheduled Prehearing Conference date must state the agreement or opposition of other parties and must be submitted by email to the undersigned no later than five (5) days prior to the Prehearing Conference. 52 Pa.Code § 1.15(b). Only the undersigned Administrative Law Judge may grant a request for a change of a prehearing conference. Such changes are granted only in rare situations where sufficient cause exists. Requests for changes of subsequent prehearing conferences or hearings, if any, should also be served directly on the presiding Administrative Law Judge. In accordance with the foregoing,

absent a continuance for good cause, all parties must be prepared to participate in the scheduled Prehearing Conference.

4. Please review the regulations pertaining to prehearing conferences, 52 Pa.Code § 5.221-§ 5.223, and in particular, § 5.222(d) which provides, in part:

(d) Parties and counsel will be expected to attend the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto.

(1) The preparation must include submission of a prehearing memorandum and list:

(i) The presently identified issues.

(ii) The names and addresses of the witnesses.

(iii) The proposed area of testimony of each witness.

(2) The preparation may include:

(i) Development of a proposed procedural schedule.

(ii) Advance study of all relevant materials.

(iii) Advance informal communication between the parties, including requests for additional data and information, to the extent it appears feasible and desirable.

Any evidentiary hearings will be scheduled to be held in person in the Keystone Building in Harrisburg.

5. Parties should review the regulations relating to discovery, specifically 52 Pa.Code §5.331(b), which provides, *inter alia*, that “a party shall endeavor to initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa.Code § 5.322, which encourages parties to exchange information on an informal basis. All parties are urged to cooperate in discovery, and advise me at the prehearing conference as to discovery problems which have not

been resolved. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

6. Pursuant to 52 Pa.Code §§ 1.21 & 1.22, if you are an individual, you may represent yourself or you may be represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted *Pro Hac Vice*. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must be represented in this proceeding by an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted *Pro Hac Vice*. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

7. Failure of a party to attend the prehearing conference without good cause shown shall constitute a waiver of all objections to the agreements reached and matters decided at the prehearing conference, including, but not limited to, any special discovery rules and the litigation schedule established for this case. 52 Pa.Code §§ 5.222(e).

8. **You must serve the presiding Administrative Law Judge directly with a copy of any document that you file in this proceeding.** If you send the undersigned any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission's current service list of the parties to this proceeding is enclosed with this Order.

Date: June 27, 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

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