

**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	:	

PREHEARING ORDER # 3

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.

The prehearing conference convened on October 30, 2024, as scheduled. Counsel for I&E, OCA, OSBA, PAWC, Aqua, SCBWA, DEP, and Veolia Water Pennsylvania, Inc. appeared. J. Campbell Roy, President of Rock Spring Water Company (RSWC), 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. I&E, OCA, DEP, PAWC, Aqua, and SCBWA entered testimony and exhibits into the record at the February 14, 2025 evidentiary hearing regarding the OCA's Interim Emergency Petition.¹

On February 14, 2025, I issued a Briefing Order, directing parties that briefs may be filed by 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 of whether it was appropriate to grant the Interim Emergency Order and appoint PAWC as receiver for RSWC. Also on February 20, 2025, OCA, DEP, PAWC, and SCBWA submitted testimony and exhibits pursuant to the November 5, 2024 Prehearing Order.

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.²

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

¹ The evidence entered into the record on behalf of I&E was first submitted on January 23, 2025, pursuant to the November 5, 2024 Prehearing Order.

² This motion was filed to withdraw the appearance of James N. Bryant, Esq., and Carolyn M. Larrabee, Esq., both of whom entered their appearance on behalf of RSWC on December 10, 2024. As noted in the March 19, 2025, Order Granting Motion to Stay, 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 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.

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 suspended the litigation schedule established by the November 5, 2024 Prehearing Order, and 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 adopting the Joint Motion.

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 requested that a further prehearing conference be scheduled. No other status reports have been filed.

On June 27, 2025, a hearing notice was issued establishing a further telephonic prehearing conference for July 23, 2025 at 10:00 a.m. Also on June 27, 2025, a prehearing conference order was issued, setting forth rules that would govern the July 23, 2025, prehearing conference.

On July 18, 2025, prehearing memoranda were filed by the following parties: I&E, OCA, OSBA, PAWC, Aqua, SCBWA, and DEP.

The prehearing conference convened on July 23, 2025, as scheduled. The following parties were present and represented by the following counsel: Carrie Wright, Esquire, for I&E; Jacob Guthrie, Esquire, for the OCA; Rebecca Lyttle, Esquire, for the OSBA; Elizabeth Triscari, Esquire, for PAWC; Alexander Stahl, Esquire, for Aqua; Robert Mix, Esquire for SCBWA; Amanda Chaplin, Esquire, and Glenn Masser, Esquire, for DEP; Rodney Beard, Esquire, for RSWC; and Elizabeth Dupuis, Esquire, for Ferguson Township.

This Prehearing Order sets forth the procedural matters addressed during the Prehearing Conference.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the parties of record as of the date of this Prehearing Order are Rock Spring Water Company; the Bureau of Investigation and Enforcement; the Office of Consumer Advocate; the Office of Small Business Advocate; Pennsylvania-American Water Company; Aqua Pennsylvania, Inc.; State College Borough Water Authority; the Commonwealth of Pennsylvania, Department of Environmental Protection; and Ferguson Township.

2. **That the parties of record must be represented by counsel in this proceeding.** *See* 52 Pa. Code §§ 1.21-1.23. Parties not represented by counsel cannot represent themselves and cannot fully participate in the proceeding, e.g., unrepresented parties cannot file pleadings, present evidence, participate in evidentiary hearings, and/or file briefs or exceptions. In the event a party is unrepresented, the litigation schedule established by this prehearing order

will continue and the unrepresented party's right to participate in this proceeding will be waived until counsel is retained.

3. That counsel for each party shall ensure that his or her notice of appearance is entered at the docket of this proceeding pursuant to 52 Pa. Code § 1.24(b).

4. That the parties shall receive all documents and shall copy all other parties on documents they file with the Commission or serve on the undersigned. The parties shall serve the documents so that the documents are received in-hand by the parties and the undersigned no later than 4:30 p.m. on the dates listed. Parties may serve the documents via e-mail to meet this requirement as long as a party has consented to exclusively receive electronic service. Parties that have not consented to exclusively receive electronic service should also be served by first-class mail. Parties shall not file testimony with the Commission but shall file a certificate of service.

5. That the following schedule is adopted for this proceeding:

All Parties' Further Direct Testimony	August 27, 2025
Rebuttal Testimony	September 17, 2025
Surrebuttal Testimony	October 1, 2025
Evidentiary Hearings (in-person)	October 20 and 21, 2025
Main Briefs	November 7, 2025
Reply Briefs	November 21, 2025

6. That testimony and exhibits previously submitted pursuant to the November 5, 2024 Prehearing Order and not yet entered into the record of this proceeding may be moved for admission to the record during the evidentiary hearings.

7. That testimony shall be presented in written form and shall comply with the requirements of 52 Pa.Code § 5.412 and shall be marked with numerical, sequential statement numbers.

8. That the October 20 and 21, 2025 evidentiary hearings will be held in-person in the Keystone Building in Harrisburg. Both days will commence at 10:00 a.m. An evidentiary hearing notice will be issued and published on the Commission's website. Parties will complete the daily witness listing and cross-examination grid as directed.

9. That any evidentiary hearing in this matter constitutes a formal legal proceeding and will be conducted in accordance with the Commission's Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

10. That any motions with respect to, or objections to, written testimony must be presented in writing no later than five days prior to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be filed within five days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.

11. That all parties shall comply with the provisions of 52 Pa.Code § 5.243(e) which prohibits the introduction of evidence during rebuttal which should have been included in the party's case-in-chief or which substantially varies from the party's case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

12. That the parties shall conduct discovery pursuant to 52 Pa.Code §§ 5.321-5.373, as modified above. The parties are encouraged to cooperate and exchange information on an informal basis. The parties shall cooperate rather than engage in numerous or protracted discovery disagreements that require formal resolution. All motions to compel shall contain a certification by counsel setting forth the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel does not contain this certification, the parties will be directed to pursue informal discovery. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

13. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

14. That the parties should do their best to avoid the use of **Confidential Security Information (CSI)**, as defined by 35 P.S. § 2141 et seq., in this proceeding. Where possible, the parties should develop alternative means of introducing information into the record, such as joint stipulations or redaction when proposing testimony or exhibits. If the parties cannot avoid the use of CSI, the parties are to contact the presiding ALJ in advance of any submission, and prior to the evidentiary hearing.

15. That a briefing order with further instructions will be issued following the evidentiary hearings in this case.

16. That the parties are to confer amongst themselves in an attempt to resolve all or some of the issues associated with this proceeding. The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa. Code §5.231(a). The parties are strongly urged to seriously explore settlement.

17. That the parties shall comply with the procedural rules and regulations discussed herein.

18. That any provision of this order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa.Code § 5.223(a).

Date: July 24, 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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