

ROBERT MIX LAW

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November 6, 2025

Matthew Homsler, Secretary
Pennsylvania Public Utility Commission
400 North Street
Keystone Building
Harrisburg, PA 17120

Re: I&E Petition to Request the Commission Open a Section 529
Investigation into the Acquisition of Rock Spring Water Company,
Docket No. P-2024-3051313

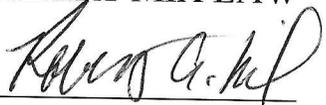
Dear Secretary Homsler:

Enclosed for filing please find the State College Borough Water Authority's
Main Brief, Proposed Findings of Fact and Conclusions of Law, Proposed Order
and a Certificate of Service pertaining thereto.

If you have any questions, please contact me.

Sincerely,

ROBERT MIX LAW

By: 
Robert A. Mix, Esquire
PA I.D. No. 16164

c: All counsel and parties in the manner indicated in the attached Certificate of Service

Matthew L. Homsher, PUC Secretary (Letter and Certificate of Service only)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: I & E Petition to Request the
Commission Open a Section 529
Investigation into the Acquisition of Rock
Spring Water Company

Docket No. P-2024-3051313

VIA ELECTRONIC FILING

**STATE COLLEGE BOROUGH WATER
AUTHORITY'S MAIN BRIEF**

A. STATEMENT OF THE CASE

PROCEDURAL HISTORY

On September 20, 2024 the Pennsylvania Public Utility Commission (Commission), Bureau of Investigation and Enforcement (B I & E) filed a Petition requesting the Commission Open a 529 Investigation into the Acquisition of the Rock Spring Water Company (RSWC) alleging that it has not satisfied certain components of a Joint Settlement of its 2012 base rate case, and (2) has continuously violated numerous Pennsylvania Department of Environmental Protection (DEP) requirements and Commonwealth Court administrative orders.

Between October 4, 2024 and October 28 ,2024, the Pennsylvania Office of Consumer Advocate (OCA), the Pennsylvania-American Water Company (PAWC), Aqua Pennsylvania, Inc. (Aqua), the State College Borough Water Authority (SCBWA) and DEP filed Petitions to Intervene.

On October 30, 2024 Administrative Law Judge John Coogan (Judge Coogan) held a prehearing conference and on November 5, 2024 issued

Prehearing Order #1 granting the Petitions to Intervene filed by OCA, PAWC, Aqua, SCBWA and DEP and setting forth a prehearing schedule of events.

On October 12, 2024 Ferguson Township (Ferguson) filed a Petition to Intervene.

On December 2, 2024 Judge Coogan entered Prehearing Order #2 granting Ferguson's Petition to Intervene.

On January 13, 2025 RSWC filed an Emergency Petition for Appointment of a Receiver in the Court of Common Pleas of Centre County, Pennsylvania at Docket No. 2025-CV-0064-CI, asking the Court to appoint the SCBWA to serve as its Receiver.

On January 22, 2025 the Commission's Law Bureau (Law Bureau) filed a Petition to Intervene and a Motion to Dismiss in the Centre County Action.

On January 30, 2025 a hearing was held on RSWC's Emergency Petition for Appointment of Receiver.

On February 5, 2025 the Court of Common Pleas of Centre County, granted the Law Bureau's Motion to Dismiss, finding that it did not have jurisdiction to appoint a Receiver for RSWC.

On February 6, 2025 the OCA filed a Petition for Interim Emergency Order requesting that a receiver be appointed for RSWC.

On February 11 & 12, 2025 RSWC, DEP, PAWC and SCBWA filed Answers to the OCA's Petition for Interim Emergency Order.

On February 14, 2025 a hearing was held on OCA's Petition for Interim Emergency Order at which the parties and Intervenors entered written and live testimony and exhibits on the record and presented oral arguments.

On February 20, 2025, Judge Coogan issued an order granting OCA's Petition for Interim Emergency Order and appointing RSWC as Receiver for RSWC.

On March 18, 2025 PAWC filed a Motion to Stay the proceeding.

On March 19, 2025 Judge Coogan issued an order staying the proceeding.

On June 23, 2025 PAWC filed a letter requesting that a prehearing conference be scheduled.

On July 23, 2025 a prehearing conference was held.

On July 24, 2025 Judge Coogan issued Prehearing Order No. 3 scheduling prehearing events.

On September 2, 2025 Ferguson filed a request for public input hearings.

On September 9, 2025 Judge Coogan issued a Prehearing Order No. 4 setting a new litigation schedule.

On September 30, 2025, public input hearings were held at the offices of Ferguson.

On October 20, 2025 an evidentiary hearing was held at the offices of the Commission in Harrisburg at.

On October 22, 2025 Judge Coogan issued an order setting a briefing schedule.

On various dates various parties served and responded to discovery requests and served direct, rebuttal, supplemental and surrebuttal testimony and exhibits. Said testimony and exhibits were entered into evidence at the evidentiary hearing on October 20, 2025.

FACTUAL HISTORY

NOTE: The SCBWA agrees with the B I & E's request that the Commission appoint a capable public utility to acquire the RSWC. This main brief will be limited to issues which concern the SCBWA directly, to include whether the Commission has jurisdiction over it and, if so, whether the Commission should appoint it to acquire the RSWC.

The Rock Spring Water Company (RSWC) is a Pennsylvania corporation doing business as a certified public utility as that term is defined by the Pennsylvania Public Utility Code. SCBWA Exhibit C, Engineering Report, page 1, Ownership.

The RSWC owns and operates a water system in Ferguson Township, Centre County, Pennsylvania serving approximately 475 connections and 1,000 customers. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 101; SCBWA Exhibit C, Engineering Report, page 1, Service Area.

The service area of RSWC is a portion of Ferguson Township, shown in yellow on the map identified as SCBWA Exhibit B and described by Brian Heiser, Executive Director of the SCBWA. SCBWA Exhibit B; SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 2, line 42.

The SCBWA is a Pennsylvania Municipal Authority incorporated by the Borough of State College, Centre County, Pennsylvania pursuant to the Municipality Authorities Act of 1935 on June 14, 1940. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 2, line 38.

The SCBWA purchased the assets of the State College Water Works on December 13, 1941 and began operating a public water system serving the Borough of State College, primarily. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 3, line 44.

Since its incorporation, the SCBWA has acquired other municipal water authorities and water companies and incorporated them into its public water system, to include the Patton Township Water Authority in 1977, the Harris Township Water Authority in 1993, the Ferguson Township Water Authority in 2000, and the Harvard Road Water Company in 2012. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 3, line 54

Since its incorporation the SCBWA has also obtained additional customers as residential, commercial and industrial development has occurred in the borough and townships it serves. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 3, line 66.

Currently the SCBWA provides water service to approximately 15,068 customer connections serving approximately 73,000 customers. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 3, line 54 & page 5, line 95

The service area of SCBWA is the State College Borough and portions of College, Ferguson, Harris, Patton and Ferguson Townships, shown in all colors except yellow on SCBWA Exhibit B and described by Brian Heiser,

Executive Director of the SCBWA. SCBWA Exhibit B; Statement No 4, Supplemental Testimony of Brian Heiser, page 2, line 40.

The SCBWA employs 42 persons in its production, distribution, meter shop and administration departments, which is sufficient to provide all necessary operations, maintenance, billing and customer service. Statement No. 2 of Katie McCaulley, page 1, line 14.

The SCBWA has a Susquehanna River Basin (SRBC) withdrawal limit of 8.0 million gallons per day (MGD). It has a current average daily demand of 5.1 MGD and a peak demand of 6.2 MGD. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 4, line 76.

The SCBWA's production, treatment, storage, and distribution facilities are as described by Brian Heiser, Executive Director of the SCBWA. SCBWA Statement No. 1, Direct Testimony of Brian Houser, page 5, line 100 & page 6, line 106; Notes of Testimony (N.T.) of Brian Heiser, page 126 & page 127 line 4.

If the SCBWA were to acquire the RSWC, it would not need to increase its SRBC withdrawal limit to accommodate all pre and post-acquisition customers as it has a significant water supply reserve to accommodate such an expansion. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 4, line 79.

If the SCBWA were to acquire the RSWC, it would not need to construct new production, storage or treatment facilities to serve all pre and post-acquisition customers as its facilities are sufficient to accommodate such an expansion. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 5, line 86.

If the SCBWA were to acquire the RSWC, it would not operate it as a stand-alone system but would incorporate it into the SCBWA's system by constructing an interconnect between the systems at their closest point. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 81.

At their closest point, the facilities of the RSWC and the SCBWA are 4,200 feet apart. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 84.

If the SCBWA were to acquire the RSWC, it anticipates only a minimal increase in rates to its preacquisition customers. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 2, line 16.

If the SCBWA were to acquire the RSWC, it anticipates charging the former RSWC customers the same rates it charges its preacquisition customers. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 2, line 26.

The SCBWA is in good financial condition. It consistently ends each fiscal year with net income exceeding budget. Its budget for 2025 is approximately \$14,000,000.00. SCBWA Statement No. 2, Direct Testimony of Katie McCaulley, page 3, line 46.

The SCBWA has reserve funds of \$25,000,000.00, which will be more than sufficient to pay the purchase price for RSWC and the cost to interconnect it to the SCBWA's system. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 5, line 134.

The closest facilities of other proximate public utilities are those of Pennsylvania American Water Company (PAWC), which are approximately

13 miles from RSWC's system. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 4, line 127.

PAWC is a Pennsylvania corporation doing business as a certified public utility as that term is defined by the Pennsylvania Public Utility Code.

II. STATEMENT OF QUESTIONS INVOLVED

- A. Whether the preponderance of evidence warrants the Commission's issuance of an Order directing a capable public utility to acquire RSWC?
- B. Whether the Commission has jurisdiction over SCBWA, a municipal Authority?
- C. Whether the Commission should issue an Order directing SCBWA or PAWC to acquire RSWC?

III. SUMMARY OF ARGUMENT

SCBWA agrees with B I & E's request that the Commission appoint a capable public utility to acquire RSWC's system. Although the Commission did not have jurisdiction over SCBWA originally, it acquired such jurisdiction by way of the SCBWA's intervention and participation in these Section 529 proceedings. Although both the SCBWA and PAWC are technically, managerially and financially capable of acquiring and operating RSWC's system, the SCBWA is best suited to do so.

IV. ARGUMENT

A. Whether the preponderance of evidence warrants the Commission's issuance of an Order directing a capable public utility to acquire RSWC?

As mentioned above, the SCBWA agrees with B I & E's request that the Commission appoint a capable public utility to acquire RSWC's system. As this issue does not affect SCBWA directly, it is not addressed here. The main briefs of B I & E and DEP, filed on November 7, 2025 are incorporated herein by reference.

B. Whether the Commission has jurisdiction over SCBWA, a Municipal Authority?

Title 66 of the Pennsylvania Public Utility Code created the Public Utility Commission (Commission) granting it the general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. 66 Pa.C.S.A. Section 501. Its powers include only those conferred upon it by statute and those that arise by necessary implication. *Western Pa. Water Co. v. Pa. Pub. Util. Comm'n*, 370 A.2d 337, 339-40 (Pa. 1977); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348, 350 (Pa. Super. 1945).

However, it is a well-recognized principal¹ that the Commission's jurisdiction does not extend to municipal authorities, even though they may provide a public utility service, because the enactment of the Municipality Authorities Act (53 Pa.C.S.A Section 5601 et. seq.) (MMA) in 1945 which removed municipal authorities from Commission jurisdiction and, instead, vested the courts of common pleas with exclusive jurisdiction over them.² *Rankin v. Chester Mun. Auth.*, 68 A.2d 458 (Pa. Super. 1949); *White Rock Sewage Corp. v. Pa. Pub. Util. Comm 'n*, 578 A.2d 984 (Pa. Cmwlt. 1990)

The Commission's authority to supervise and regulate public utilities includes the power to enforce its regulations and to conduct formal proceedings to do so. 66 Pa.C.S.A. Section 501 & 502. Here, the Commission's Bureau of Investigation and Enforcement (B I & E) commenced such a proceeding by filing a Petition Requesting the Commission Open a 529 Investigation into the Acquisition of the Rock Spring Water Company (RSWC). Section 529 grants the Commission the

¹ The continued validity of this principal, in certain contexts, is currently at issue before the Pennsylvania Supreme Court in *Conyngnam Twp. v. Pa. Pub. Util. Comm 'n*, 325 A. 3d 885 (Pa. Cmwlt. 2024) Petition for Allowance of Appeal granted June 2, 2025 at 34 MAP 2025.

² Section 5607(d)(9) of the MAA, 53 Pa.C.S. § 5607(d)(9):

Any person questioning the reasonableness or uniformity of a rate fixed by an authority or the adequacy, safety, and reasonableness of the authority's services, including extensions thereof, may bring suit against the authority in the court of common pleas of the county where the project is located or, if the project is located in more than one county, in the court of common pleas of the county where the principal office of the project is located. The court of common pleas shall have exclusive jurisdiction to determine questions involving rates or service.

power to order a capable public utility to acquire and operate a failing public utility, provided it makes certain findings and considers certain alternatives and factors as prescribed by that section. As part of that proceeding, the B I & E served the SCBWA with a copy of the Petition since it was considered to be a proximate public utility.

The Commission's rules of practice and procedure permit a person or entity having an interest in such a proceeding to petition to intervene in it. 52 Pa. Code. Sections 5.71 through 5.75. Section 5.72, governing eligibility to intervene provides in pertinent part, as follows:

Section 5.72, Eligibility to Intervene

- (a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:
 - (2) An interest that may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

The present Section 529 proceeding will ultimately determine whether RSWC, an allegedly failing public utility, must be acquired and operated by another water system. RSWC and SCBMA's service areas both include portions of Ferguson Township and their systems lie relatively close to each other. They may, in the future, compete for new customers due to development within the township. SCBWA submits that it has an interest in

the entity which may be directed to acquire and operate RSWC's system, to include whether it should be that entity. Such an interest is not adequately represented by existing participants. And, SCBWA will be bound by the action of the Commission in this proceeding.

To protect its interest, SCBWA filed a Petition to Intervene, which was granted by Judge Coogan. Thereafter, SCBWA participated in this 529 proceeding by serving discovery responses, filing direct, supplemental, and surrebuttal written testimony and exhibits, presenting oral testimony and participating in the evidentiary hearing held on October 20, 2025.

SCBWA submits that while the Commission did not have statutory jurisdiction over it originally, it obtained such jurisdiction by SCBWA's intervention and participation in this 529 proceeding. Personal jurisdiction over the SCBWA is a personal right, which may be waived in a variety of ways, to include consenting to the jurisdiction of the tribunal by appearance, contractually agreeing to personal jurisdiction, or stipulating to personal jurisdiction. *Mallory v. Norfolk S. Ry. Co.* 266 A.3d 542 (Pa. 2021) reversed on other grounds by *Mallory v. Norfolk S. Ry. Co.*, 2023 U.S. LEXIS 2786 (U.S., June 27, 2023) SCBWA's waiver by intervention and participation in this proceeding provides the Commission with the jurisdiction it did not have otherwise.

Since the Commission has jurisdiction over SCBWA, it may issue an Order directing it to acquire and operate RSWC's system, if it deems such relief appropriate.

C. Whether the Commission should issue an Order directing SCBWA or PAWC to acquire RSWC?

Section 529 (a)(5) of the Pennsylvania Code (66 PA.C.S.A. Section 529 (a)(5) requires that any acquiring capable public utility be technically, managerially and financially capable of acquiring and operating a small water utility in compliance with applicable statutorily and regulatory standards. As the evidence shows, both PAWC and SCBWA are technically, managerially and financially capable of acquiring and operating RSWC's system. PAWC is a PUC certified public utility and, as such, is entitled to a presumption of fitness to acquire and operate RSWC's system. SCBWA has presented written and oral testimony and exhibits showing that it is a Pennsylvania municipal authority, incorporated in 1940, providing water service to approximately 15,000 connections and 73,000 customers in State College Borough and portions of the surrounding townships of College, Ferguson, Halfmoon, Harris and Patton; that it has sufficient production and distribution facilities to serve the customers of RSWC's system in Ferguson Township, that it has sufficient staff to service and maintain the RSWC system and that it is otherwise financially, technically and managerially capable of acquiring and operating RSWC's system..

While PAWC and the SCBWA are both capable of acquiring and operating RSWC's system, there are several factors that favor the appointment of the SCBWA rather PAWC. First, RSWC's service area is a portion of Ferguson Township. SCBWA's service area includes several portions of Ferguson Township. In 2000 it purchased the Ferguson Township Water Authority and now provides water service to Ferguson's pre and post-acquisition customers. Second, SCBWA's main office is

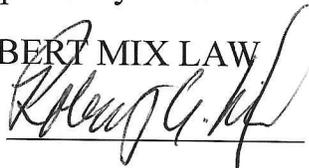
approximately eight miles from the center of RSWCs system, making daily operation and maintenance tasks more convenient and efficient. Third, the closest connection point between the SCBWA and RSWC's systems is approximately 4,200 feet, whereas the closest connection point between PAWC's closest system and RSWC's system is 13 miles. Fourth, if SCBWA were to acquire RSWC's system, it would incorporate it into SCBWA's system by constructing an interconnect between the systems at their closest point. If PAWC were to acquire RSWC's system, it would operate it as a stand-alone system. Fifth, incorporating RSWC's system into SCBWA's system would accommodate the Commission's policies of consolidation and regionalization. For all these practical reasons, SCBWA would be the best choice to acquire and operate RSWC's system.

V. CONCLUSION

For the foregoing reasons, SCBWA respectfully requests that the Commission issue an Order directing it to acquire RSWC's water system in accordance with Section 529 of the Pennsylvania Code.

Respectfully submitted

ROBERT MIX LAW

By: 

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**BEFORE THE
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In re: I & E Petition to Request the
Commission Open a Section 529
Investigation into the Acquisition of Rock
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VIA ELECTRONIC FILING

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the State College Borough Water Authority's Main Brief, Proposed Findings of Fact and Conclusions of Law and Proposed Order upon the persons and in the manner indicated below, which service satisfies the requirements of 52 Pa. Code §1.54 (relating to service by a party).

SERVED VIA ELECTRONIC MAIL ON NOVEMBER 6, 2025

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jcoogan@pa.gov
(Administrative Law Judge)

Respectfully submitted

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Commission Open a Section 529
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Docket No. P-2024-3051313

Docket No. I-2024-

**STATE COLLEGE BOROUGH WATER AUTHORITY'S
PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

FINDINGS OF FACT

1. The Rock Spring Water Company (RSWC) is a Pennsylvania corporation doing business as a certified public utility as that term is defined by the Pennsylvania Public Utility Code. SCBWA Exhibit C, Engineering Report, page 1, Ownership.

2. The RSWC owns and operates a water system in Ferguson Township, Centre County, Pennsylvania serving approximately 475 connections and 1,000 customers. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 101; SCBWA Exhibit C, Engineering Report, page 1, Service Area.

3. The service area of RSWC is a portion of Ferguson Township, shown in yellow on the map identified as SCBWA Exhibit B and described by Brian Heiser, Executive Director of the SCBWA. SCBWA Exhibit B; SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 2, line 42.

4. Over the past several years the RSWC has been in violation of Pennsylvania statutory or regulatory standards, which affect the safety, adequacy and efficiency or reasonableness of the water service it provides.

5. Over the past several years the RSWC has failed to comply within a reasonable period of time, with Orders of DEP or the Commission concerning the safety, adequacy efficiency or reasonableness of its water service.

6. The RSWC cannot reasonably be expected to furnish and maintain adequate, efficient, safe and reasonable water service and facilities in the future.

7. The Commission has considered alternatives to acquisition in accordance with Section 529 (b) and has determined them to be impractical or not economically feasible.

8. The Commission has considered various factors in accordance with Section 529 (c)

9. The SCBWA is a Pennsylvania Municipal Authority incorporated by the Borough of State College, Centre County, Pennsylvania pursuant to the Municipality Authorities Act of 1935 on June 14, 1940. SCBWA Statement No. 1, Direct Testimony of Brian Heiser, page 2, line 38.

10. Currently the SCBWA provides water service to approximately 15,068 customer connections serving approximately 73,000 customers. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 3, line 54 & page 5, line 95.

11. The service area of SCBWA is the State College Borough and portions of College, Ferguson, Harris, Patton and Ferguson Townships, shown in all colors except yellow on SCBWA Exhibit B and described by Brian Heiser, Executive Director of the SCBWA. SCBWA Exhibit B; SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 2, line 42.

12. The SCBWA employs 42 persons in its production, distribution, meter shop and administration departments, which is sufficient to provide all necessary operations, maintenance, billing and customer service. SCBWA Statement No. 2, Direct Testimony of Katie McCaulley, page 1, line 14.

13. The SCBWA has a Susquehanna River Basin (SRBC) withdrawal limit of 8.0 million gallons per day (MGD). It has a current average daily demand of 5.1 MGD and a peak demand of 6.2 MGD. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 4, line 76.

14. The SCBWA's production, treatment, storage, and distribution facilities are as described by Brian Heiser, Executive Director of the SCBWA. SCBWA Statement No. 1, Direct Testimony of Brian Heiser, page 5, line 100 & page 6, line 106; Notes of Testimony (N.T.) of Brian Heiser, page 126 & 127, line 4.

15. If the SCBWA were to acquire the RSWC, it would not need to increase its SRBC withdrawal limit to accommodate all pre and post-acquisition customers as it has a significant water supply reserve to accommodate such an expansion. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 4, line 79.

16. If the SCBWA were to acquire the RSWC, it would not need to construct new production, storage or treatment facilities to serve all pre and post-acquisition customers as its facilities are sufficient to accommodate such an expansion. SCBWA Statement No 1, Direct Testimony of Brian Heiser, page 45 line 86.

17. If the SCBWA were to acquire the RSWC, it would not operate it as a stand-alone system but would incorporate it into the SCBWA's system by constructing an interconnect between the systems at their closest point.

SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 81.

18. At their closest point, the facilities of the RSWC and the SCBWA are 4,200 feet apart. SCBWA Statement No 4, Supplemental Testimony of Brian Heiser, page 3, line 84.

19. If the SCBWA were to acquire the RSWC, it anticipates only a minimal increase in rates to its preacquisition customers. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 2, line 16.

20. If the SCBWA were to acquire the RSWC, it anticipates charging the former RSWC customers the same rates it charges its preacquisition customers. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 2, line 26.

21. The SCBWA is in good financial condition. It consistently ends each fiscal year with net income exceeding budget. Its budget for 2025 is approximately \$14,000,000.00. SCBWA Statement No. 2, Direct Testimony of Katie McCaulley, page 3, line 46.

22. The SCBWA has reserve funds of \$25,000,000.00, which will be more than sufficient to pay the purchase price for RSWC and the cost to interconnect it to the SCBWA's system. SCBWA Statement No 5, Surrebuttal Testimony of Brian Heiser, page 5, line 134.

23. Pennsylvania American Water Company (PAWC) is a Pennsylvania corporation doing business as a certified public utility as that term is defined by the Pennsylvania Public Utility Code.

24. After the facilities of the SCBWA, the next closest facilities of any proximate public utility are those of PAWC, which are approximately 13 miles from RSWC's system. SCBWA Statement No 5, Supplemental Testimony of Brian Heiser, page 4, line 127.

25. If the PAWC were to acquire the RSWC, it would operate it as a stand-alone system as incorporating it into the PAWC's would not be practical.

CONCLUSIONS OF LAW

1. On September 23, 2024 this proceeding was commenced by the filing of a Petition to Request the Commission Open a Section 529 Investigation into the Acquisition of Rock Spring Water Company by the Public Utility Commission (Commission) Bureau of Investigation and Enforcement (B I & E).

2. Between October 4, 2024 and November 12 ,2024, the Pennsylvania Office of Consumer Advocate (OCA), the Pennsylvania-American Water Company (PAWC), Aqua Pennsylvania, Inc. (Aqua), the State College Borough Water Authority (SCBWA), the Pennsylvania Department of Environmental Protection (DEP) and Ferguson Township (Ferguson) filed Petitions to Intervene.

3. On October 10, 2024 and December 2, 2024 Administrative Law Judge Coogan (ALJ Coogan) entered Orders granting said Petitions to Intervene.

4. Between December 2, 2024 and October 20, 2025, the parties and intervenors engaged in discovery proceedings and filed direct, rebuttal, supplemental and surrebuttal testimony and exhibits.

5. On October 20 2025 an evidentiary hearing was held at which the parties and intervenors entered their testimony and exhibits on the record and presented additional oral testimony.

6. This proceeding is now ready for briefing and disposition.

7. The B I & E has satisfied its burden of proving that the acquisition of RSWC would be in the public interest and in compliance with the provisions of Section 529 (a), (b) and (c).

8. The RSWC has not satisfied its burden of proving its ability to render adequate efficient, safe and reasonable service at just and reasonable rates.

9. The PAWC is a certified public utility as that term is defined by the Pennsylvania Public Utility Code and, as such, is presumed to be a capable public utility.

10. The SCBWA has satisfied its burden of proving that it is technically, managerially, and financially capable of acquiring and operating the RSWC's system.

11. Although both PAWC and SCBWA are technically, managerially, and financially capable of acquiring and operating RSWC's system, there are certain factors that favor selection of the SCBWA.

- a. SCBWA previously purchased the Ferguson Township Water Authority and incorporated it into SCBWA's system.
- b. The service area of RSWC includes a portion of Ferguson. The service area of SCBWA includes various portions of Ferguson in close proximity to the service area of RSWC.
- c. The nearest facilities of SCBWA to those of RSWC are 4,200.00 feet.
- d. The nearest facilities of PAWC to those of RSWC are 13 miles.
- e. Due to the distance separating the SCBWA and RSWC's systems, the SCBWA would interconnect their systems and incorporate the RSWC's system into its system.

- f. Due to the distance separating the PAWC and RSWC systems, PAWC would operate the RSWC system as a stand-alone system.
 - g. Consolidation of SCBWA and RSWC's systems would promote the Commission's policy of consolidation of small water systems.
 - h. Consolidation of SCBWA and RSWC's systems would promote the Commission's policy of regionalization
12. The preponderance of evidence shows that SCBWA is best suited to acquire and operate RSWC's system and it will be so ordered.

Respectfully submitted

ROBERT MIX LAW

By: 

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: I & E Petition to Request the
Commission Open a Section 529
Investigation into the Acquisition of Rock
Spring Water Company

Docket No. P-2024-3051313

PROPOSED ORDER

AND NOW, this ___ day of _____, upon consideration of the Pennsylvania Public Utility Commission (Commission), Bureau of Investigation and Enforcement (B I & E) Petition Requesting the Commission Open a 529 Investigation into the Acquisition of the Rock Spring Water Company (RSWC) and the written and live testimony, exhibits, arguments and briefs presented by the parties / intervenors, the Commission finds and it is hereby Ordered:

1. That said Petition Requesting the Commission open a 529 Investigation into the Acquisition of the Rock Spring Water Company (RSWC) for Issuance of an Interim Emergency Order is granted.
2. That the State College Borough Water Authority is directed to acquire the assets comprising the Rock Spring Water Company's water system by agreement and, if no agreement can be reached within 30 days, by commencement of Eminent Domain Proceedings.
3. That within 30 days after the State College Borough Water Authority acquires the Rock Spring Water Company's water system by agreement or completion of Eminent Domain Proceedings, Rock Spring Water Company shall file an application to surrender its certificate of public convenience.
4. That prior to such acquisition the State College Borough Water Authority shall submit to the Commission for Approval a plan, including a timetable, for bringing the Rock Spring Water Company's water system into compliance with applicable statutory and regulatory standards. The State College Borough Water Authority shall also provide a copy of the plan to the Department of Environmental Protection or such other State or local agency as the Commission may direct.

5. That Rock Spring Water Company not engage in any purchase, sale, payment, lease, loan or exchange of any service, property, money, security, right or thing under contract, the terms of which have not been approved by the Receiver.

Date _____

John M. Coogan

Administrative Law Judge