



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ENVIRONMENTAL PROTECTION

November 7, 2025

VIA ELECTRONIC FILING

Administrative Law Judge John M. Coogan
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
jcoogan@pa.gov

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 Judge Coogan:

Enclosed please find the Commonwealth of Pennsylvania, Department of Environmental Protection's Main Brief.

Copies are being served on all parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me at (570) 321-6568 or achaplin@pa.gov.

Sincerely,

Amanda K. Chaplin
Assistant Counsel

Enclosure (Brief)

c: Matthew L. Homsher, PUC Secretary (w/ enc.)
Parties (w/ enc.)

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**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION'S MAIN BRIEF**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), by and through its undersigned counsel, pursuant to Section 332(d) of the Public Utility Code, 66 Pa.C.S. § 332(d), and the Commission’s regulations at 52 Pa. Code §§ 5.501-5.502, and respectfully submits the following Main Brief:

I. STATEMENT OF THE CASE

Rock Spring Water Company (“Rock Spring”) is a public utility that owns and operates a public water system within Ferguson Township, Centre County, Pennsylvania at 1750 Tadpole Road, Pennsylvania Furnace, Pennsylvania 16865. Rock Spring’s public water system serves approximately 1,000 people with approximately 494 connections. Rock Spring has historically had issues with high levels of unaccounted-for water loss.

Rock Spring has failed to address the Department’s numerous requests and orders to address Rock Spring’s excessively high, unaccounted-for water loss since 2006 and has failed to comply with the terms of the joint settlement petition adopted by the Pennsylvania Public Utility Commission (“Commission”) on June 13, 2013 at *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), requiring Rock Spring to reduce its unaccounted-for water loss and to make efforts to sell the company (“Joint Settlement”).

On September 20, 2024, the Commission’s 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 (“Petition”) to determine whether the Commission should order a capable public utility to acquire Rock Spring pursuant to Section 529 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 529. I&E identified Aqua Pennsylvania, Inc. (“Aqua”), Pennsylvania-American Water Company, Inc. (“PAWC”), State College Borough Water Authority (“SCBWA”), Veolia Water Pennsylvania, Inc. (“Veolia”), and Huntingdon Area Water and Sewer Authority (“HAWSA”) as potential acquiring utilities.

On October 9, 2024, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention. PAWC, Aqua, SCBWA, and the Department each filed Petitions to Intervene on October 10, 2024, October 15, 2024, October 21, 2024, and October 28, 2024, respectively. On October 23, 2024, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention.

The Commission issued a Hearing Notice on October 11, 2024, scheduling a telephonic prehearing conference for Wednesday, October 30, 2024, and assigning Administrative Law Judge John M. Coogan (“ALJ Coogan”) as the Presiding Officer. ALJ Coogan issued a Prehearing Conference Order on October 15, 2024, setting forth rules that govern the prehearing conference. The Prehearing Conference Order required any entity receiving notice of the hearing that wished to become a party to file a Petition to Intervene and directed each party to file a Prehearing Conference Memorandum.

The Department, I&E, OCA, OSBA, PAWC, Aqua, SCBWA, and Veolia filed their respective prehearing memoranda on October 28, 2024.

On October 30, 2024, ALJ Coogan conducted a prehearing conference. The Department, I&E, OCA, OSBA, PAWC, Aqua, SCBWA, and Veolia appeared with counsel. Rock Spring’s

president, J. Roy Campbell (“Mr. Campbell”), appeared without counsel. HAWSA did not participate.

During the prehearing conference, Ferguson Township and Franklin Township were also identified as entities who should receive notice of I&E’s Petition. Additionally, Veolia requested to be removed from this matter, and ALJ Coogan allowed Veolia to withdraw from the proceeding without objection from the parties.

Following the conference, ALJ Coogan issued Prehearing Order #1 on November 5, 2024, which set forth procedural rules and deadlines for this case. The order directed Ferguson Township, Franklin Township, and HAWSA to file a Petition to Intervene within 30 days of the date of the order to become parties to this matter. Any entity that did not file a Petition to Intervene would be removed from the service list.

On November 11, 2024, Ferguson Township filed a Petition to Intervene. ALJ Coogan then issued Prehearing Order #2 on December 2, 2024, which granted Ferguson Township’s Petition to Intervene. Franklin Township and HAWSA did not file Petitions to Intervene and have been removed from this matter.

Counsel entered their appearance for Rock Spring on December 10, 2024. On December 13, 2024, Rock Spring and SCBWA entered into a nonbinding letter of intent to negotiate the sale of Rock Spring to SCBWA for \$65,000.00.

On January 13, 2025, Rock Spring’s counsel filed an Emergency Petition for Appointment of a Receiver in the Court of Common Pleas of Centre County (“Court of Common Pleas”), at Docket Number 2025-CV-0064-CI, asking the Court to immediately appoint SCBWA as a receiver for Rock Spring due to the severe state of deferred maintenance and numerous leaks presenting a clear and present danger to its customers.

The Court of Common Pleas issued a Rule to Rock Spring on January 13, 2025, ordering Rock Spring to Show Cause why the relief requested in the Emergency Petition for Appointment of a Receiver should not be granted and scheduling a hearing for January 22, 2025.

On January 15, 2025, the Commission issued a Telephonic Hearings Notice confirming the dates of the telephonic evidentiary hearings scheduled for April 29-30, 2025.

The Commission's Law Bureau ("Law Bureau") filed a Petition for Intervention with the Court of Common Pleas at Docket Number 2025-CV-0064-CI on January 22, 2025. That same day, Rock Spring's counsel filed a Motion for Continuance of the Emergency Petition for Appointment of a Receiver.

On January 23, 2025, the Court of Common Pleas granted Rock Spring's Motion for Continuance and rescheduled the hearing for January 30, 2025.

On January 30, 2025, the Court of Common Pleas held a hearing on Rock Spring's counsel's Emergency Petition for Appointment of a Receiver and the Law Bureau's Petition to Intervene. At the conclusion of the hearing, the Court ordered the parties to file briefs by January 31, 2025.

The Law Bureau filed a Motion to Dismiss the Emergency Petition for Appointment of a Receiver and a memorandum of law arguing that the Commission has jurisdiction over the matter rather than the Court of Common Pleas as Rock Spring is a regulated public utility on January 31, 2025. Counsel for Rock Spring also filed a Brief in Support of Emergency Petition to Appoint a Receiver. On February 5, 2025, the Court of Common Pleas denied Rock Spring's counsel's Emergency Petition for Appointment of a Receiver and granted the Law Bureau's Motion to Dismiss due to the Court of Common Pleas' lack of jurisdiction to appoint a receiver.

On February 6, 2025, the OCA filed a Petition for Issuance of an Interim Emergency Order in this matter asking the Commission to immediately appoint a receiver for Rock Spring due to Rock Spring's inability to provide safe, adequate, and reasonable water services to its customers.

On February 7, 2025, ALJ Coogan issued a Prehearing Order for Telephone Hearing Regarding Petition for Issuance of an Interim Emergency Order, and the Commission issued a Telephonic Hearing Notice, scheduling an evidentiary hearing on the Petition for Issuance of an Interim Emergency Order for February 14, 2025.

On February 7, 2025, Rock Spring's counsel filed an Answer to the Petition for Issuance of an Interim Emergency Order specifically requesting that SCBWA be appointed receiver. On February 11, 2025, the Department filed an Answer to the Petition for Issuance of an Interim Emergency Order supporting OCA's request to appoint a receiver for Rock Spring. On February 11, 2025, PAWC filed an Answer to the Petition for Issuance of an Interim Emergency Order indicating that SCBWA is the best choice for receiver and proposing a solution for coordinated orders between the Commission and the Centre County Court of Common Pleas to appoint SCBWA as receiver. On February 13, 2025, SCBWA filed an Answer and New Matter to the Petition for Issuance of an Interim Emergency Order indicating the conditions under which it would be willing to act as receiver for Rock Spring.

ALJ Coogan conducted an evidentiary hearing on the Petition for Issuance of an Interim Emergency Order on February 14, 2025. ALJ Coogan accepted into evidence written witness testimony and various exhibits submitted by the Department, I&E, PAWC, OCA, and Aqua. SCBWA also presented oral testimony at the hearing. That same day ALJ Coogan issued a Briefing Order on Petition for Interim Emergency Order, which required that any briefs in this matter be submitted by February 18, 2025. On February 18, 2025, the Department, Rock Spring, I&E,

PAWC, Aqua, SCBWA, and OCA filed briefs, and OSBA filed a letter in lieu of a brief, in accordance with said Order.

On February 20, 2025, ALJ Coogan issued an Order Granting Petition for Issuance of an Interim Emergency Order and Certifying Material Question to the Commission, which recommended that the Commission appoint PAWC as an emergency receiver of Rock Spring until a final order is issued in the Section 529 Investigation or until Rock Spring abandons its certificate of public convenience. The Order further offered the parties an opportunity to file briefs addressing the material question proposed in the Order: whether granting of OCA's Petition for Issuance of an Interim Emergency Order and the appointment of PAWC as receiver was necessary and proper. On February 27, 2025, PAWC and SCBWA filed briefs on the material question.

On March 5, 2025, counsel for Rock Spring filed a Motion to Withdraw as Counsel of Record with the Centre County Court of Common Pleas and the Commission.

On March 13, 2025, the Commission unanimously adopted a Joint Motion of Chairman Stephen M. DeFrank and Commissioner John F. Coleman, Jr. that appointed PAWC as receiver for Rock Spring and directed Rock Spring to negotiate in earnest for the transfer of its water system to SCBWA. If an agreement were reached, Rock Spring was to file an application for approval of abandonment of its certificate of public convenience within 90 days of entry of an opinion and order by the Commission.

On March 17, 2025, PAWC filed a Motion to Stay the Proceeding. ALJ Coogan issued an Order Granting Motion to Stay on March 19, 2025, which suspended the litigation schedule established by Prehearing Order #1.

On March 21, 2025, the Commission issued an Opinion and Order adopting the Order Granting Petition for Issuance of an Interim Emergency Order and Certifying Material Question to the Commission, which granted PAWC temporary emergency receivership of Rock Spring and

directed Rock Spring to negotiate in earnest for the transfer of its water system to SCBWA. The March 21, 2025, Opinion and Order also ordered that if an agreement was reached, Rock Spring must file an application for approval of abandonment of its certificate of public convenience within 90 days of the Opinion and Order.

PAWC filed a letter on June 19, 2025, stating that SCBWA and Rock Spring have not reached an agreement, Rock Spring did not submit an abandonment application, and requesting that a prehearing conference be scheduled.

On June 25, 2025, ALJ Coogan issued an In-Person Evidentiary Hearings Notice scheduling a two-day evidentiary hearing for October 20-21, 2025, to take place in the Keystone Building in Harrisburg.

On June 27, 2025, the Commission issued a Further Telephonic Prehearing Conference Notice scheduling a telephonic prehearing conference for July 23, 2025. ALJ Coogan issued a Prehearing Conference Order setting forth rules that would govern the prehearing conference including a directive that all parties file a prehearing conference memorandum by July 18, 2025.

The Department, OCA, OSBA, PAWC, Aqua, SCBWA, and I&E filed their respective prehearing memorandum on July 28, 2025.

On July 23, 2025, ALJ Coogan conducted a prehearing conference. The Department, I&E, OCA, OSBA, PAWC, Aqua, SCBWA, and Ferguson Township appeared with counsel. Rock Spring appeared with counsel who had not yet formally entered an appearance in the matter.

ALJ Coogan issued Prehearing Order #3 on July 24, 2025, setting forth procedural matters addressed during the prehearing conference and establishing a new litigation schedule.

New counsel filed a Notice of Appearance on behalf of Rock Spring on July 29, 2025.

On September 2, 2025, Ferguson Township filed a letter requesting a public input hearing be scheduled for September 30, 2025. On September 9, 2025, the Commission issued a Notice of

In-Person Public Input Hearings scheduling the public input hearings to take place on September 30, 2025.

ALJ Coogan issued Prehearing Order #4 on September 9, 2025, which modified the litigation schedule to include the public input hearings and extended the due date for filing surrebuttal testimony.

ALJ Coogan conducted two public input hearings in Ferguson Township on September 30, 2025, in which oral testimony and exhibits from members of the public were accepted into evidence.

On October 3, 2025, the Department filed an Application for Issuance of a Subpoena ensuring the attendance of Department witness Nathan White at the evidentiary hearing.

ALJ Coogan issued a Subpoena Order granting the Department's Application for Issuance of a Subpoena on October 8, 2025.

ALJ Coogan conducted an evidentiary hearing on October 20, 2025. At the hearing, the parties submitted their written testimony into the record.

I&E submitted written testimony from two witnesses. First, I&E presented written testimony from witness Christopher Keller, Fixed Utility Financial Analyst for I&E. I&E Statement No. 1 at 1:7-9. Next, I&E presented written testimony from witness Ethan Cline, Fixed Utility Valuation Engineer for I&E. I&E Statement No. 2 at 1:7-9.

OCA submitted written testimony from one witness, Nicholas DeMarco, Regulatory Analyst for OCA. OCA Statement 1 at 1:3-5.

The Department submitted written testimony from four witnesses. First, the Department presented written testimony from witness Chad Miller, P.E., Environmental Program Manager for the Department's Northcentral Region Safe Drinking Water Program. DEP Statement No. 1 at 1:7-8. Second, the Department presented written testimony from witness Sasha Minium,

Environmental Group Manager for the Department's Northcentral Region Safe Drinking Water Program. DEP Statement No. 2 at 1:7. Third, the Department presented written testimony from witness Nathan White, the Department's former Sanitarian of Centre County. DEP Statement No. 3 at 1:21. Finally, the Department presented written testimony from witness Mark Accettulla, Sanitarian Supervisor for the Department's Northcentral Region Safe Drinking Water Program. DEP Statement No. 4 at 1:7-8.

PAWC submitted written testimony from three witnesses. First, PAWC presented written testimony from witness Michael Guntrum, P.E., Senior Project Engineer for the Business Development Department of PAWC. PAWC Statement No. 1:6-7. Next, PAWC presented written testimony from witness Marcus Kohl, Director of Business Development for PAWC. PAWC Statement No. 2 at 1:6-7. Finally, PAWC presented written testimony from witness Dr. Christina Chard, Senior Director of Rates and Regulatory for PAWC. PAWC Statement No. 3 at 1:5-7.

SCBWA submitted written testimony from three witnesses. First, SCBWA presented written testimony from witness Brian Heiser, Executive Director of SCBWA. SCBWA Statement No. 1 at 1:9-10. Next, SCBWA presented written testimony from witness Katie McCaulley, Assistant Executive Director of SCBWA. SCBWA Statement No. 2 at 1:2-3. Finally, SCBWA presented written testimony from Mark Glenn, P.E., Consulting Engineer for SCBWA and President of Gwin, Dobson & Foreman, Inc. SCBWA Statement No. 3 at 1:2-3.

Rock Spring presented written testimony from two of its customers, Gene Byers and Sharon Byers. Direct Written Testimony of Gene F. Byers and Sharon J. Byers at 2.

ALJ Coogan accepted into evidence the written testimony and various exhibits submitted by the Department, SCBWA, I&E, PAWC, OCA, and Rock Spring, and the parties cross-examined witnesses. That same day ALJ Coogan issued a Cancellation Notice cancelling the second day of the evidentiary hearing scheduled for October 21, 2025.

On October 22, 2025, ALJ Coogan issued a Briefing Order, which required that parties submit any main briefs by November 7, 2025, that reply briefs be submitted by November 21, 2025, and which set forth the rules for drafting the briefs.

II. BURDEN OF PROOF

Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), outlines six elements that must be met for the Commission to order a capable public utility to acquire a small water utility such as Rock Spring:

(a) ***General rule.*** — The commission may order a capable public utility to acquire a small water or sewer utility if the commission, after notice and an opportunity to be heard, determines:

(1) that the small water or sewer utility is in violation of statutory or regulatory standards, including, but not limited to, the act of June 22, 1937 (P.L. 1987, No. 394), known as The Clean Streams Law, the act of January 24, 1966 (1965 P.L. 1535, No. 537), known as the Pennsylvania Sewage Facilities Act, and the act of May 1, 1984 (P.L. 206, No. 43), known as the Pennsylvania Safe Drinking Water Act, and the regulations adopted thereunder, which affect the safety, adequacy, efficiency or reasonableness of the service provided by the small water or sewer utility;

(2) that the small water or sewer utility has failed to comply, within a reasonable period of time, with any order of the Department of Environmental Resources or the commission concerning the safety, adequacy, efficiency or reasonableness of service, including, but not limited to, the availability of water, the potability of water, the palatability of water or the provision of water at adequate volume and pressure;

(3) that the small water or sewer utility cannot reasonably be expected to furnish and maintain adequate, efficient, safe and reasonable service and facilities in the future;

(4) that alternatives to acquisition have been considered in accordance with subsection (b) and have been determined by the commission to be impractical or not economically feasible;

(5) that the acquiring capable public utility is financially, managerially and technically capable of acquiring and operating the small water or sewer utility in compliance with applicable statutory and regulatory standards; and

- (6) that the rates charged by the acquiring capable public utility to its preacquisition customers will not increase unreasonably because of the acquisition.

66 Pa.C.S. § 529(a).

In addition, Section 529(b) of the Public Utility Code, 66 Pa.C.S. § 529(b), provides for the consideration of alternatives to an acquisition and states that before the Commission may order the acquisition of a small water utility, the Commission shall discuss with the small water utility, and shall give such utility a reasonable opportunity to investigate, alternatives to acquisition, including, but not limited to:

- (1) The reorganization of the small water or sewer utility under new management.
- (2) The entering of a contract with another public utility or a management or service company to operate the small water or sewer utility.
- (3) The appointment of a receiver to assure the provision of adequate, efficient, safe and reasonable service and facilities to the public.
- (4) The merger of the small water or sewer utility with one or more other public utilities.
- (5) The acquisition of the small water or sewer utility by a municipality, a municipal authority or a cooperative.

66 Pa.C.S. § 529(b).

Finally, in deciding whether to approve an acquisition pursuant to Section 529(a)(4) of the Public Utility Code, 66 Pa.C.S. § 529(a)(4), the Commission shall consider the following factors:

- (1) The financial, managerial and technical ability of the small water or sewer utility.
- (2) The financial, managerial and technical ability of all proximate public utilities providing the same type of service.
- (3) The expenditures which may be necessary to make improvements to the small water or sewer utility to assure

compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service.

- (4) The expansion of the franchise area of the acquiring capable public utility so as to include the service area of the small water or sewer utility to be acquired.
- (5) The opinion and advice, if any, of the Department of Environmental Resources as to what steps may be necessary to assure compliance with applicable statutory or regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service.
- (6) Any other matters which may be relevant.

66 Pa.C.S. § 529(c).

Under Section 529(i) of the Public Utility Code, 66 Pa.C.S. § 529(i), I&E has the burden of establishing a *prima facie* case that the acquisition of Rock Spring would be in the public interest and in compliance with the provisions of 66 Pa.C.S. § 529. 66 Pa.C.S. § 529(i). Once the Commission determines that I&E has established a *prima facie* case, Rock Spring has the burden of proving its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates. 66 Pa.C.S. § 529(i)(1). PAWC, SCBWA, and Aqua have the burden of proving their financial, managerial, or technical inability to acquire and operate the small water or sewer utility. 66 Pa.C.S. § 529(i)(2).

The Commission has established the following standard within its jurisprudence regarding establishment of the burden of proof:

Regarding the burden of proof, in most proceedings, Section 332(a) of the Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). For example, as a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C 196 (1990). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 364 Pa. 54, 70 A.2d 854 (1950). The offense must be a violation of the Code, the Commission's

Regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut that evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on a complainant. *Milkie v. Pa. P.U.C.*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. P.U.C.*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Petition of Twin Lakes Util., Inc. for A Comm'n Ord. Authorizing the Acquisition of Twin Lakes Util., Inc. by A Capable Pub. Util. Pursuant to 66 Pa.C.S. § 529 Application of Twin Lakes Util., Inc. for A Comm'n Ord. Nunc Pro Tunc of Serv. Agreement Between Middlesex Water Co. & Twin Lakes Util., Inc., & Five Amends. to Serv. Agreement Between Middlesex Water Co. & Twin Lakes Util., Inc. Pursuant, No. G-2020-3020941, 2021 WL 5448015, at *1 n. 5 (Pa.P.U.C. Nov. 18, 2021).

Although I&E bears a statutory burden of proof in a Section 529 proceeding pursuant to 66 Pa.C.S. § 529(i), the Commission has held that this burden is not exclusive to I&E. Rather, any party may present or rebut a *prima facie* case in support of its position in a Section 529 proceeding. *Pa. P.U.C. v. Delaware Sewer Company*, Docket No. P-2014-2404341, 2016 WL 406563 at 27-28 (Pa.P.U.C. Jan. 28, 2016). Therefore, the Department may also present evidence to support its position that acquisition of Rock Spring by a more capable utility is in the public interest under 66 Pa.C.S. § 529.

III. SUMMARY OF THE ARGUMENT

The Commission should grant I&E's Petition and order a capable utility to acquire Rock Spring as the company is incapable and unwilling to repair the water system and has put Rock Spring's customers at unnecessary risk. The evidence demonstrates that 1) Rock Spring is in violation of statutory or regulatory standards, including, but not limited to, the Pennsylvania Safe Drinking Water Act, Act of May 1, 1984, P.L. 206, *as amended*, 35 P.S. §§ 721.1-721.17 ("Safe

Drinking Water Act”), and regulations adopted thereunder, which affect the safety, adequacy, efficiency, or reasonableness of the service provided by Rock Spring; 2) Rock Spring has failed to comply, within a reasonable period of time, with orders of the Department concerning the safety, adequacy, efficiency, or reasonableness of service; 3) Rock Spring cannot reasonably be expected to furnish and maintain adequate, efficient, safe, and reasonable service and facilities in the future; 4) alternatives to acquisition have been considered and determined to be impractical or not economically feasible; 5) the acquiring capable public utility is financially, managerially, and technically capable of acquiring and operating Rock Spring in compliance with applicable statutory and regulatory standards; and 6) the rates charged by the acquiring capable public utility to its preacquisition customers will not increase unreasonably because of the acquisition. 66 Pa.C.S. § 529(a)(1)-(6).

The evidence put forward by I&E, the Department, OCA, PAWC, and SCBWA establishes a *prima facie* case that the Commission should order a capable utility to acquire Rock Spring as there is substantial evidence supporting each element of Section 529 of the Public Utility Code, 66 Pa.C.S. § 529. Acquisition of Rock Spring by a more capable utility is in the public interest, and the Department has shown that Rock Spring has been out of compliance with the Safe Drinking Water Act for 19 years and is unwilling and incapable of bringing the water system back into compliance. There is substantial evidence to support that both PAWC and SCBWA are both capable of operating and acquiring the Rock Spring water system and bringing it back into compliance. Rock Spring did not put forth any evidence establishing that it is technically, managerially, and financially able to operate the water system. Thus, Rock Spring did not meet its burden of proving its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates under Section 529(i)(1) of the Public Utility Code, 66 Pa.C.S. § 529(i)(1), and cannot show by a preponderance of the evidence that it should maintain operational control of the

water system and not be acquired by another capable utility under the provisions of Section 529 of the Public Utility Code, 66 Pa.C.S. § 529.

IV. **ARGUMENT**

A. **Substantial Evidence Supports The Acquisition Of Rock Spring Under 66 Pa.C.S. § 529.**

The Commission should grant I&E's Petition and order a capable utility to acquire the Rock Spring water system. The record is replete with evidence that Rock Spring is incapable of operating the Rock Spring water system and addressing its historical issues with chronically high unaccounted-for water loss.

There is substantial evidence supporting a *prima facie* case for all six elements of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), demonstrating that a capable utility should acquire the Rock Spring water system. "Substantial evidence is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion." *Application of James Black Water Serv. Co. for Approval to Provide Water Serv. to the Pub. in Jefferson Twp., Lackawanna Cnty., Pa.*, No. A-2013-2395443, 2018 WL 1745324, at *5 (Pa.P.U.C. Apr. 5, 2018) (citing *Consol. Edison Co. of NY v. Nat'l Labor Relations Bd.*, 305 U.S. 197, 229 (1938)). "More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established." *Id.* (citing *Norfolk & Western Ry. Co. v. Pa. P.U.C.*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Rev.*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Comm. Dep't. of Public Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984)).

Substantial evidence also establishes that the alternatives to acquisition listed in Section 529(b) of the Public Utility Code, 66 Pa.C.S. § 529(b), are not practical or economically feasible so that there is no alternative other than the Commission ordering Rock Spring to transfer ownership of the water system. Finally, substantial evidence exists that consideration of the factors in Section 529(c) of the Public Utility Code, 66 Pa.C.S. § 529(c), including the opinion of the

Department about what steps will bring the water system into compliance, supports the position that the acquisition of the Rock Spring water system by a more capable utility should be ordered by the Commission.

1. Rock Spring's substantial violations negatively impact its provided service.

There is substantial evidence that Rock Spring has continuously been in violation of the Safe Drinking Water Act and regulations adopted thereunder which affect the safety, adequacy, efficiency, or reasonableness of the service provided since 2006. As such, the first element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(1).

The Department entered into a Consent Order and Agreement with Rock Spring on June 20, 2006 ("2006 CO&A"), to address the water system's excessive water loss and Rock Spring's failure to properly operate and maintain its distribution system. DEP Statement No. 2 at 3:13-14. Rock Spring agreed that it was in violation of, among other provisions of law, 25 Pa. Code §§ 109.4 and 109.710 by failing to properly provide disinfection to its public water system and 25 Pa. Code § 109.4 by failing to reduce its unaccounted-for water loss. DEP Exhibit 19 at 11-12. Rock Spring further agreed it was in violation of Section 12 of the Safe Drinking Water Act, 35 P.S. § 721.12, by engaging in conduct which constitutes a statutory nuisance. *Id.*

The 2006 CO&A required Rock Spring to submit a Corrective Action Plan ("2006 CAP"). The Department received the 2006 CAP on August 24, 2006, which was incorporated into the 2006 CO&A. DEP Exhibit 51 at 1. According to the 2006 CAP, if unaccounted-for water loss was still above 30 percent by September 30, 2010, Rock Spring was required to begin a water line replacement project to be completed by August 31, 2011. DEP Statement No. 5 at 2:8-11; DEP Exhibit 51 at 6. However, Rock Spring failed to both reduce its unaccounted-for water loss and

begin a waterline replacement project as ordered by the 2006 CO&A and incorporated 2006 CAP. DEP Statement No. 2 at 3:13-16; and DEP Exhibit 19 at 11-12.

The Department issued an Administrative Order pursuant to the Safe Drinking Water Act on August 27, 2018 (“2018 Department Order”), for Rock Spring’s failure to address the unaccounted-for water loss and for its failure to begin a waterline replacement project. DEP Statement No. 2 at 3:18-20; DEP Exhibit 20. The Department ordered Rock Spring to, in part, submit a corrective action plan which would outline Rock Spring’s plans to reduce unaccounted-for water loss within five years, and successfully reduce unaccounted-for water loss to less than 30 percent within five years. DEP Exhibit 20 at 5. In the 2018 Department Order, the Department found Rock Spring to be in violation of 25 Pa. Code § 109.4 by failing to reduce its unaccounted-for water loss and failure to implement a waterline replacement; 25 Pa. Code §§ 109.4 and 109.1302(a)(2) by failing to maintain an entry-point residual at the required level; and Section 12 of the Safe Drinking Water Act, 35 P.S. § 721.12, by engaging in conduct which constitutes a statutory nuisance. DEP Exhibit 20 at 4-5.

On October 17, 2018, the Department issued a Civil Penalty Assessment against Rock Spring for failure to comply with the 2006 CO&A, in the amount of \$40,000.00. DEP Statement No. 2 at 3:20-22; and DEP Exhibit 21. In the Civil Penalty Assessment, the Department found Rock Spring to be in violation of Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a), and 25 Pa. Code § 109.4 for both failing to reduce unaccounted-for water loss and failing to implement a waterline replacement project. DEP Exhibit 21 at 7-8. The Department also found Rock Spring to be in violation of 25 Pa. Code §§ 109.4 and 109.1302(a)(2) for failing to maintain an acceptable entry-point chlorine-residual level; 25 Pa. Code § 109.301(5) for failing to monitor for volatile organic compounds; 25 Pa. Code § 109.411(a) by failing to issue appropriate public notification after a triggering event; 25 Pa. Code § 109.701(a)(4) by failing to submit a certificate

of public notification to the Department; and in violation of Section 12 of the Safe Drinking Water Act, 35 P.S. § 721.12, by engaging in conduct which constitutes a statutory nuisance. *Id.*

On April 23, 2019, Rock Spring submitted its Corrective Action Plan (“2019 CAP”) in accordance with the 2018 Department Order. DEP Exhibit 22. On April 24, 2019, the Department approved the 2019 CAP with conditions via letter and incorporated it into the 2018 Department Order. DEP Exhibit 22 at 36. Rock Spring indicated in the 2019 CAP that it would identify a waterline replacement project by December 2021 should the unaccounted-for water loss still be greater than 30 percent, and Rock Spring would have all necessary easements and permits in place for the waterline replacement project by December 2022. DEP Statement No. 5 at 3:1-24; DEP Exhibit 22 at 3-7, 31, and 36. The final waterline replacement project was to be completed by December 2023. *Id.*

The Department issued a Notice of Violation (“NOV”) to Rock Spring on March 24, 2021, notifying Rock Spring that it failed to submit a quarterly report pertaining to unaccounted-for water loss for the months of November 2020, December 2020, and January 2021, in accordance with the 2018 Department Order. DEP Exhibit 25; and DEP Statement No. 2 at 5:10-14. The Department also notified Rock Spring that it had failed to replace, by September 2019, its supervisory control and data acquisition (“SCADA”) system which controls, monitors, alarms, and gathers data for operation of the well and finished storage tank, and failed to have a professional leak detection company conduct a complete system evaluation or leak detection survey by December 2020, in accordance with the 2019 CAP and 2018 Department Order. DEP Exhibit 25; and DEP Statement No. 2 at 2:32-35. The Department informed Rock Spring that these failures were considered violations of Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a), and 25 Pa. Code § 109.4(4) for failing to comply with an order of the Department. DEP Exhibit 25.

The Department issued a NOV to Rock Spring on January 3, 2023, notifying Rock Spring that it failed to submit a quarterly report pertaining to unaccounted-for water loss for the months of August, September, and October 2022, in accordance with the 2018 Department Order. DEP Exhibit 26; and DEP Statement No. 2 at 5:10-14. Rock Spring was also notified that it had failed to have all necessary easements and permits in place for a waterline replacement project by December 2022, and it failed to have a professional leak detection company conduct a complete system evaluation or leak detection survey between January and December 2022, in accordance with the 2019 CAP and 2018 Department Order. DEP Exhibit 26. The Department informed Rock Spring that these failures were considered violations of Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a), and 25 Pa. Code § 109.4(4) for failing to comply with an order of the Department. *Id.*

The Department issued a NOV to Rock Spring on January 12, 2023, notifying Rock Spring that it failed to timely submit a quarterly report pertaining to unaccounted-for water loss for the months of August 2023, September 2023, and October 2023, in accordance with the 2018 Department Order. DEP Exhibit 27; DEP Statement No. 2 at 5:10-14. Rock Spring submitted the quarterly report approximately one month and nine days late, and the quarterly report was incomplete regarding proper display of unaccounted-for water loss for the quarter and for the running annual average. *Id.* The Department informed Rock Spring that the late and inaccurate submittal was considered to have violated Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a), and 25 Pa. Code § 109.4(4) for failing to comply with an order of the Department. DEP Exhibit 27.

The Department issued a NOV to Rock Spring on December 6, 2023, notifying it of violations observed during an inspection conducted earlier that day. DEP Statement No. 3 at 6:1-33, 7:1-5; DEP Exhibit 3. *See also* DEP Exhibit 44. Rock Spring's entry-point well was not

protected from flooding and did not meet design standards outlined in the Public Water Supply Manual. *Id.* The chemical storage tanks did not have secondary containment sufficient to hold the volume of 110 percent of the largest tank to prevent accidental discharge. DEP Statement No. 3 at 6:9-13; DEP Exhibit 3. Rock Spring also failed to have documentation demonstrating that chemicals used are ANSI/NSF Standard 60 or a certified equivalent. DEP Statement No. 3 at 6:14-17; DEP Exhibit 3. The chemicals, treatment equipment, size of chemical pump, and injection point locations used for treatment were not the same as what was specified in Rock Spring's permit. DEP Statement No. 3 at 6:19-21; DEP Exhibit 3. Rock Spring failed to comply with the Department's regulations and policy pertaining to one-hour reporting and issuance of tier 1 public notice during loss of positive pressure in the water system. DEP Statement No. 3 at 6:28-33, 7:1; DEP Exhibit 3; DEP Exhibit 44. *See also* DEP Statement No. 3 at 11:7-9. The artesian blow off pipe on the side of the well's casing was not properly screened to prevent contamination. DEP Statement No. 3 at 7:3-5; DEP Exhibit 3. There was a structure leak between the caulking and steel plates of the storage tank. DEP Statement No. 3 at 6:23-26. The Department informed Rock Spring that these failures and observations were considered violations of 25 Pa. Code §§ 109.4, 109.504(c), 109.602, and 109.606. DEP Exhibit 3.

The Department issued a NOV to Rock Spring on April 12, 2024, notifying Rock Spring that it failed to submit a quarterly report pertaining to unaccounted-for water loss for the months of November 2023, December 2023, and January 2024, in accordance with the 2018 Department Order. DEP Statement No. 3 at 7:19-30; DEP Exhibit 28. The Department also notified Rock Spring that it had failed to submit a revised quarterly report for the months of August 2023, September 2023, and October 2023. *Id.* The Department informed Rock Spring that these failures were considered violations of Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a),

and 25 Pa. Code § 109.4(4) for failing to comply with an order of the Department. DEP Exhibit 28.

The Department issued a NOV to Rock Spring on March 11, 2025, notifying Rock Spring of the results of the Department's investigation into sampling activities at Rock Spring surrounding a low chlorine event on January 21, 2025. DEP Exhibit 41. The Department concluded that Rock Spring had failed to take daily chlorine samples from Entry Point #102 from January 16, 2025, until the January 21, 2025, low chlorine event. DEP Statement No. 3 at 16:10-27; DEP Exhibit 41. The Department further concluded that Rock Spring's chlorine sample result for January 22, 2025, which was submitted to the Department on February 9, 2025, contained falsified information. *Id.* Rock Spring claimed to have taken the January 22, 2025, sample at the time when staff were conducting surveillance at Entry Point #102. DEP Statement 3 at 17:15-17; DEP Exhibit 41. The Department informed Rock Spring that it failed to accurately report data pertaining to an entry point sample, in violation of 25 Pa. Code § 109.701(i)(1); failed to monitor chlorine at the entry point daily, in violation of 25 Pa. Code § 109.1305(2)(i); and failed to comply with a permit condition pertaining to daily chlorine grab samples at the entry point, in violation of 25 Pa. Code § 109.703(a). DEP Exhibit 41.

The Department issued a NOV to Rock Spring on March 17, 2025, notifying Rock Spring of the results of the Department's investigation into sample activities at Rock Spring on February 26, 2025. DEP Exhibit 42. The Department concluded that Rock Spring submitted falsified chlorine sample results submitted to the Department on March 9, 2025, pertaining to the February 26, 2025, collection date. DEP Statement No. 4 at 6:9-17; DEP Exhibit 42 at 1. The Department informed Rock Spring that it failed to accurately report data pertaining to an entry point sample, in violation of 25 Pa. Code § 109.701(i)(1); failed to monitor chlorine at the entry point daily, in violation of 25 Pa. Code § 109.1305(2)(i); and failed to comply with a permit condition pertaining

to daily chlorine grab samples at the entry point, in violation of 25 Pa. Code § 109.703(a). DEP Exhibit 42.

The Department is currently waiting on Rock Spring's responses to the NOV's issued on March 11, 2025, and March 17, 2025. DEP Statement No. 4 at 8:7-18. The NOV's requested that Rock Spring submit data correction or deletion requests to the Department pertaining to the February 6, 2025, entry point chlorine sample falsification along with data correction or deletion requests for any other samples that have been reported to the Department but were not actually collected from Entry Point #102. *Id.* Mr. Campbell, as Rock Spring's only certified operator capable of collecting such samples on January 22, 2025, and February 26, 2025, is solely responsible for submitting the data correction or deletion requests to the Department. *Id.*

Currently, Rock Spring's elevated unaccounted-for water loss remains a violation of 25 Pa. Code § 109.4(3), which requires the public water system to provide and effectively operate and maintain public water system facilities; and 25 Pa. Code § 109.4(4), which requires the public water system to take whatever investigative or corrective action is necessary to assure that safe and potable water is continuously supplied to the users. DEP Statement No. 1 at 3:24-30. The normal operating range is 10 to 15 percent for unaccounted-for water loss in a well-maintained system. *Id.* at 4:1-2 (citing Part V of DEP's Operations and Maintenance Public Water Supply Manual, Document Number 393-3110-001, effective November 1, 1997, at V-144). When segments of the system must be replaced, a range of 35 to 40 percent may be acceptable until funds for replacement are available. *Id.* at 4:4-7 (citing Part V of DEP's Operations and Maintenance Public Water Supply Manual, Document Number 393-3110-001, effective November 1, 1997, at V-145). Comparable regulations place the acceptable limit for unaccounted-for water loss at 20 percent. *Id.* at 4:8-10.

Under Rock Spring's management, unaccounted-for water loss typically falls between approximately 50 to 70 percent. DEP Statement No. 2 at 4:31-35. Excessive unaccounted-for water loss indicates that a water system is currently susceptible to increased risk of line breaks, more severe line breaks, and outages in water production. DEP Statement No. 1 at 4:11-14. Line breaks and outages create pathways for introduction of microbiological contamination into the water system. *Id.* The treated water lost from the water system creates hazards for aquatic life in nearby waters of the Commonwealth. *Id.* at 4:14-15. The water loss leads to financial strain as it requires additional chemical injection and pumping for water that does not necessarily reach the customers. *Id.* at 4:15-18.

The Department is also concerned with the pit around Rock Spring's well. DEP Statement No. 4 at 7:24-28. The Department's Design Standards for Community Water Systems do not allow well pits, as well pits can be susceptible to flooding. *Id.* Flooding of well pits can lead to surface water influence on the well and cause corrosion and other damages to the well from the damp and humid environment created, regardless of whether there is still standing water in the well pit. *Id.*

In making its determination pursuant to Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), the Commission is required to consider any opinions and advice the Department may have regarding the steps needed for Rock Spring's water system to come into compliance with the Safe Drinking Water Act and Department regulations pertaining to the adequacy, efficiency, safety, or reasonableness of Rock Spring's water system. 66 Pa.C.S. § 529(c)(5). In consideration of engineering studies of the water system and the general age and state of the system, the Department believes a multimillion-dollar project including line replacements and service line replacements will be necessary to eliminate unaccounted-for water loss. DEP Statement No. 1 at 5:6-15. The Department recommends elimination of the well pit surrounding the water system's well. DEP Statement No. 4 at 7:24-28. The Department recommends that Rock

Spring, specifically Mr. Campbell, submit data correction or deletion requests pertaining to the falsified samples from Entry Point #102 claimed to have been collected on January 22, 2025, and February 26, 2025. *Id.* at 8:7-18.

While acting as the temporary emergency receiver, PAWC has successfully begun to respond to the opinions and advice from the Department to start bringing the system back into compliance. PAWC repaired several main breaks and line breaks in Rock Spring's water system. DEP Statement No. 4 at 7:30-34, 8:1-6. PAWC's efforts regarding leak detections and repairs have currently resulted in an approximate 35 percent reduction in the unaccounted-for water loss. *Id.* at 8. However, whether the unaccounted-for water loss has been stabilized long-term remains to be seen. *Id.* The Department recommends long-term review of the water system to determine whether the unaccounted-for water loss has been stabilized.

Rock Spring has clearly been in violation of the Safe Drinking Water Act and its associated regulations which has negatively impacted the safety, adequacy, efficiency, or reasonableness of its service. Although the Department has provided Rock Spring with advice as to how to bring its water system into compliance since 2006, Rock Spring has failed to make even minimal attempts to do so.

2. Rock Spring failed to comply with the Department's Orders and the Commission's Joint Settlement.

There is substantial evidence to show that Rock Spring failed to comply with multiple Department Orders and the Commission's Joint Settlement to reduce unaccounted-for water loss, identify a waterline replacement project, and implement a waterline replacement project within a reasonable amount of time. As such, the second element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(2).

The Commission provided direction concerning what constitutes a "reasonable" amount of time in a matter where Aqua was ordered to acquire a small public water system, W.P. Water Co.,

Inc. (“W.P. Water”), via Joint Petition for Settlement in a Section 529 proceeding. *Investigation of W.P. Water Co., Inc. and W.P. Sanitary Co., Inc. Pursuant to Section 529 of the Pennsylvania Public Utility Code; W.P. Water Co., Inc. and W.P. Sanitary Co., Inc.; Application of W.P. Sanitary Co., Inc. For Approval of Abandonment of Service*, 2009 WL 1103767, at 19 (Pa. P.U.C., Mar. 31, 2009). W.P. Water was reported to have financial, technical, and managerial discrepancies which led to extended service outages and low water pressure for customers. *Id.* at 8. W.P. Water failed to comply with two Department orders from October 25, 2007, and May 20, 2008, by failing to abide by special permit conditions in an emergency permit, failing to have a certified water works operator, and failing to submit required monthly chlorine residual reports to the Department. *Id.* at 7. Then, W.P. Water failed to comply with a Commission order from April 26, 1991, in which it was directed to provide metered connections to customers. *Id.* at 8. The Commission found that since 18 years had lapsed with no response from W.P. Water, there was “no difficulty concluding that W.P. Water is in violation of statutory or regulatory standards and has failed to comply, within a reasonable period of time, with any order of the Commission or DEP concerning the safety, adequacy, efficiency or reasonableness of service.” *Id.* at 9.

The 2006 CO&A gave Rock Spring five years to reduce its unaccounted-for water loss to 30 percent or less. DEP Exhibit 19 at 11. However, Rock Spring failed to meet the agreed upon deadline. DEP Exhibit 20 at 4. As a result of this failure, the 2018 Department Order and incorporated 2019 CAP again directed Rock Spring to successfully reduce unaccounted-for water loss to 30 percent or less within five years. DEP Exhibit 22 at 3. The 2019 CAP incorporated into the 2018 Department Order required Rock Spring to identify a waterline replacement project by December 2021 should the unaccounted-for water loss still be greater than 30 percent and have all necessary easements and permits in place for the waterline replacement project by December 2022.

Id. at 6. Rock Spring was required to complete the final waterline replacement project by December 2023. *Id.*

Rock Spring failed to reduce its unaccounted-for water loss, failed to identify and complete a waterline replacement project, and failed to have all necessary easements and permits in place for the waterline replacement project as ordered by the Department. DEP Statement No. 2 at 4:31-36, 5:1-2. As a result of these failures, the Department filed a Petition to Enforce Administrative Order (“Petition to Enforce”) before the Commonwealth Court of Pennsylvania (“Commonwealth Court”) on October 4, 2023. *Id.* at 6:10-13. The Commonwealth Court scheduled an evidentiary hearing for January 18, 2024. *Id.* However, Rock Spring failed to appear at the hearing, failed to secure legal representation, and failed to file an answer to the Petition to Enforce. *Id.*

Ultimately, the Commonwealth Court entered an order granting the Department’s Petition to Enforce on January 18, 2024. DEP Exhibit 31. The Court’s Order required Rock Spring to, in part: 1) submit to the Department within 90 days a written report, drafted by a professional engineer, which identifies a final waterline replacement project, identifies any and all previous work done to implement the final waterline replacement project, includes the results of all previous leak detection surveys, includes the results of any and all complete system evaluations, and includes all documentation proving that easements and permits are in place for the waterline project; 2) complete construction of the final waterline replacement project and reduce unaccounted-for water loss to 30 percent or less on a running annual average basis by December 31, 2024; and 3) fully comply with the terms and conditions of the 2018 Department Order and 2019 CAP. *Id.*

Rock Spring failed to submit a written report to the Department identifying the final waterline replacement project within 90 days of the Commonwealth Court’s January 18, 2024, Order and failed to submit multiple quarterly reports to the Department detailing its progress in

adhering to the 2019 CAP and 2018 Department Order. DEP Statement No. 2 at 6:26-30. The Department filed an Application for Contempt (“Application”) before the Commonwealth Court due to Rock Spring’s failure to comply with the Commonwealth Court’s January 18, 2024, Order, and the Commonwealth Court scheduled a hearing for July 24, 2024. *Id.* at 6:30-31. The Commonwealth Court entered an Order on July 24, 2024, granting the Department’s Application and accepting an agreement between the Department and Rock Spring.

Rock Spring agreed to, in part: 1) submit to the Department within 30 days a written report, drafted by a professional engineer, which identifies a final waterline replacement project, identifies any and all previous work done to implement the final waterline replacement project, includes the results of all previous leak detection surveys, includes the results of any and all complete system evaluations, and includes all documentation proving that easements and permits are in place for the waterline project; 2) pay a judgement in the amount of \$1,500.00 as a sanction for Rock Spring’s contempt; and 3) fully comply with the terms and conditions of the Commonwealth Court’s January 18, 2024, Order. DEP Exhibit 33. However, Rock Spring failed to submit a written report to the Department identifying the final waterline replacement project within 30 days of the Commonwealth Court’s July 24, 2024, Order. Therefore, the Department filed a Certification of Non-Compliance before the Commonwealth Court on October 15, 2024. DEP Statement No. 2 at 6:33, 7:1-12

Similar to the 18-year timeline seen in *W.P. Water*, Rock Spring has had 19 years to come into compliance with the Department’s orders between the 2006 CO&A and the present; a timeframe that is exceedingly reasonable. DEP Exhibits 19, 20, and 22. However, Rock Spring has repeatedly failed to reduce its unaccounted-for water loss to 30 percent or less, failed to identify a waterline replacement project, failed to secure easements and permits necessary for a waterline

replacement project, and failed to implement a waterline replacement project within those 19 years. *Id.*

Rock Spring also failed to timely comply with the Commonwealth Court's orders, which enforce the Department's orders. DEP Exhibits 32 and 33. To provide an engineer-drafted report pertaining to identification of a waterline replacement project, the Commonwealth Court afforded Rock Spring 90 days for the Department's Petition to Enforce and an additional 30 days for the Department's Application for Contempt. DEP Exhibits 31 and 33. However, Rock Spring failed to provide an engineer-drafted report that complied with the Commonwealth Court's Orders for either deadline. DEP Statement No. 2 at 6:26-33, 7:1-12.

Further, the Commission entered into a Joint Settlement with Rock Spring on June 13, 2013, to address, among other things, Rock Spring's reported 73.2 percent unaccounted-for water loss in the water system at the time of Joint Settlement. I&E Statement No. 1 at 2:11-14. In the Joint Settlement, Rock Spring indicated it would reduce unaccounted-for water loss by 50 percent, in phases over 66 months, from the date of the Joint Settlement. *Id.* However, Rock Spring failed to meet the 63.2 percent reduction benchmark pursuant to the 10 percent-per-year reduction schedule. *Id.* at 2:14-15. The Commission has given Rock Spring approximately 12 years to comply with the Commission's order between the time Rock Spring entered into the Joint Settlement and the present; a timeframe which is also exceedingly reasonable. *Id.* at 2:11-15. However, Rock Spring failed to meet a single phase for reduction of unaccounted-for water loss pursuant to the schedule in the Joint Settlement. *Id.* at 2:11-17.

3. Rock Spring cannot furnish adequate service in the future.

There is substantial evidence to show that Rock Spring cannot reasonably be expected to furnish and maintain adequate, efficient, safe, and reasonable service and facilities in the future.

As such, the third element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(3).

When evaluating whether a utility can reasonably be expected to furnish and maintain service and facilities, “the Commission determines more than the utility's future *ability* to perform its statutory duty[;] the Commission determines whether there is a reasonable future expectation that the utility *will perform* its statutory duty.” *Twin Lakes Util., Inc. v. Pa. P.U.C.*, 281 A.3d 384, 393 (Pa. Cmwlth. 2022). A utility’s demonstration of prolonged failure to meet service obligations is considered ample evidence that the failure will continue in the future. *Id.*

In *Twin Lakes Util., Inc.*, the small public water system, Twin Lakes Utilities, Inc. (“Twin Lakes”), served approximately 114 customers. *Id.* at 386. Twin Lakes had two wells supplying its water system, one of which was inoperable and the other of which was at risk of collapse due to over-pumping. *Id.* at 387. Twin Lakes experienced service issues, frequently issued water boil advisories, and customers experienced periodic interruptions in water service. *Id.* Most importantly, Twin Lakes required repairs to its infrastructure and several other costly improvements. *Id.* Twin Lakes requested and received several rate increases from the Commission; two of which went toward improving the water system. *Id.* Twin Lakes was still unable to pay for distribution of water and maintain adequate water quality. *Id.* A Section 529 petition was filed with the Commission to order a capable public utility to acquire Twin Lakes. *Id.* Middlesex Water Company (“Middlesex”), the parent company of Twin Lakes, questioned whether Middlesex could provide financial, managerial, and operational resources on behalf of Twin Lakes to ensure safe, adequate, and reasonable service and facilities in the future. *Id.* at 393. However, the Court decided that the prolonged failure of Twin Lakes to meet service obligations to its customers is sufficient evidence in determining that the same circumstances would continue into the future regardless of a parent company’s involvement. *Id.*

In comparison, engineering studies have shown that nearly all of Rock Spring's 22 miles of distribution system will need to be replaced, with the cost expected to be several million dollars. DEP Statement No. 1 at 5:6-15; *see also* SCBWA Exhibit C at 16-19. The deteriorated state of Rock Spring's water system is evidenced, in part, by the well pit flooding, the chlorine injection system causing low entry point chlorine events, and the storage tank which needs rehabilitation. DEP Statement No. 3 at 4:6-10. Former Department Sanitarian Nathan White traveled to the location of a previous main break in Rock Spring's system only to find a second break actively occurring 15 feet away from the previous break. *Id.* at 4:17-18. On May 29, 2024, Mr. White discovered a main break that had been actively occurring for nearly six months *Id.* at 8:11-14. Sample results from a residence near the six-month main break revealed a presence of total coliform, demonstrating an open pathway of contamination. *Id.* at 8:11-25.

Similar to Twin Lakes, Rock Spring also experiences scenarios where a water boil advisory is necessary, such as a loss of positive pressure in the system. *Id.* at p. 9:18-20. However, Rock Spring failed to issue a water boil advisory during such events, as evidenced by Department inspections on December 6, 2023, and November 30, 2015. *Id.* at 6:28-33-7:1; DEP Exhibit 2; DEP Exhibit 13. During Mr. White's employment with the Department between 2021 and 2025, Rock Spring experienced 5 significant deficiencies, 14 minor violations, 30 minor deficiencies, and 80 monitoring violations. *Id.* at 4:22-24.

In making its determination pursuant to Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), the Commission is required to consider Rock Spring's managerial and technical abilities. 66 Pa.C.S. § 529(c)(1). Rock Spring's president and sole certified operator, Mr. Campbell, has routinely demonstrated negligence for Department regulations, as evidenced by offenses against his operator's license dating back to 2015. DEP Statement No. 3 at 3:26-28; *see also* DEP Exhibits 11, 12, and 13. The Department issued NOVs to Mr. Campbell as recently as

March 11 and March 17, 2025, notifying him of the results of the Department's investigation into sampling activities at Rock Spring surrounding a low chlorine event on January 21, 2025. DEP Exhibits 41 and 42.

Specifically, the Department concluded that Mr. Campbell, as the only certified operator for Rock Spring, had failed to collect daily chlorine samples at Entry Point #102 from January 16, 2025, until the low chlorine event that occurred on January 21, 2025. DEP Statement No. 3 at 16:10-27; DEP Exhibit 41 at 1. Mr. Campbell falsified entry point chlorine sample results submitted to the Department on February 9, 2025, pertaining to a January 22, 2025, collection date and again when submitting results to the Department on March 9, 2025, pertaining to a February 26, 2025, collection date, in violation of Rock Spring's permit condition pertaining to daily entry-point sampling and 25 Pa. Code § 302.1201(a). DEP Statement No. 3 at 17:15-19; DEP Exhibit 41 at 1; DEP Statement No. 4 at 6: 9-17; DEP Exhibit 42 at 1. During the low chlorine event, the Department was unable to immediately reach Mr. Campbell via telephone to address the Department's concerns. DEP Statement No. 3 at 3:28-34. Mr. Campbell has a history of being unavailable via telephone during events of concern, and the Department is unable to leave messages as his voicemail box is full. *Id.* When he does respond to the Department, the responses tend to be incoherent and fail to address the underlying issues. DEP Statement No. 1 at 2:31-32.

Rock Spring's former secretary and treasurer, Elizabeth Campbell, who handles the administrative tasks for the company, commonly provides the Department with vague responses when a written response is requested from Rock Spring. *Id.* at 2:25-27; DEP Statement No. 2 at 2:23-24. For example, during the Department's investigation into a cloudy water complaint on August 23, 2024, Ms. Campbell's response was uncooperative, and the Department had to use other means in determining the source of cloudy water. DEP Statement No. 3 at 3:35-40. In other instances, Ms. Campbell failed to provide the Department with any response. *Id.* at 4:1. As an

example, Ms. Campbell failed to respond to the Department's November 17, 2023, Notice of Violation. *Id.* at 4:1-4.

Rather than address the deteriorated state of Rock Spring's water system and the various other causes for concern, Mr. Campbell and Ms. Campbell commonly tell the Department that Rock Spring is going to be sold or that Rock Spring personnel are retiring. DEP Statement No. 2 at 7:30-33, 8:1-13; DEP Exhibits 36 and 37. Rock Spring has given this explanation several times between 2020 and the present. DEP Statement No. 2 at 7:30-33, 8:1-13. According to Department witness Chad Miller, Environmental Program Manager,

Based on the long history of noncompliance with next to zero effort to invest in the water system and perform much needed upgrades, in addition to the manner in which [Mr. Campbell and Ms. Campbell] appear to lack comprehension of the situation, I have concluded that [Mr. Campbell and Ms. Campbell] are both unwilling and incapable of bringing the system back into compliance. Their incapacities are financial, managerial, and technical. When we met with Rock Spring and their engineering consultant on October 10, 2024, [Mr. Campbell] concluded that they would not spend the millions of dollars necessary to replace the 22 miles of distribution system that are generally thought to be necessary to lower unaccounted-for water loss to below 30%.

DEP Statement No. 1 at 3:10-17. In essence, Rock Spring and its officers in charge of day-to-day operations have continuously disregarded the Safe Drinking Water Act and Department regulations, demonstrated extensive failure to meet basic service obligations for customers, and have been generally unresponsive during states of crisis. This prolonged inability to furnish and maintain adequate, efficient, safe, and reasonable service and facilities, extending back to 2006, can reasonably be expected to occur in the future at the expense of Rock Spring's customers.

Rock Spring simply does not possess the financial, managerial, or technical means of safely operating the small water system. Considering the substantial evidence demonstrating that acquisition of Rock Spring is in the public's best interest, the burden of proof shifts to Rock Spring to provide evidence of its ability to render adequate, efficient, safe and reasonable service at just and reasonable rates. 66 Pa.C.S. § 529(i)(1). However, Rock Spring failed to present any evidence

indicating it is financially, managerially, or technically capable of operating the system in a safe manner at the evidentiary hearing held on October 20, 2025.

4. Alternatives to acquisition are not a viable option.

There is substantial evidence to show that any alternative to acquisition of Rock Spring is impractical or not economically feasible. As such, the fourth element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(4).

Before the Commission may order acquisition, it must discuss with and give reasonable opportunity to Rock Spring to investigate alternatives to acquisition, including, but not limited to:

- (1) The reorganization of the small water or sewer utility under new management.
- (2) The entering of a contract with another public utility or a management or service company to operate the small water or sewer utility.
- (3) The appointment of a receiver to assure the provision of adequate, efficient, safe and reasonable service and facilities to the public.
- (4) The merger of the small water or sewer utility with one or more other public utilities.
- (5) The acquisition of the small water or sewer utility by a municipality, a municipal authority or a cooperative.

66 Pa.C.S. § 529(b)(1)-(5). These alternatives are impractical and not economically feasible in this matter.

Rock Spring's negligence and dilatory attitude toward the situation concerning the water system's progressively deteriorating infrastructure demonstrates that each alternative to acquisition is impractical. According to Department Witness Chad Miller:

Considering the compliance and enforcement efforts taken by both [the Commission] and [the Department] since 2006 with next to no effort being taken by Rock Spring Water Company to address the enforcements issued against them, we are at a point where we are left with no choice but to pursue new ownership. Orders and penalties are not effective at this point and are ignored. The risk to public health increases as the system continues to age and fall into disrepair.

DEP Statement No. 1 at 5:28-32. Rock Spring has demonstrated that it will not seek an alternative to acquisition on its own or whether directed to do so by the Commission.

Rock Spring has failed to comply with the terms of the Joint Settlement in *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), approved by the Commission on June 13, 2013. As part of the 2013 Joint Settlement, Rock Spring agreed reduce its unaccounted-for water loss to 23.2 percent over a 66-month period and to make efforts to sell the water system and to provide both I&E and OCA with the status of any negotiations, discussions, or offers related to the sale of the company or transfer of assets. *See Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), Recommended Decision of ALJ Susan D. Colwell (May 21, 2013) at 4, ¶¶ 10(f) and 11(g), adopted by the Commission by Order dated June 13, 2013. Rock Spring has not reduced its unaccounted-for water loss and has not sold the system over the past 12 years.

Rock Spring has also failed to comply with numerous enforcement measures from the Department, including the 2006 CO&A, the 2018 Department Order, and the 2018 Assessment of Civil Penalty, which has resulted in the Department obtaining a judgment against Rock Spring. *See* DEP Exhibits 19, 20, and 21. Moreover, Rock Spring has failed to comply with two orders from the Commonwealth Court and was found to be in contempt. *See* DEP Exhibits 31 and 33. Thus, Rock Spring has demonstrated an inability and an unwillingness to bring the water system back into compliance.

According to Department witness Mark Accettulla, Sanitarian Supervisor,

Rock Spring Water Company has demonstrated almost 20 years of noncompliance, disregard for enforcement-related documents issued by [the Department] and Commonwealth Court, marginal effort to correct violations or deficiencies, and marginal effort towards capital improvement projects at the water system.

DEP Statement No. 4 at 9:1-5. Furthermore, PAWC witness Marcus Kohl, Director of Business Development for PAWC, testified about his prior experience with Rock Spring when he was the Regional Director of the Northcentral Region of the Department, and he indicated that the Department spent years trying to push Rock Spring into compliance only to be ignored. PAWC Statement No. 2-SR at 3:7-12. According to Mr. Kohl, “I do not believe it should be an option to allow Rock Spring to retain ownership and be required to complete upgrades and make changes to operational practices.” PAWC Statement No. 2-SR at 3:12-13. Clearly, Rock Spring has engaged in almost two decades of lackadaisical behavior toward fixing the unaccounted-for water loss experienced by the water system.

Many of these alternatives would also not be economically feasible due to the millions of dollars needed to bring the Rock Spring water system back into compliance. Under Section 529(c)(3) of the Public Utility Code, 66 Pa.C.S. § 529(c)(3), the Commission shall consider,

[t]he expenditures which may be necessary to make improvements to the small water...utility to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety or reasonableness of utility service.

66 Pa.C.S. § 529(c)(3). Rock Spring has had 19 years to address its crumbling distribution system, but it instead systematically neglected issues, resulting in a system requiring millions of dollars in repairs.

Rock Spring did not put forward any evidence concerning its financial fitness to operate the water system. When pressed to address the issues with the water system, Rock Spring defaults to a claim that it will sell the system. DEP Statement No. 1 at 2:31-33, 3:1; DEP Statement No. 2 at 7:31-33, 8:1-16; DEP Statement No. 4 at 4:14-21; DEP Exhibit 37. In fact, when ordered by the Commonwealth Court to provide the Department with a report to identify the final waterline replacement project, Rock Spring instead informed the Department that it would not spend the millions of dollars necessary to replace the distribution system to lower the unaccounted-for water

loss to below 30 percent. DEP Statement No. 1 at 3:14-17. Rather, Rock Spring sent the Department an email on October 18, 2024, indicating that “Rock Spring Water Company will be retiring.” DEP Exhibit 36. Rock Spring also wrote a letter to the Commonwealth Court indicating that Rock Spring did not have the funds to complete the project and that Mr. Campbell had decided to retire and sell the company. DEP Exhibit 37. These facts indicate that Rock Spring does not have the financial fitness to bring the water system back into compliance.

Reorganization under new management, contracting with another public utility company or management service to operate the water system, and the merger with another public utility are not going to produce the capital needed to repair the Rock Spring water system. OCA witness Nicholas DeMarco, Regulatory Analyst for OCA, testified that PAWC and SCBWA have estimated that it would take between \$16,000,000.00 and \$20,000,000.00 for an average of \$18,000,000.00 to repair the Rock Spring water system. OCA Statement 1 at 22:13-14. According to Mr. DeMarco, if these costs were split between Rock Spring’s customers, it would cost on average \$38,793.00 per customer, which only includes the capital cost calculation. *Id.* at 22: 14-16. The costs would be higher once the revenue requirement is added, and Rock Spring’s customers would not be financially or economically able to support the system. *Id.* at 22:16-19.

Furthermore, Mr. DeMarco testified that other options to acquisition have been considered. OCA Statement 1 at 4:7-20, 5:1-4. Mr. DeMarco testified that reorganization under new management cannot be reasonably expected in this case. *Id.* at 4:7-8. Concerning contracting with another public utility company or management service to operate the water system and the merger with another public utility, Mr. DeMarco testified that the Joint Settlement at *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), required Rock Spring to attempt to sell the water system. *Id.* at 4:16-19. Rock Spring has failed to sell the system.

I&E witness Christopher Keller, Fixed Utility Financial Analyst for I&E, also provided testimony concerning each alternative to acquisition. According to Mr. Keller, reorganization under new management, contracting with another public utility company or management service to operate the water system, or appointing a receiver for Rock Spring would not address the financial resources needed to resolve the issues with Rock Spring's unaccounted-for water loss and the other issues identified by the Department with the water system. I&E Statement 1 at 6:10-13. Concerning merger with another utility, Mr. Keller testified that Rock Spring is an unviable merger candidate because it has accumulated numerous violations from the Department, allowed the water system to significantly deteriorate, and Rock Spring's ownership has had a lack of interest in operating the water system. *Id.* at 6:13-18.

Regarding the appointment of a receiver, the Commission appointed PAWC as receiver during the pendency of these proceedings. While PAWC has done an excellent job as receiver and has lowered the unaccounted-for water loss to 39.86 percent, PAWC's efforts do not negate the need for a more permanent solution. DEP Exhibit 54. As discussed in more detail in the next section below, it will take years to bring the Rock Spring water system back into compliance, and it would be unfair to PAWC's customers to pay for the repairs to the Rock Spring water system for several years while PAWC acts as receiver. Furthermore, Mr. DeMarco testified that a receivership is not a viable alternative to acquisition in this matter. OCA Statement 1 at 5:2-4.

Concerning acquisition by a municipality, municipal authority, or a cooperative, SCBWA has attempted to negotiate a sale of the Rock Spring water system. The Department still believes that SCBWA is in the best position to acquire the water system and bring it back into compliance. DEP Statement No. 1 at 6:5-10; DEP Statement No. 2 at 9:1-17; DEP Statement No. 4 at 9:18-37. Mr. DeMarco agreed with the Department and testified that SCBWA is in the best position to acquire Rock Spring. OCA Statement 1 at 6:20-21, 7:1-8.

However, Mr. Keller testified that Rock Spring has been in contact with SCBWA since 2008 and they have not been able to reach an agreement concerning the acquisition of the water system. I&E Statement 1 at 6:18-21. To date, Rock Spring has not sold the water system to SCBWA despite multiple discussions between the entities.

Despite being given years to negotiate the sale of the water system, Rock Spring has not reached an agreement with SCBWA. If Rock Spring and SCBWA cannot reach an agreement on a purchase price for the water system before the Commission issues its opinion, this alternative will no longer be practical or economically feasible as time will have run out to reach an agreement, and the Rock Spring water system is in urgent need of acquisition. Therefore, there is substantial evidence that all alternatives to acquisition have been considered, and the alternatives are impractical and not economically feasible.

5. PAWC and SCBWA are capable of acquiring and operating Rock Spring.

Substantial evidence shows that both PAWC and SCBWA are capable utilities that are financially, managerially, and technically capable of acquiring and operating Rock Spring in compliance with all applicable statutory and regulatory standards. *See* 66 Pa.C.S. § 529(c)(2). As such, the fifth element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(5).

Section 529(m) of the Public Utility Code, 66 Pa.C.S. § 529(m), defines a capable public utility as follows:

A public utility which regularly provides the same type of service as the small water utility or the small sewer utility to 4,000 or more customer connections, which is not an affiliated interest of the small water utility or the small sewer utility and which provides adequate, efficient, safe and reasonable service. A public utility which would otherwise be a capable public utility except for the fact that it has fewer than 4,000 customer connections may elect to be a capable public utility for the purposes of this section regardless of the number of its customer connections and regardless of whether or not it is proximate to the small sewer utility or small water utility to be acquired.

66 Pa.C.S. § 529(m). While I&E identified several proximate water utilities in its Section 529 Petition, the only three proximate water utilities participating in these proceedings are Aqua, PAWC, and SCBWA. As both Aqua and PAWC are certified public utilities, they both are entitled to a presumption of fitness. *McCloskey v. Pa P.U.C.*, 195 A.3d 1055, 1058 (Pa. Cmwlth. 2018).

Concerning Aqua, Mr. DeMarco testified that while Aqua is financially, managerially, and technically capable of acquiring and operating the Rock Spring water system, there are other more proximate capable public utilities or municipal corporations that are closer and in a better position to acquire Rock Spring. OCA Statement 1 at 7:19-21, 8:1-9. The Department agrees with this assessment. While Aqua did not present any evidence at the evidentiary hearing held on October 20, 2025, Aqua previously presented evidence at the hearing on OCA's emergency petition to appoint a receiver indicating that its closest system is approximately 38 miles from Rock Spring and its closest operations system is approximately 50 miles from Rock Spring. Aqua Statement No. 1 at 3:17-19. Mr. Keller from I&E and Michael Guntrum, P.E., Senior Project Engineer for the Business Development Department of PAWC, both identified PAWC and SCBWA as the two most likely candidates to acquire the Rock Spring water system. I&E Statement 1 at 8:1-3; PAWC Statement No. 1 at 2:21-23, 3:1-2.

PAWC is financially, managerially, and technically capable of acquiring and operating Rock Spring in compliance with applicable statutory and regulatory standards, including the Safe Drinking Water Act and the regulations adopted thereunder. Concerning PAWC, Mr. DeMarco and Mr. Keller both testified that PAWC is financially, managerially, and technically capable of acquiring and operating the Rock Spring water system. OCA Statement 1 at 8:13-14; I&E Statement 1 at 8:8-9. PAWC has approximately 687,000 customers, and its closest water system is approximately 13 miles from the Rock Spring water system. I&E Statement 1 at 8:17-18 and 9:3-4; PAWC Statement No. 1 at 3:5. PAWC holds a certificate of public convenience to own and

operate water systems regulated by the Commission, and it has received permission from the Commission to own and operate several water utilities in the Commonwealth. I&E Statement 1 at 9:19, 10:1-11. According to Mr. Keller, PAWC has indicated in other Commission proceedings that it is capable of operating other systems similar to Rock Spring and bringing them back into compliance. I&E Statement 1 at 11:4-10 and 12:1-6.

PAWC has done commendable work as receiver for Rock Spring. PAWC has reported a 35 percent reduction in average water per day produced since becoming receiver. DEP Statement No. 1 at 5:16-19; DEP Statement No. 4 at 8:1-4; DEP Exhibit 46 at 4; PAWC Statement No. 1-Supp at 2:10-14. PAWC has made the following improvements to the Rock Spring water system: 1) installed secondary containment on the chlorine solution tank at the water treatment plant and installed an off-gas device on the chlorine feed pump; 2) installed and maintain a continuous chlorine analyzer in the water treatment plant to provide early warning and detection of disinfection treatment problems, which is tied to the SCADA system monitored 24 hours a day, seven days a week; 3) established alarms and shutdowns through the SCADA system; 4) installed new locks and security devices at the well, treatment building, and water storage tank; 5) performed leak detection and repairs; 6) collected daily chlorine samples from Entry Point #102 in accordance with the Permit requirements; 7) moved the chlorine chemical injection point to the permitted location; 8) updated the sample site location plans for the Revised Total Coliform Rule and Disinfection Requirements Rule; 9) completed the “quarterly, initial” sampling required for PFAS chemicals; 10) removed Mr. Campbell as an available certified operator for the water system and assigned a new operator in responsible charge; and 11) replaced the submersible pump in Well #1. DEP Statement No. 4 at 7:6-18; DEP Exhibit 45 at 2-4 and 6; DEP 46 at 2-4 and 6; PAWC Statement No. 1-Supp at 2:14-20.

Additionally, PAWC has: 1) identified and repaired a main line leak near 6307 West Whitehall Road and assisted Rock Spring by locating a main line leak on Rosewood Circle prior to becoming receiver; 2) identified and repaired two utility-side service line leaks on Gardner Lane; and 3) identified five customer-side service line leaks which have been repaired by the customers. DEP Statement No. 4 at 7:30-34, 8:1; DEP Exhibit 50 at 1-2; PAWC Statement No. 1-Supp at 2:6-10. There is no doubt that if PAWC acquires the Rock Spring water system, PAWC will be able to bring the water system back into compliance.

Furthermore, Mr. Guntrum testified that PAWC is capable of operating and maintaining the Rock Spring water system in compliance with applicable environmental statutes and regulations. PAWC Statement No. 1-Supp at 4:13-22, 5:1-22, and 6:1-7. According to PAWC, it would operate the Rock Spring water system as a standalone system because it is unable to interconnect to another PAWC system as the nearest PAWC system is 13 miles away. PAWC Statement No. 1-Supp at 6:11-22. The costs for the capital investment plan for PAWC is approximately \$16.1 million. PAWC Statement No. 1-Supp at 7:7. The plan includes major replacement of the distribution system and a new treatment building, treatment system, and tank. *Id.* at 7:5-9. Dr. Christina E. Chard, Senior Director of Rates and Regulatory for PAWC, also testified that PAWC is financially fit to acquire and operate the Rock Spring water system. PAWC Statement No. 3 at 2:21-24.

However, PAWC has identified one impediment to its ability to operate the Rock Spring water system. PAWC has discovered that significant portions of the distribution system were installed on private land with no easement or other property rights secured. PAWC Statement No. 1-Supp at 3:12-13. This includes a storage tank located on land owned by the Pennsylvania State University (“Penn State”), which is used for agricultural activities including Penn State Ag Progress Days. *Id.* at 3:13-18. Apparently, Rock Spring has an oral agreement with Penn State allowing the tank and distribution system on Penn State’s property in exchange for free water

service. *Id.* at 3:21-23, 4:1. PAWC has determined that this tank is critical to the operation of Rock Spring as there is only one well, and the tank provides backup to the well in case of equipment failure and water for fire flows. *Id.* at 4:1-3. If PAWC acquires the Rock Spring water system, PAWC will have to negotiate with Penn State to meter and charge for water service and to acquire an easement for the tank and distribution lines as well as ingress and egress. *Id.* at 4:3-7.

The evidence shows that SCBWA is in the best position to acquire the Rock Spring water system. SCBWA is technically, managerially, and financially fit to acquire and operate the Rock Spring water system in compliance with applicable statutory and regulatory standards, including the Safe Drinking Water Act and the regulations adopted thereunder. According to Brian Heiser, Executive Director of SCBWA, SCBWA is interested in acquiring the Rock Spring water system and entered a non-binding letter of intent for the sale of the water system. SCBWA Statement No. 1 at 1:19-20, 2:21-22. The State College Borough incorporated SCBWA on June 14, 1940. *Id.* at 2:40-41. Since then, SCBWA has expanded its service area by acquiring several other water systems. *Id.* at 3:43-61. SCBWA has also expanded its service area due to the development of several residential subdivisions and business parks. *Id.* at 4:66-71. Along with a significant supply reserve to accommodate additional growth, SCBWA has a Susquehanna River Basin Commission withdrawal limit of 8.0 MGD with a current average daily demand of 5.1 MGD and a peak of 6.2 MGD. *Id.* at 4:77-80. According to Mr. Heiser, SCBWA has not had any regulatory compliance issues while supplying safe, adequate, and reliable water service to its customers. *Id.* at 4:80-82. SCBWA has approximately 15,000 customer connections serving a population of over 73,000 residents. *Id.* at 5:95-96.

Katie McCaulley, Assistant Executive Director of SCBWA, testified that SCBWA employs 42 staff members with the organization being broken down into different departments to focus on specific functions. SCBWA Statement No. 2, at 1:17-18. SCBWA has consistently ended each

fiscal year with a net income exceeding its budget. *Id.* at 3:46-47. For example, in 2024 SCBWA managed a budget that exceeded its projected net income by 28 percent. *Id.* at 3:47-48. SCBWA has one PennVest loan in the amount of \$20,000,000.00, and its 2025 budget is \$14,000,000.00 with a project and reserve expenditure budget of \$8,671,560.00. *Id.* at 3:48-51. SCBWA has authorized a purchase price of \$65,000.00 for the Rock Spring water system. *Id.* at 3:55-56. Ms. McCaulley also testified that if SCBWA acquired the Rock Spring water system, SCBWA would work with Ferguson Township to acquire grants to help fund the improvements needed for the water system. *Id.* at 3:60-63.

Mark Glenn, Consulting Engineer for SCBWA, testified that SCBWA has a low rate of 12 percent for unaccounted-for water loss. SCBWA Statement No. 3 at 2:23-44, 3:45-51. According to Mr. Glenn, “Adding the Rock Spring water system would have minimal impact on SCBWA’s production, treatment, distribution and customer service facilities and have no impact on existing SCBWA water customers from a water quality, pressure, flow and service reliability perspective.” *Id.* at 3:59-62. According to Mr. Glenn, maximum demand from the Rock Spring water system can be easily met from the Zone 5 source of supply, treatment facility, storage system, and large capacity transmission mains. *Id.* at 3:63-65, 4:66-67. If SCBWA acquired the Rock Spring water system, SCBWA would incorporate Rock Spring into SCBWA’s existing system through an interconnection. *Id.* at 4:73-77. It is Mr. Glenn’s opinion that due to the age, condition, and serviceability of the Rock Spring water system, the entire water storage, transmission, and distribution system require replacement. *Id.* at 5:91-93. Mr. Glenn has outlined a plan over the course of five to ten years that costs approximately \$20,000,000.00 to upgrade the Rock Spring water system. *Id.* at 5:98-108, 6:109-112. Considering the testimony from Mr. Heiser, Ms. McCaulley, and Mr. Glenn, the evidence presented by SCBWA clearly establishes its technical, managerial, and financial fitness to acquire the Rock Spring water system.

OCA agrees that SCBWA is fit to acquire the Rock Spring water system. Mr. DeMarco testified that while SCBWA is not entitled to a presumption of fitness under the public utility code, SCBWA is financially, managerially, and technically capable of acquiring the Rock Spring water system. OCA Statement 1 at 13:4-19, 14:1-19, 15:1-12. According to Mr. DeMarco, the acquisition of Rock Spring by SCBWA would further the Commission's policy statement that encourages the regionalization and consolidation of water systems in a way that benefits customers. *Id.* at 23:4-7. In fact, under Section 529(c)(4) of the Public Utility Code, 66 Pa.C.S. § 529(c)(4), the Commission shall consider "[t]he expansion of the franchise area of the acquiring capable public utility so as to include the service area of the small water...utility to be acquired." 66 Pa.C.S. § 529(c)(4). The acquisition of Rock Spring by SCBWA is akin to a natural expansion of the SCBWA's service area.

SCBWA has approximately 15,000 customers and is located approximately 0.8 miles from the Rock Spring water system. I&E Statement 1 at 8:17-18, 9:3-4; PAWC Statement No. 1 at 3:6. SCBWA has provided technical assistance to Rock Spring since 1993. I&E Statement 1 at 9:14-15. According to Mr. Keller, SCBWA has acquired other small water systems that were in poor condition, "and the acquisition of Rock Spring would allow SCBWA to expand and develop additional sources of water creating a more efficient water system." *Id.* at 9:10-14. PAWC has also testified that SCBWA acquiring the Rock Spring water system would be practical and economically feasible. PAWC Statement No. 1 at 7:21-23, 8:1-14. Significantly, Mr. Guntrum testified that SCBWA would be able to spend \$4,000,000.00 less than PAWC bringing the system back into compliance because SCBWA could do an interconnection between the systems. This would rid SCBWA of the need for the well, treatment building, and storage tank owned by Rock Spring. PAWC Statement No. 1-Supp at 8:1-7.

When describing why SCBWA is in the best position to acquire the Rock Spring water system, Mr. DeMarco testified as follows:

SCBWA would need to install less than one mile of mains in order to interconnect with the Rock Spring system. Once interconnected, SCBWA would be able to potentially eliminate the water production from Rock Spring operating well, reducing the number of duplicative facilities and creating economies of scale. If approved, this acquisition would also provide greater environmental and economic benefits to customers by reducing the amount of unaccounted-for water produced by Rock Spring at present, reducing leaks and repairing meters, and beginning to monitor volatile organic chemicals. In other words, SCBWA's acquisition of Rock Spring is more than merely reducing the number of water service providers in Pennsylvania by one; rather, interconnecting Rock Spring to a capable system only 4000 feet away, if permitted by the Commission, just makes sense.

OCA Statement 1 at 23:7-17. Additionally, Mr. Keller from I&E testified that he recommends that the Rock Spring water system be acquired by a capable utility, and he acknowledged that SCBWA may be a better fit given its closer proximity to the Rock Spring Water system. Mr. Keller also noted that I&E would not necessarily oppose SCBWA acquiring the system if it demonstrated it is financially, managerially, and technically capable of acquiring and operating the Rock Spring water system. I&E Statement No. 1 at 4:14-18, 5:1-2.

Mr. Guntrum from PAWC expressed a similar sentiment in his direct testimony:

Although PAWC is able and willing to acquire Rock Spring, it is PAWC's position that SCBWA is the logical choice for acquiring Rock Spring. SCBWA has expressed interest in acquiring Rock Spring and Rock Spring has indicated a willingness to sell to SCBWA. SCBWA is more proximate to Rock Spring by approximately 12 miles. SCBWA is legally, financially, and technically capable of acquiring Rock Spring. Moreover, the acquisition of SCBWA would promote regionalization and consolidation of water systems more effectively because of the proximity of SCBWA's existing system.

PAWC Statement No. 1 at 4:12-18. Thus, PAWC has acknowledged that SCBWA is capable of acquiring and operating the Rock Spring water system, and that SCBWA is in a better position to do so than PAWC.

According to Department witnesses Chad Miller and Mark Accettulla, it is the opinion of the Department that Aqua, PAWC, and SCBWA are all capable of operating and bringing the Rock Spring water system back into compliance. DEP Statement No. 1 at 6:4-5; DEP Statement No. 4 at

9:9-19. Each of these companies strive to exceed the Department's regulatory requirements. DEP Statement No. 4 at 9:11-12. Mr. Accettulla, testified that:

[E]ach of these companies have shown that they employ dedicated and experienced staff, successfully operate and maintain their respective public water systems, and take pride in providing safe and compliant water to their customers. All these entities would have the technical, managerial, and financial capability to acquire and operate [Rock Spring], and strive to optimize their respective water systems and exceed DEP regulatory requirements.

DEP Statement No. 4 at 9:13-17. Any of these three companies would provide superior water service to the Rock Spring customers compared to the current grossly inadequate service they receive now.

However, in the Department's opinion, SCBWA is best situated to acquire the Rock Spring water system. DEP Statement No. 1 at 6:5-10; DEP Statement No. 2 at 9:1-17; DEP Statement No. 4 at 9:18-37. *See also* OCA Statement 1 at 2:11-17. As summarized by Mr. Accettulla,

SCBWA is the closest public water system to [Rock Spring] with a main office located approximately 7 miles from the center of the [Rock Spring] system and already serves customers in the Pine Grove Mills area of Ferguson Township. SCBWA currently has a production capacity of 8.0 MGD and an approximate system demand of 5.1 MGD. SCBWA's physical proximity to the [Rock Spring] system and 2+ MGD available capacity would allow for interconnection and regionalization of the SCBWA and [Rock Spring] systems. This would allow SCBWA to provide their treated water to [Rock Spring] customers, and would allow abandonment of the existing [Rock Spring] well, treatment plant, and pumping equipment (rather than require capital improvement projects to replace aging infrastructure and elimination of a well pit). SCBWA has successfully acquired and merged other water systems since 1977, including the Patton Township Water Authority, the Harris Township Water Company, the Ferguson Township Water Authority, and the Harvard Road Water Company. SCBWA's physical proximity would allow for fast response times during problems or emergencies, as there are approximately 43 full-time employees based out of their office at 1201 West Branch Road, State College. Previous discovery responses indicate that SCBWA, upon an acquisition of the [Rock Spring] system, would anticipate adding up to three additional employees to operate and maintain the [Rock Spring] portion of the distribution system. Additionally, SCBWA has already engaged in negotiations with [Rock Spring] regarding sale of the water system, has been provided with some available records, and has toured the [Rock Spring] facilities.

DEP Statement No. 4 at 9:20-37; DEP Exhibit 39 at 5. Therefore, there are clear advantages to SCBWA acquiring the Rock Spring water system, and there is substantial evidence that shows that SCBWA is technically, managerially, and financially fit to acquire the Rock Spring water system and operating it in compliance with applicable statutory and regulatory standards. In the alternative, the evidence shows that PAWC is also technically, managerially, and financially fit to acquire the Rock Spring water system and operating it in compliance with applicable statutory and regulatory standards.

6. Rates for preacquisition customers will not unreasonably increase.

There is substantial evidence of record that demonstrates that the acquisition of the Rock Spring water system should not unreasonably increase the rates of either PAWC's or SCBWA's preacquisition customers. As such, the sixth element of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), has been met. 66 Pa.C.S. § 529(a)(6).

The rates of PAWC's preacquisition customers should not unreasonably increase due to the acquisition of the Rock Spring water system. Mr. Keller testified that the acquisition of Rock Spring's customers is unlikely to unreasonably affect the rates for PAWC's customers as Rock Spring's approximately 500 customers would be less than 0.1 percent of all water customers served by PAWC. I&E Statement 1 at 12:17-19, 13:1-2. According to Mr. Keller, PAWC has acquired other small water systems like Rock Spring in Section 529 proceedings without a significant increase in rates for existing customers. I&E Statement 1 at 13:3-9. Furthermore, Mr. DeMarco testified that if PAWC acquired the Rock Spring water system, "Rock Spring will be incorporated into PAWC's existing tariff as a separate Rock Spring division, which would be managed by nearby established PAWC operations." OCA Statement 1 at 8:17-19. Dr. Chard testified that PAWC would have to include the Rock Spring water system in its overall water revenue requirement and spread the costs amongst its water customer base, which would result in higher costs to the preacquisition

customers. PAWC Statement No. 3 at 4:9-12. However, Dr. Chard also concluded that spreading the costs amongst its customers would not cause its rates to be unreasonably increased. *Id.* at 4:18-21. Additionally, Dr. Chard presented SCBWA as a more affordable alternative to be considered in this matter. *Id.* at 4:22-23, 5:1-2.

The evidence also reflects that the rates of SCBWA's preacquisition customers should not unreasonably increase due to the acquisition of the Rock Spring water system. Mr. DeMarco testified that if SCBWA acquired the Rock Spring water system, there would not be an increase in rates to existing customers as a direct result of the acquisition. OCA Statement 1 at 17:10-11. Ms. McCaulley also testified that the rates of SCBWA's preacquisition customers would not increase if SCBWA acquired the Rock Spring water system. SCBWA Statement No. 2 at 4:67-68. Therefore, the evidence clearly establishes that neither the rates of PAWC's or SCBWA's preacquisition customers will increase unreasonably if these utilities acquire the Rock Spring water system.

Since there is substantial evidence establishing that the six elements of Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), have been met, the Commission should grant I&E's Petition and order either PAWC or SCBWA to acquire Rock Spring. 66 Pa.C.S. § 529(a)(1)-(6).

B. The Commission Should Order A Capable Utility To Acquire Rock Spring.

The evidence put forward by I&E, the Department, OCA, PAWC, and SCBWA establishes a *prima facie* case that the Commission should order a capable utility to acquire Rock Spring. As discussed above, all elements and considerations under Section 529 of the Public Utility Code, 66 Pa.C.S. § 529, are supported by substantial evidence. Generally, the proponent of a rule or order has the burden of proof. *See* 66 Pa.C.S. § 332(a). I&E filed the Petition and has the burden of establishing a *prima facie* case that the acquisition of Rock Spring would be in the public interest and in compliance with Section 529 of the Public Utility Code, 66 Pa.C.S. § 529. *See* 66 Pa.C.S. § 529(i). However, any party may present or rebut a *prima facie* case in support of its position in

a Section 529 proceeding. *Pa. P.U.C. v. Delaware Sewer Company*, Docket No. P-2014-2404341, 2016 WL 406563 at 27-28 (Pa.P.U.C. Jan. 28, 2016).

When considering the evidence put forward by I&E, the Department, OCA, PAWC, and SCBWA, there is no doubt that the acquisition of Rock Spring by a more capable utility is in the public interest. The Department has shown that Rock Spring has been out of compliance with the Safe Drinking Water Act for 19 years, and Rock Spring does not have the willingness or the capability to bring the water system back into compliance. The record overwhelmingly supports acquisition by either SCBWA or PAWC, who are both more than capable of operating and acquiring the system and bringing it back into compliance.

Rock Spring did not put forth any evidence establishing that it is technically, managerially, and financially able to operate the water system and able to bring it back into compliance with the Safe Drinking Water Act and the Department's regulations. *See* 66 Pa.C.S. § 529(c)(1). In fact, the record demonstrates that Rock Spring's compliance with the Department for the past 19 years has been abysmal, and Rock Spring has allowed the water system to deteriorate to the point where it cannot maintain adequate, efficient, safe, and reasonable service and facilities in the future. *See* 66 Pa.C.S. § 529(a)(3). Thus, Rock Spring did not meet its burden of proving its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates under Section 529(i)(1) of the Public Utility Code, 66 Pa.C.S. § 529(i)(1). Hence, Rock Spring cannot show by a preponderance of the evidence that it should maintain operational control of the water system and not be acquired by another capable utility under the provisions of Section 529 of the Public Utility Code, 66 Pa.C.S. § 529. Therefore, for all the forgoing reasons, the Commission should order the acquisition of the Rock Spring water system by a more capable utility.

V. **CONCLUSION**

WHEREFORE, the Department respectfully requests that the Commission grant I&E's Petition to Request the Commission Open a Section 529 Investigation into the Acquisition of Rock Spring Water Company and order a capable utility, namely SCBWA or PAWC, to acquire the Rock Spring Water Company.

Respectfully Submitted,

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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APPENDIX A

Proposed Findings of Fact

The Department proposes the following findings of fact:

1. Rock Spring Water Company (“Rock Spring”) is a community water system located in Ferguson Township, Centre County, Pennsylvania. The water system serves approximately 1,000 people on average via approximately 487 service connections. DEP Statement No. 4 at 2:33-34, 3:1.

2. J. Roy Campbell (“Mr. Campbell”) is the president of Rock Spring and served as the certified operator in responsible charge for the Rock Spring water system prior to Pennsylvania American Water Company (“PAWC”) being appointed to act as receiver in March of 2025. DEP Statement No. 2 at 2:17-20; DEP Statement No. 3 at 3:12-14; DEP Statement No. 4 at 3:6-8.

3. Elizabeth Campbell (“Ms. Campbell”) is a shareholder of Rock Spring and was also the secretary and treasurer for Rock Spring. DEP Statement No. 2 at 2:23-24; DEP Statement No. 3 at 3:19-20; DEP Statement No. 4 at 3:13.

4. Mr. Campbell has a history of being generally unresponsive to the Department. DEP Statement No. 3 at 3:26-34; DEP Statement No. 4, at 3:19-33. When pressed to address issues with the Rock Spring water system, Mr. Campbell often defaults to a statement that he is going to sell the water system. DEP Statement No. 1 at 2:31-33, 3:1; DEP Statement No. 2 at 7:31-33, 8:1-16; DEP Statement No. 4 at 4:14-21; DEP Exhibit 37.

5. Ms. Campbell has a history of being generally unresponsive to the Department. Ms. Campbell typically either does not respond at all to Department emails or sends an incoherent response. DEP Statement No. 1 at 3:1-3; DEP Statement No. 3 at 3:35-40, 4:1-4; DEP Statement No. 4 at 4:1-13; DEP Exhibit 49 at 1-3.

6. Rock Spring, including Mr. Campbell and Ms. Campbell, are financially, managerially, and technically incapable of bringing the water system back into compliance with the Safe Drinking Water Act and the Department's regulations. DEP Statement No. 1 at 3:10-17; DEP Statement No. 2 at 8:21-25; DEP Statement No. 4 at 8:25-27.

7. Rock Spring still has outstanding violations with the Department concerning unaccounted-for water loss and data integrity issues related to entry point chlorine sampling. DEP Statement No. 3 at 4:29-30. Six violations against Mr. Campbell as an operator also remain outstanding. *Id.* at 4:30-31.

8. Rock Spring, including Mr. Campbell and Ms. Campbell, are incapable of bringing the water system back into compliance with the Public Utility Code and the Commission's regulations. DEP Statement No. 1 at 3:10-17.

9. On June 20, 2006, the Department and Rock Spring entered into a Consent Order and Agreement ("2006 CO&A") to address Rock Spring's high level of unaccounted-for water loss. DEP Statement No. 2 at 3:13-14.

10. Unaccounted-for water loss, sometimes also referred to as non-revenue water, is water that is produced, but is ultimately lost or wasted and does not reach the customer or end user. Mathematically, it is the total water produced minus water billed to customers and minus other quantifiable water usage. DEP Statement No. 2 at 4:22-25.

11. Rock Spring is in violation of the 2006 CO&A. Rock Spring did not lower its unaccounted-for water loss to below 30% within five years as required by the 2006 CO&A. DEP Statement No. 2 at 3:13-16; and DEP Exhibit 19 at 11-12.

12. The 2006 CO&A required Rock Spring to submit a Corrective Action Plan ("2006 CAP"). The Department received the 2006 CAP on August 24, 2006. DEP Exhibit 51 at 1.

13. According to the 2006 CAP, if unaccounted-for water loss was still above 30% by September 30, 2010, Rock Spring was required to begin a water line replacement project to be completed by August 31, 2011. DEP Statement No. 5 at 2:8-11; DEP Exhibit 51 at 6.

14. Rock Spring never identified or implemented a final waterline replacement project as required by the 2006 CAP submitted by Rock Spring in response to the 2006 CO&A. DEP Statement No. 2 at 3:13-18; DEP Statement No. 5 at 2:8-11.

15. On October 13, 2012, Rock Spring filed a base rate case at *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013). As part of the Joint Settlement of the base rate case, Rock Spring was required to reduce its unaccounted-for water loss by 50 percent over 66 months to 23.3 percent. I&E Statement No. 1 at 2:11-14.

16. Rock Spring has failed to comply with the terms of the Joint Settlement in *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), approved by the Commission on June 13, 2013. OCA Statement 1 at 18:13-20, 19:1-4. Rock Spring failed to reach its benchmark of 63.2 percent within 18 months, as well as the 10 percent reductions per year required by the Joint Settlement. OCA Statement 1 at 2:14-17.

17. On January 10, 2018, the Department issued a Notice of Violation (“NOV”) to Rock Spring that documented various treatment technique and public notification violations related to a loss of chlorine disinfection incident that occurred in December of 2017. DEP Statement No. 5 at 2:17-19; DEP Exhibit 52.

18. On May 21, 2018, the Department issued a NOV to Rock Spring that documented various violations for failure to monitor for and report the results of volatile organic chemicals, the failure to report all chlorine residual measurements, and multiple inaccuracies or omissions in the calendar year 2017 Consumer Confidence Report. DEP Statement No. 5 at 2:19-22; DEP Exhibit 53.

19. On August 27, 2018, the Department issued an Administrative Order (“2018 Department Order”) to Rock Spring to address the water system’s issues with high unaccounted-for water loss. DEP Statement No. 2 at 3:18-20; DEP Exhibit 20.

20. The 2018 Department Order required the submittal of a CAP and implementation schedule to address Rock Spring’s unaccounted-for water loss. DEP Exhibit 20 at 5. Rock Spring submitted the CAP to the Department on April 23, 2019 (“2019 CAP”), and the Department approved the 2019 CAP with conditions via letter on April 24, 2019. DEP Exhibit 22 at 36. The 2019 CAP required Rock Spring to 1) replace the supervisory control and data (“SCADA”) system; 2) meter the unmetered service connections; 3) conduct complete system evaluations and leak detection surveys on an annual basis utilizing a professional leak detection company; 4) identify and implement a waterline replacement project based on the results of previous distribution system leak surveys if unaccounted-for water loss remained greater than 30% by December 2021, to be approved by the Department prior to implementation; 5) ensure all easements and permits are in place for the waterline replacement project; and 6) complete construction of the waterline replacement project by December 2023. DEP Statement No. 5 at 3:1-24; DEP Exhibit 22 at 3-7, 31, and 36.

21. The Department sent two NOV’s to Rock Spring regarding the failure to install the SCADA system, dated January 29, 2020, and March 24, 2021. DEP Statement No. 2 at 2:34-35; DEP Exhibit 17; and DEP Exhibit 18. Rock Spring completed the installation of the SCADA system in July 2020, which was confirmed by the Department on May 5, 2021. DEP Statement No. 5 at 3:5-6. Rock Spring did not properly inform the Department of the installation of the SCADA system. DEP Statement No. 2 at 2:28-35, 3:1-6.

22. Rock Spring is in violation of the 2018 Department Order. Rock Spring did not lower its unaccounted-for water loss to below 30 percent within 5 years as required by the 2018 Department Order. DEP Statement No. 2 at 3:27-31, 4:1; DEP Exhibit 20.

23. According to the 2019 CAP submitted by Rock Spring as a requirement of the 2018 Department Order, if unaccounted-for water loss was still above 30 percent by December 2021, Rock Spring was required to begin a water line replacement project identified in the 2019 CAP. The 2019 CAP Approval Letter required Rock Spring to refine the water line replacement project based on the three years prior of leak detection surveys. The waterline replacement project identified was to be completed by December 2023. DEP Statement No. 1 at 4:29-35, 5:1; DEP Statement No. 2 at 4:1-16; DEP Exhibit 22 at 3-7 and 36.

24. Rock Spring never identified or implemented a final waterline replacement project by December 2023 as required by the 2019 CAP submitted by Rock Spring as required by the 2018 Department Order. Rock Spring also failed to perform the prerequisite leak detection work. DEP Statement No. 1 at 5:1-2; DEP Statement No. 2 at 4:35-36, 5:1-2; DEP Statement No. 5 at 3:11-20 and 23-24.

25. Rock Spring has not provided documentation to the Department indicating that all unmetered connections have been metered and that all easements and permits are in place for the waterline replacement project. DEP Statement No. 5 at 3:20-22.

26. The 2018 Department Order also required Rock Spring to submit quarterly reports detailing steps and actions taken in the previous calendar quarter to comply with the 2019 CAP, as well as various data regarding accounted and unaccounted-for water usage, a running annual average calculation of unaccounted-for water loss, and information on any leaks detected and repaired. DEP Statement No. 2 at 4:16-20.

27. Rock Spring chronically failed to timely submit the required quarterly reports with sufficient information, and the Department issued NOVs related to insufficient or late quarterly report submittal on May 24, 2019, with a follow up letter on August 6, 2019, March 24, 2021, January 3, 2023, January 12, 2024, and April 12, 2024. DEP Statement No. 2 at 5:7-14; DEP Statement No. 5 at 3:24-28; DEP Exhibit 23; DEP Exhibit 24; DEP Exhibit 25; DEP Exhibit 26; DEP Exhibit 27; and DEP Exhibit 28.

28. The quarterly report the Department received from Rock Spring on November 30, 2024, for the months of August 2024, September 2024, and October 2024 indicated that the unaccounted-for water loss for that quarter was 56.66% with a running annual average of unaccounted-for water loss of 68.76%. DEP Statement No. 2 at 5:17-19; DEP Exhibit 29 at 1.

29. The last quarterly report the Department received from Rock Spring before PAWC started acting as receiver on February 28, 2025, for the months of November 2024, December 2024, and January 2025 indicated that the unaccounted-for water loss for that quarter was 60.33% with a running annual average of unaccounted-for water loss of 65.03%. DEP Statement No. 2 at 5:26-29; DEP Exhibit 29 at 4.

30. The first quarterly report the Department received from PAWC acting as receiver from Rock Spring on May 30, 2025, for the months of February 2025, March 2025, and April 2025 indicated that the unaccounted-for water loss for that quarter was 52.49% with a running annual average of unaccounted-for water loss of 59.79%. DEP Statement No. 2 at 6:3-7; DEP Exhibit 29 at 6.

31. The most recent quarterly report received from PAWC acting as receiver for Rock Spring on August 29, 2025, for the months of May 2025, June 2025, and July 2025 indicated that the unaccounted-for water loss for the quarter was 39.86% with a running annual average of unaccounted-for water loss of 52.34%. DEP Statement No. 5 at 4:13-16; DEP Exhibit 54.

32. The Department filed a Petition to Enforce the 2018 Department Order in October 2023, and the Commonwealth Court granted the Department's Petition to Enforce after a hearing on January 18, 2024. DEP Statement No. 2 at 6:10-13; DEP Exhibit 31.

33. The Commonwealth Court's January 18, 2024, Order required that Rock Spring: 1) Submit a written report within 90 days prepared by a professional engineer identifying Rock Spring's final water line replacement project and providing various documentation related to the project's design and implementation; 2) Complete construction of the identified water line replacement project and reduce the system's unaccounted-for water loss to 30% or less on a running annual average basis by December 31, 2024; and 3) Continue to fully comply with the other terms and conditions of the Department's August 2018 Department Order. DEP Statement No. 2 at 6:16-22; DEP Exhibit 31.

34. Rock Spring failed to comply with multiple parts of the Commonwealth Court's January 18, 2024, Order. The Department did not receive the required engineering report, despite the Department sending a reminder letter to Rock Spring dated May 8, 2024. Rock Spring also continued to fail to comply with other parts of the 2018 Department Order regarding the submission of quarterly reports. DEP Statement No. 2 at 6:26-30; DEP Exhibit 31; DEP Exhibit 32.

35. The Department filed an Application for Contempt in June 2024. The Commonwealth Court granted the Department's Application for Contempt on July 24, 2024, and found Rock Spring in contempt of the January 18, 2024, Order. DEP Statement No. 2 at 6:30-33; DEP Statement No. 5 at 4:1-5; DEP Exhibit 33.

36. The Commonwealth Court's July 24, 2024, Order required Rock Spring to 1) Submit the engineering report within 30 days; 2) Pay a judgment of \$1,500.00; and 3) Continue to

fully comply with the other terms and conditions of the Court's January 18, 2024, Order. DEP Statement No. 2 at 6:33, 7:1-3; DEP Exhibit 33.

37. The Department did not receive the required engineering report despite the Department sending a reminder letter to Rock Spring dated August 8, 2024. DEP Statement No. 2 at 7:3-4; DEP Statement No. 5 at 4:5-8; DEP Exhibit 34.

38. On September 24, 2024, Rock Spring provided a copy of a contract with Century Engineering that was not sufficient to cover the scope of work required to satisfy requirements of the Commonwealth Court's July 2024 Order. DEP Statement No. 2 at 7:8-11; DEP Exhibit 35.

39. The Department filed a Certification of Non-Compliance regarding the Commonwealth Court's July 2024 Order in October 2024. DEP Statement No. 2 at 7:11-12.

40. On October 10, 2024, the Department met with Mr. Campbell and his contracted engineering firm, Century Engineering, to discuss the scope of the work needed to comply with the Commonwealth Court's January 18, 2024, and July 24, 2024, Orders. DEP Statement No. 2 at 7:16-24.

41. Mr. Campbell indicated the company would not spend the money necessary to replace the distribution system to lower the water system's unaccounted-for water loss below 30%. DEP Statement No. 1 at 3:14-17.

42. Mr. Campbell refused to have Century Engineering prepare the court ordered report and indicated that he wanted to sell the Rock Spring water system. DEP Statement No. 2 at 7:30-33.

43. On October 17, 2018, the Department assessed a \$40,000.00 civil penalty against Rock Spring in large part due to Rock Spring's failure to comply with the 2006 CO&A. DEP Statement No. 2 at 3:20-22; and DEP Exhibit 21.

44. Rock Spring did not pay the Department's Assessment of Civil Penalty issued in October 2018, in the amount of \$40,000.00, and it is now entered as a judgment in the Centre County Court of Common Pleas at Docket No. 2021-2499. DEP Statement No. 2 at 3:22-24; DEP Statement No. 4 at 8:19-20.

45. Nathan White, former Sanitarian for Centre County, completed one full inspection, seven partial inspections, two complaint inspections, and two administrative inspections at the Rock Spring water system. DEP Statement No. 3 at 3:2-5.

46. During Mr. White's time as a sanitarian with the Department, the Rock Spring water system has incurred five significant deficiencies, 14 minor violations, 30 minor deficiencies, and 80 valid monitoring violations from fiscal year 2021 to fiscal year 2025. DEP Statement No. 3 at 4:22-24. Six violations have been cited against Mr. Campbell's operator's license due to his negligence as an operator. DEP Statement No. 3 at 4:27-28.

47. On November 6, 2023, Mr. White and his supervisor, Mark Accettulla, conducted a full inspection of the Rock Spring water system. During this inspection, the Department found six minor violations and 30 minor deficiencies. DEP Statement No. 3 at 5:24-28; DEP Exhibit 2. The Department conducted a follow up inspection on December 6, 2023, and found another minor violation after discovering the sodium hypochlorite used for drinking water treatment did not meet ANSI/NSF 60 standards. DEP Statement No. 3 at 4:31-37; DEP Exhibit 2.

48. On December 6, 2023, the Department issued a NOV for failure to meet design standards under 25 Pa. Code § 109.602, failure to use chemicals that are certified by NSF/ANSI standard to NSF 60 under 25 Pa. Code § 109.606, failure to provide treatment as permitted under 25 Pa. Code § 109.504(c), and failure to operate and maintain under 25 Pa. Code § 109.4. DEP Statement No. 3 at 6:1-33, 7:1-5; DEP Exhibit 3.

49. The Department requested that Rock Spring Water Company consult with the Department by January 5, 2024, and provide a written response by January 20, 2024, detailing how the minor violations will be addressed and proposing deadlines to address the minor violations. Rock Spring met the consultation deadline but failed to provide an appropriate written response by January 20, 2024. DEP Statement No. 3 at 7:9-13.

50. On April 12, 2024, Mr. White and Sasha Minium, Environmental Group Manager, conducted an on-site inspection due to Rock Spring's failure to provide a written response. DEP Statement No. 3 at 7:16-18. While some of the violations had been addressed, the Department elevated three remaining violations to the level of a significant deficiency under 25 Pa. Code § 109.4: 1) failing to operate and maintain the storage tank, 2) moving the chemical injection point without a permit, and 3) the well pit not being well drained. DEP Statement No. 3 at 7:19-30; DEP Exhibit 4. Ms. Minium also delivered a NOV to Rock Spring for failing to comply with the quarterly report requirement of the 2018 Department Order. DEP Statement No. 3 at 7:31-32; DEP Exhibit 28.

51. On April 18, 2024, the Department issued Rock Spring an NOV for the significant deficiencies under 25 Pa. Code § 109.4. DEP Statement No. 3 at 8:3-4; DEP Exhibit 5.

52. The Department asked Rock Spring to consult with the Department by May 18, 2024, to provide a written response to the Department by June 2, 2024, and to correct the significant deficiencies by August 16, 2024. DEP Statement No. 3 at 8:8-10; DEP Exhibit 5.

53. On May 29, 2024, the Department conducted an inspection of the Rock Spring water system in response to a complaint received about a main break on Beaver Branch Road that had been occurring for six months. DEP Statement No. 3 at 8:13-14; DEP Exhibit 6. The Department took free chlorine samples at two residences and two bacteriological samples from

one residence. Both bacteriological samples were positive for total coliform. DEP Statement No. 3 at 8:19-23; DEP Exhibit 6.

54. On June 7, 2024, the Department issued a field order to Rock Spring to repair the main break. Mr. Campbell stated to Mr. White that he was aware of the leak, but he did not think it was severe enough to warrant a quick repair. DEP Statement No. 3 at 8:29-32; DEP Exhibit 6; DEP Exhibit 7.

55. The field order required Rock Spring to repair the leak within 7 days and to follow the loss of positive pressure policy when conducting the repairs. DEP Statement No. 3 at 9:3-5; DEP Exhibit 7; DEP Exhibit 44.

56. On June 7, 2024, the Department issued a NOV directing Rock Spring to comply with the field order. DEP Statement No. 3 at 9:28-29; DEP Exhibit 8.

57. On August 22, 2024, the Department conducted an inspection in response to a complaint concerning a service line leak on Beaver branch Road. The Pennsylvania Rural Water Association had determined that the leak was on Rock Spring's side of the service line back on August 2, 2024. DEP Statement No. 3 at 10:1-10; DEP Exhibit 9.

58. Rock Spring had made no progress toward repairing the leak on September 13, 2024. Therefore, the Department cited Rock Spring under 25 Pa. Code § 109.4(3) and issued a NOV on September 13, 2024, requesting Rock Spring to consult with the Department by October 13, 2024, and to provide a written response by October 28, 2024. DEP Statement No. 3 at 10:19-29; DEP Exhibit 10.

59. Rock Spring repaired the leak approximately 4 months after its detection on November 4, 2024. DEP Statement No. 3 at 10:32-33; DEP Exhibit 15.

60. On September 12, 2024, the Department conducted an administrative inspection to document violations cited against Mr. Campbell's operator's license. DEP Statement No. 3 at 11:1-3.

61. The Department found that Mr. Campbell had been previously cited for violating the loss of positive pressure policy despite being provided the policy by the prior sanitarian, Valerie Elsasser, in 2015 and again per Rock Spring's request on November 17, 2023. DEP Statement No. 3 at 11:4-9; DEP Exhibit 2; DEP Exhibit 4; DEP Exhibit 13 at 1; DEP Exhibit 43; DEP Exhibit 44. The Department also found that there were multiple documented incidents of lost positive pressure with no boil water advisory issued dating back to 2018. DEP Statement No. 3 at 11:10-11.

62. The Department also found that the issue concerning the well pit flooding had not been properly addressed. Despite Rock Spring's claims that it had installed a sump pump at the well, the Department conducted a site visit on August 22, 2024, and September 3, 2024, and found that Rock Spring had not installed the sump pump in the well pit. DEP Statement No. 3 at 11:18-28.

63. The Department also documented violations within the September 12, 2024, inspection report for moving the sodium hypochlorite injection point without a permit, failing to provide appropriate written responses to the Department, failing to comply with the Commonwealth Court Orders, and failing to respond to a main break for six months. DEP Statement No. 3 at 11:29-32.

64. On September 13, 2024, the Department issued a NOV against Mr. Campbell as the certified operator of the Rock Spring water system under the Water and Wastewater Systems Operators' Certification Act, Act of November 18, 1968, P.L. 1052, *as amended*, 63 P.S. §§ 1001-1015.1 ("Operators' Certification Act"). DEP Statement No. 3 at 11:33-35, 12:1.

65. The NOV contained the following violations: 1) failure to prepare and control chemical addition for water or treatment under 25 Pa. Code § 302.1201(b)(5); 2) failure to observe and take the necessary actions in response to variations in operating conditions under 25 Pa. Code § 302.1201(b)(6); 3) failure to provide for proper source water protection under 25 Pa. Code § 302.1201(b)(11); and 4) failure to prepare, review, and submit applicable notices and reports to appropriate persons or agencies under 25 Pa. Code § 302.1201(b)(15). DEP Statement No. 3 at 12:4-31, 13:1-18; DEP Exhibit 12.

66. The Department requested that Mr. Campbell provide a written report to the Rock Spring shareholders detailing violations and enforcement actions against Rock Spring within 14 days of receipt of the NOV. The Department also requested a copy of the documentation sent to the Rock Spring shareholders, as well as a list of the shareholders. DEP Statement No. 3 at 13:22-25.

67. The Department further requested that Mr. Campbell develop a process control plan under 25 Pa. Code § 302.1203 within 30 days of receipt of the NOV. DEP Statement No. 3 at 13:26-27.

68. While Mr. Campbell did provide the information requested concerning the shareholders, he submitted an insufficient process control plan to the Department and did not respond to the Department's request for a compliant process control plan. DEP Statement No. 3 at 13:31, 14:1-6.

69. The Department issued Rock Spring a Public Water Supply Permit ("Permit") on March 30, 2011. DEP Exhibit 40.

70. To verify that 4-Log treatment is being achieved, the Permit requires Rock Spring to secure a free chlorine residual sample at Entry Point #102 each day that water from Well #1 is served to the public and requires that the results of this daily testing be recorded. The results are

also required to be reported to the Department monthly by the 10th of the month following sample analysis. DEP Statement No. 4 at 5:4-7. DEP Exhibit 40 at 1 and 4.

71. The Department has cited violations and issued NOV's for failing to comply with the conditions of the Permit on November 30, 2015, March 11, 2025, and March 17, 2025. DEP Statement No. 3 at 15:22-27; DEP Statement No. 4 at 5:17-20; DEP Exhibit 13 at 2; DEP Exhibit 41; DEP Exhibit 42.

72. Between January 16, 2025, and January 24, 2025, Mr. White monitored activity at the entry point hydrant and collected chlorine samples at the entry point hydrant to ensure that continuous disinfection was being maintained in accordance with the Permit. Mr. White did not observe any activity by Rock Spring or Mr. Campbell at the entry point during his investigation. DEP Statement No. 3 at 16:1-39, 17:1-8; DEP Exhibit 41 at 4-5.

73. On January 22, 2025, Bureau of Investigation staff assisted Mr. White in his investigation by conducting surveillance at the entry point hydrant. DEP Statement No. 3, at 17:3-4; DEP Exhibit 41 at 1-5. Mr. White reviewed the surveillance report and cross referenced the findings with the sample results submitted by Rock Spring. DEP Statement No. 3 at 17:4-5.

74. The Department issued a NOV dated March 11, 2025, due to Rock Spring submitting data claiming it took an Entry Point #102 chlorine sample at 18:30 p.m. on January 22, 2025, while Bureau of Investigation staff were conducting surveillance at the entry point. DEP Statement No. 3 at 17:15-19; DEP Exhibit 41 at 1 and 5.

75. The Department cited Rock Spring for the failure to accurately report data under 25 Pa. Code § 109.701(i)(1), the failure to monitor entry point chlorine under 25 Pa. Code § 109.1305(a)(2)(i), and the failure to follow a permit condition under 25 Pa. Code § 109.703(a). DEP Statement No. 3 at 17:11-33, 18:1-8; DEP Exhibit 41.

76. The Department cited Mr. Campbell for the failure to follow a permit condition under 25 Pa. Code § 302.1201(a). DEP Statement No. 3 at 18:10-28; DEP Exhibit 41. The Department requested that Mr. Campbell respond to the NOV within 45 days, but he failed to respond. DEP Statement No. 3 at 18:29-30.

77. On February 26, 2025, Mr. Accettulla conducted an inspection to verify whether chlorine residual sampling was being conducted at the Entry Point #102 hydrant. Mr. Accettulla was the only person present at the entry point from 17:17 p.m. through 19:32 p.m. DEP Statement No. 4 at 5:23-34, 6:1-6; DEP Exhibit 42 at 4.

78. The Department issued a NOV dated March 17, 2025, due to Rock Spring submitting data from a chlorine sample that was claimed to have been taken at Entry Point #102 at 18:15 p.m. on February 26, 2025, while Mr. Accettulla was conducting his inspection at the entry point. DEP Exhibit 42 at p. 30. Mr. Campbell was complicit in submitting falsified data, and the Department cited two violations against Rock Spring as a public water system and cited one violation against Mr. Campbell as a certified operator. DEP Statement No. 4 at 6:9-30, 7:1-2; DEP Exhibit 42 at 1-2.

79. Mr. Campbell has not responded to the NOVs dated March 11, 2025, and March 17, 2025, issued before PAWC started acting as receiver of the Rock Spring water system. DEP Statement No. 4 at 4:22-24 and 8:7-18; DEP Exhibit 41; DEP Exhibit 42.

80. A significant portion of the approximately 22 miles of distribution system will need to be replaced in the Rock Spring water system, which will require multimillion dollar capital expenditures. DEP Statement No. 1 at 5:6-15; DEP Exhibit 39 at 1-2; and DEP Exhibit 38 at 1.

81. Other compliance issues at the Rock Spring water system, in addition to unaccounted-for water loss, include designing a long-term fix for water collecting in the well pit along with potential permitting, as well as planning for the rehabilitation of the finished water

storage tank. DEP Statement No. 1 at 5:20-24; DEP Statement No. 3 at 4:6-10; DEP Statement No. 4 at 7:24-28.

82. Rock Spring is not capable of properly responding to an emergency situation at the water system and has a history of not properly issuing public notices to its customers. DEP Statement No. 1 at 3:21-23. The majority of the main lines in the Rock Spring distribution system are 4-inch asbestos cement lines, which are undersized and unlikely to provide adequate fire flow. DEP Statement No. 3 at 4:11-14.

83. High, chronic unaccounted-for water loss creates public health risk, potential financial strain, and environmental concerns. DEP Statement No. 1 at 4:11-20; DEP Statement No. 6 at 3:25-34, 4:1-10.

84. When PAWC became receiver, it found that the majority of the Rock Spring distribution system is poorly constructed and subject to leaks and breakage. The treatment building is in decrepit condition and will need to be replaced. The site also does not have adequate security. PAWC Statement No. 1-Supp at 3:4-7.

85. PAWC submitted Rock Spring's 2024 Annual Drinking Water Quality Report, which was distributed to system users in May 2025. DEP Statement No. 6 at 2:8-10; DEP Exhibit 55.

86. The 2024 Annual Drinking Water Quality Report listed several instances of missed or late testing: 1) failure to monitor and report all required daily entry point chlorine residuals in January 2025 and February 2025; 2) failure to monitor and report an annual haloacetic acids sample; and 3) failure to monitor and report quarterly per- and polyfluoroalkyl substances ("PFAS") samples in the first quarter of 2024. DEP Statement No. 6 at 2:27-34, 3:1-2; DEP Exhibit 55 at 9.

87. The Department issued a NOV to Rock Spring dated November 12, 2024, for the failure to monitor or report the annual haloacetic acids sample. The Department also issued NOVs dated March 11, 2025, and March 17, 2025, related to the failure to monitor the entry point chlorine residual in January and February 2025. DEP Statement No. 6 at 3:12-15; DEP Exhibit 41; DEP Exhibit 42; and DEP Exhibit 56.

88. PAWC issued the required Tier 3 public notification in the 2024 Annual Drinking Water Quality Report and resumed the required monitoring. DEP Statement No. 6 at 3:17-18; DEP Exhibit 55 at 1-3.

89. PAWC has reported a 35% reduction in average water per day produced since becoming receiver. DEP Statement No. 1 at 5:16-19; DEP Statement No. 4 at 8:1-4; DEP Exhibit 46 at 4.

90. PAWC has made the following improvements to the Rock Spring water system: 1) installed secondary containment on the chlorine solution tank at the water treatment plant and installed an off-gas device on the chlorine feed pump; 2) installed and maintain a continuous chlorine analyzer in the water treatment plant to provide early warning and detection of disinfection treatment problems, which is tied to the SCADA system monitored 24 hours a day, seven days a week; 3) established alarms and shutdowns through the SCADA system; 4) installed new locks and security devices at the well, treatment building, and water storage tank; 5) have performed leak detection and repairs; 6) collected daily chlorine samples from Entry Point #102 in accordance with the Permit requirements; 7) moved the chlorine chemical injection point to the permitted location; 8) updated the sample site location plans for the Revised Total Coliform Rule and Disinfection Requirements Rule; 9) completed the “quarterly, initial” sampling required for PFAS chemicals; 10) removed Mr. Campbell as an available certified operator for the water system

and assigned a new operator in responsible charge; and 11) replaced the submersible pump in Well #1. DEP Statement No. 4 at 7:6-18; DEP Exhibit 45 at 2-4 and 6; DEP 46 at 2-4 and 6.

91. PAWC has: 1) identified and repaired a main line leak near 6307 West Whitehall Road and assisted Rock Spring by locating a main line leak on Rosewood Circle prior to becoming receiver; 2) identified and repaired two utility-side service line leaks on Gardner Lane; and 3) identified five customer-side service line leaks which have been repaired by the customers. DEP Statement No. 4 at 7:30-34, 8:1; DEP Exhibit 50 at 1-2.

92. There are no alternatives to acquisition of the Rock Spring water system that can accommodate the millions of dollars in repairs needed to bring the water system back into compliance. I&E Statement 1 at 6:13-18.

93. PAWC and SCBWA have estimated that it would take between \$16,000,000.00 and \$20,000,000.00 for an average of \$18,000,000.00 to repair the Rock Spring water system. OCA Statement 1 at 22:13-14.

94. If these costs were split between Rock Spring's customers, it would cost on average \$38,793.00 per customer, which only includes the capital cost calculation. *Id.* at 22: 14-16. The costs would be higher once the revenue requirement is added, and Rock Spring's customers would not be financially or economically able to support the system. *Id.* at 22:16-19.

95. The Joint Settlement at *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), required Rock Spring to attempt to sell the water system. OCA Statement 1 at 4:16-19.

96. Rock Spring has been in contact with SCBWA since 2008 and has not been able to reach an agreement concerning the acquisition of the water system. I&E Statement 1 at 6:18-21.

97. Aqua, PAWC, and SCBWA are all capable of operating and bringing the Rock Spring water system back into compliance. DEP Statement No. 1 at 6:4-5; DEP Statement No. 4 at 9:9-19.

98. While Aqua is financially, managerially, and technically capable of acquiring and operating the Rock Spring water system, there are other more proximate capable public utilities or municipal corporations that are closer and in a better position to acquire Rock Spring. OCA Statement 1 at 7:19-21-8:1-9.

99. Aqua's closest system is approximately 38 miles from Rock Spring and its closest operations system is approximately 50 miles from Rock Spring. Aqua Statement No. 1 at 3:17-19.

100. PAWC and SCBWA are the two most likely candidates to acquire the Rock Spring water system. I&E Statement 1 at 8:1-3; PAWC Statement No. 1 at 2:21-23-3:1-2.

101. PAWC is financially, managerially, and technically capable of acquiring and operating the Rock Spring water system. OCA Statement 1 at 8:13-14; I&E Statement 1 at 8:8-9.

102. PAWC has approximately 687,000 customers, and its closest water system is approximately 13 miles from the Rock Spring water system. I&E Statement 1 at 8:17-18 and 9:3-4; PAWC Statement No. 1 at 3:5.

103. PAWC holds a certificate of public convenience to own and operate water systems regulated by the Commission, and it has received permission from the Commission to own and operate several water utilities in the Commonwealth. I&E Statement 1 at 9:19 and 10:1-11.

104. PAWC has indicated in other Commission proceedings that it is capable of operating other systems similar to Rock Spring and bringing them back into compliance. I&E Statement 1 at 11:4-10 and 12:1-6.

105. PAWC is capable of operating and maintaining the Rock Spring water system in compliance with applicable environmental statutes and regulations. PAWC Statement No. 1-Supp at 4:13-22, 5:1-22, and 6:1-7.

106. PAWC would operate the Rock Spring water system as a standalone system because it is unable to interconnect to another PAWC system as the nearest PAWC system is 13 miles away. PAWC Statement No. 1-Supp at 6:11-22.

107. The costs for the capital investment plan for PAWC is approximately \$16.1 million. The plan includes major replacement of the distribution system and a new treatment building, treatment system, and tank. PAWC Statement No. 1-Supp at 7:5-9.

108. PAWC is financially fit to acquire and operate the Rock Spring water system. PAWC Statement No. 3 at 2:21-24.

109. PAWC has discovered that significant portions of the distribution system were installed on private land with no easement or other property rights secured. This includes a storage tank located on land owned by the Pennsylvania State University (“Penn State”), which is used for agricultural activities including Penn State Ag Progress Days. Rock Spring has an oral agreement with Penn State allowing the tank and distribution system on Penn State’s property in exchange for free water service. PAWC Statement No. 1-Supp at 3:12-23, 4:1.

110. PAWC has determined that this tank is critical to the operation of Rock Spring as there is only one well, and the tank provides backup to the well in case of equipment failure and water for fire flows. *Id.* at 4:1-3. If PAWC acquires the Rock Spring water system, PAWC will have to negotiate with Penn State to meter and charge for water service and to acquire an easement for the tank and distribution lines as well as ingress and egress. *Id.* at 4:3-7.

111. SCBWA is best situated to acquire the Rock Spring water system. DEP Statement No. 1 at 6:5-10; DEP Statement No. 2 at 9:1-17; DEP Statement No. 4 at 9:18-37; OCA Statement 1 at 2:11-17 and 6:20-21, 7:1-8.

112. SCBWA is interested in acquiring the Rock Spring water system and entered a non-binding letter of intent for the sale of the water system. SCBWA Statement No. 1 at 1:19-20, 2:21-22.

113. The State College Borough incorporated SCBWA on June 14, 1940. *Id.* at 2:40-41. Since then, SCBWA has expanded its service area by acquiring several other water systems. *Id.* at 3:43-61. SCBWA has also expanded its service area due to the development of several residential subdivisions and business parks. *Id.* at 4:66-71.

114. SCBWA has a Susquehanna River Basin Commission withdrawal limit of 8.0 MGD with a current average daily demand of 5.1 MGD and a peak of 6.2 MGD, and SCBWA has a significant supply reserve to accommodate additional growth. *Id.* at 4:77-80.

115. SCBWA has not had any regulatory compliance issues while supplying safe, adequate, and reliable water service to its customers. *Id.* at 4:80-82.

116. SCBWA has approximately 15,000 customer connections serving a population of over 73,000 residents. *Id.* at 5:95-96.

117. SCBWA employs 42 staff members with the organization being broken down into different departments to focus on specific functions. SCBWA Statement No. 2, at 1:17-18.

118. SCBWA has consistently ended each fiscal year with a net income exceeding its budget. In 2024 SCBWA managed a budget that exceeded its projected net income by 28%. *Id.* at 3:46-48.

119. SCBWA has one PennVest loan in the amount of \$20,000,000.00, and its 2025 budget is \$14,000,000.00 with a project and reserve expenditure budget of \$8,671,560.00. *Id.* at 3:48-51.

120. SCBWA has authorized a purchase price of \$65,000.00 for the Rock Spring water system. *Id.* at 3:55-56.

121. If SCBWA acquired the Rock Spring water system, SCBWA would work with Ferguson Township to acquire grants to help fund the improvements needed for the water system. *Id.* at 3:60-63.

122. SCBWA has a low rate of 12% for unaccounted-for water loss. SCBWA Statement No. 3 at 2:23-44, 3:45-51.

123. Adding the Rock Spring water system would have minimal impact on SCBWA's production, treatment, distribution, and customer service facilities and would have no impact on existing SCBWA water customers from a water quality, pressure, flow, and service reliability perspective. *Id.* at 3:59-62.

124. Maximum demand from the Rock Spring water system can be easily met from the Zone 5 source of supply, treatment facility, storage system, and large capacity transmission mains. *Id.* at 3:63-65, 4:66-67.

125. If SCBWA acquired the Rock Spring water system, SCBWA would incorporate Rock Spring into SCBWA's existing system through an interconnection. *Id.* at 4:73-77.

126. SCBWA believes that due to the age, condition, and serviceability of the Rock Spring water system, the entire water storage, transmission, and distribution system require replacement. *Id.* at 5:91-93. SCBWA has outlined a plan over the course of five to ten years that costs approximately \$20,000,000.00 to upgrade the Rock Spring water system. *Id.* at 5:98-108, 6:109-112.

127. The acquisition of Rock Spring by SCBWA would further the Commission's policy statement that encourages the regionalization and consolidation of water systems in a way that benefits customers. OCA Statement 1 at 23:4-7.

128. SCBWA has approximately 15,000 customers and is located approximately 0.8 miles from the Rock Spring water system. I&E Statement 1 at 8:17-18, 9:3-4; PAWC Statement No. 1 at 3:6.

129. SCBWA has provided technical assistance to Rock Spring since 1993. I&E Statement 1 at 9:14-15. SCBWA has acquired other small water systems that were in poor condition, "and the acquisition of Rock Spring would allow SCBWA to expand and develop additional sources of water creating a more efficient water system." *Id.* at 9:10-14.

130. PAWC estimates SCBWA would be able to spend \$4,000,000.00 less than PAWC bringing the system back into compliance because SCBWA could do an interconnection between the systems, which rids SCBWA of the need for the well, treatment building, and storage tank owned by Rock Spring. PAWC Statement No. 1-Supp at 8:1-7.

131. While PAWC is willing and able to acquire the Rock Spring water system, PAWC has acknowledged that SCBWA is capable of acquiring and operating the Rock Spring water system, and SCBWA is in a better position to do so than PAWC. PAWC Statement No. 1 at 4:12-18.

132. The acquisition of Rock Spring's customers is unlikely to unreasonably affect the rates for PAWC's customers as Rock Spring's approximately 500 customers would be less than 0.1% of all water customers served by PAWC. I&E Statement 1 at 12:17-19, 13:1-2.

133. PAWC has acquired other small water systems like Rock Spring in Section 529 proceedings without a significant increase in rates for existing customers. I&E Statement 1 at 13:3-9.

134. If PAWC acquired the Rock Spring water system, “Rock Spring will be incorporated into PAWC’s existing tariff as a separate Rock Spring division, which would be managed by nearby established PAWC operations.” OCA Statement 1 at 8:17-19.

135. PAWC would have to include the Rock Spring water system in its overall water revenue requirement and spread the costs amongst its water customer base, which would result in higher costs to the preacquisition customers. *Id.* at 4:9-12. However, spreading the costs amongst its customers would not cause its rates to be unreasonably increased. PAWC Statement No. 3 at 4:18-21.

136. PAWC presented SCBWA as a more affordable alternative to be considered in this matter. *Id.* at 4:22-23, 5:1-2.

137. If SCBWA acquired the Rock Spring water system, there would not be an increase in rates to existing customers as a direct result of the acquisition. OCA Statement 1 at 17:10-11; SCBWA Statement No. 2 at 4:67-68.

APPENDIX B

Proposed Conclusions of Law

The Department proposes the following conclusions of law:

1. The Commission has general administrative power and authority to supervise and regulate all public utilities doing business in the Commonwealth of Pennsylvania. 66 Pa.C.S. § 501(b).

2. Rock Spring, PAWC and Aqua are corporations or persons which own and operate equipment and facilities for furnishing water to the public for compensation in the Commonwealth of Pennsylvania and are therefore “public utilities”. 66 Pa.C.S. § 102.

3. SCBWA is an “authority” Under the Municipal Authorities Act, 53 Pa.C.S. §§ 5601-5623, and was incorporated under the former act known as the Municipal Authorities Act of one thousand nine hundred and thirty-five, act of June 28, 1935 (P.L. 463, No. 191).

4. Upon petition, the Commission may order a capable public utility to acquire a small water utility after notice and opportunity to be heard. 66 Pa.C.S. § 529(a).

5. PAWC and Aqua are unaffiliated with and in proximate location to Rock Spring, which provide similar water delivery service to more than 4,000 customer connections in an adequate, efficient, safe manner, and are therefore “capable public utilities”. 66 Pa.C.S. § 529(m).

6. While SCBWA is a municipal authority, it also is unaffiliated with and in proximate location to Rock Spring, which provides similar water delivery service to more than 4,000 customer connections in an adequate, efficient, safe manner, and therefore satisfies the qualifications of the definition of capable public utility under Section 529(m) of the Public Utility Code, 66 Pa.C.S. § 529(m).

7. Rock Spring regularly provides water delivery service to 1,200 or fewer customer connections and is therefore a “small water utility”. 66 Pa.C.S. § 529(m).

8. The party seeking relief from the Commission bears the burden of proof in petition proceedings. 66 Pa.C.S. § 332(a).

9. I&E shall have the burden of establishing a *prima facie* case that the acquisition of Rock Spring would be in the public interest and in compliance with provisions of Section 529 of the Public Utility Code, 66 Pa.C.S. § 529. 66 Pa.C.S. § 529(i).

10. Rock Spring shall have the burden of proving its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates. 66 Pa.C.S. § 529(i)(1).

11. PAWC, SCBWA, and Aqua have the burden of proving their financial, managerial, or technical inability to acquire and operate the small water or sewer utility. 66 Pa.C.S. § 529(i)(2).

12. Although I&E bears a statutory burden of proof in Section 529 proceedings pursuant to 66 Pa.C.S. § 529(i), the burden is not exclusive to I&E. *Pa. P.U.C. v. Delaware Sewer Co.*, Docket No. P-2014-2404341, 2016 WL 406563 at 27-28 (Pa.P.U.C. Jan. 28, 2016).

13. Any party in a Section 529 proceeding may present or rebut a *prima facie* case in support of its position. *Id.*

14. I&E must satisfy its burden of proof by a preponderance of evidence as the petitioner. *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990).

15. A preponderance of evidence is evidence that is more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

16. The Commission must ensure that any adjudication be supported by substantial evidence. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consol. Edison Co. of NY v. Nat’l Labor Relations Bd.*, 305 U.S. 197, 229 (1938).

17. In its decision pursuant to 66 Pa.C.S. § 529(a), the Commission must determine whether six elements have been met. 66 Pa.C.S. § 529(a)(1)-(6).

18. The evidence presented by I&E in conjunction with the evidence presented by the Department, OCA, SCBWA, and PAWC established by a preponderance of the evidence that the acquisition of Rock Spring would be in the public interest and in compliance with the requirements of Section 529 of the Public Utility Code, 66 Pa.C.S. § 529. *See* 66 Pa.C.S. § 529(i).

19. Each of the six elements in Section 529(a) of the Public Utility Code, 66 Pa.C.S. § 529(a), is supported by substantial evidence.

20. The requirements of Section 529(a)(1) of the Public Utility Code, 66 Pa.C.S. § 529(a)(1), have been met as Rock Spring is in violation the Safe Drinking Water Act and the regulations adopted thereunder which affect the safety, adequacy, efficiency, or reasonableness of the service provided by the small water utility.

21. Rock Spring is in violation of 25 Pa. Code § 109.4(3)-(4) for failing to provide and effectively operate and maintain public water system facilities and for failing to take whatever investigative or corrective action is necessary to assure that safe and potable water is continuously supplied to the users.

22. Rock Spring is in violation of Section 13(a) of the Safe Drinking Water Act, 35 P.S. § 721.13(a), for failing to comply with both the 2006 CO&A and the 2018 Department Order requiring Rock Spring to reduce its unaccounted-for water loss to 30 percent or less.

23. The requirements of Section 529(a)(2) of the Public Utility Code, 66 Pa.C.S. § 529(a)(2), are met as Rock Spring has failed to comply, within a reasonable time, with the Department's 2006 CO&A, the 2018 Department Order, and the 2013 Joint Settlement at *Pa. P.U.C. v. Rock Spring Water Co.*, Docket No. R-2012-2336662, 2013 WL 3070713 (Pa.P.U.C. June 13, 2013), all requiring Rock Spring to address its excessively high unaccounted-for water loss.

This loss affects the safety, adequacy, efficiency, or reasonableness of service, including the availability of water, the potability of water, the palatability of water, or the provision of water at adequate volume and pressure.

24. The requirements of Section 529(a)(3) are met because Rock Spring cannot reasonably be expected to furnish and maintain adequate, efficient, safe, and reasonable service and facilities in the future, as demonstrated by Rock Spring's unwillingness and inability to bring the water system back into compliance for the past 19 years, as well as its lack of capital to effectuate the millions of dollars in repairs needed to restore the water system.

25. The requirements of Section 529(a)(4) of the Public Utility Code, 66 Pa.C.S. § 529(a)(4), are met as the alternatives to acquisition considered under Section 529(b) of the Public Utility Code, 66 Pa.C.S. § 529(b), are impractical or not economically feasible due to Rock Spring's history of noncompliance for 19 years, lack of capital to repair the water system, and its failure to sell the water system for the past 12 years despite being directed to make efforts to do so as required by the 2013 Joint Settlement. *See* 66 Pa.C.S. § 529(b)(1)-(5).

26. The Requirements of Section 529(a)(5) of the Public Utility Code, 66 Pa.C.S. § 529(a)(5), are met because both PAWC and SCBWA are capable utilities that are financially, managerially, and technically capable of acquiring and operating Rock Spring in compliance with applicable statutory and regulatory standards, including the Safe Drinking Water Act and the regulations adopted thereunder.

27. The requirements of Section 529(a)(6) of the Public Utility Code, 66 Pa.C.S. § 529(a)(6) have been met because neither PAWC's nor SCBWA's rates will unreasonably increase for their existing customers due to an acquisition of Rock Spring's water system and service area.

28. When making a determination pursuant to 66 Pa.C.S. § 529(a), the Commission must consider six additional factors. *See* 66 Pa.C.S. § 529(c)(1)-(6).

29. The Commission should consider under Section 529(c)(1) of the Public Utility Code, 66 Pa.C.S. § 529(c)(1), that Rock Spring does not have the financial, managerial, and technical ability to operate the water system and bring it back into compliance with the Safe Drinking Water Act and the regulations adopted thereunder.

30. The Commission should consider under Section 529(c)(2) of the Public Utility Code, 66 Pa.C.S. § 529(c)(2), that PAWC, SCBWA, and Aqua all have the financial, managerial, and technical ability to acquire, operate, and bring the Rock Spring water system back into compliance with the Safe Drinking Water Act and the regulations adopted thereunder.

31. The Commission should consider under Section 529(c)(3) of the Public Utility Code, 66 Pa.C.S. § 529(c)(3), that Rock Spring does not have the millions of dollars in capital necessary to meet the expenditures to make improvements to the water system or to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety, or reasonableness of utility service, including the Safe Drinking Water Act and the regulations adopted thereunder. PAWC and SCBWA do have the capital to bring the water system back into compliance.

32. The Commission should consider under Section 529(c)(4) of the Public Utility Code, 66 Pa.C.S. § 529(c)(4), that Both PAWC and SCBWA currently operate water systems within Centre County. PAWC's nearest water delivery connection is approximately 13 miles away from Rock Spring. SCBWA's nearest water delivery connection is approximately 0.8 miles away from Rock Spring, which would make SCBWA's acquisition of Rock Spring akin to its normal franchise expansion.

33. The Commission should consider under Section 529(c)(5) of the Public Utility Code, 66 Pa.C.S. § 529(c)(5), that it is the opinion of the Department that the well pit surrounding the Rock Spring water system's well must be eliminated, planning for the rehabilitation of the

finished water storage tank must be done, a final waterline replacement project needs to be identified to replace the approximately 22 miles of distribution system, and the unaccounted-for water loss must be reduced to 30 percent or less to assure compliance with the Safe Drinking Water Act and the regulations adopted thereunder concerning the adequacy, efficiency, safety, or reasonableness of water delivery service.

34. The Commission should consider under Section 529(c)(6) of the Public Utility Code, 66 Pa.C.S. § 529(c)(6), that Rock Spring, specifically Mr. Campbell, must respond to the NOV's dated March 11, 2025, and March 17, 2025, regarding Entry Point #102 chlorine monitoring results and data falsification. This includes submittal of data correction or deletion requests for the February 26, 2025, chlorine sample from Entry Point #102, along with data correction or deletion requests for any other samples that have been reported to the Department but were not actually collected from Entry Point #102.

35. The Commission should consider under Section 529(c)(6) of the Public Utility Code, 66 Pa.C.S. § 529(c)(6), that Rock Spring has not paid the Department's outstanding \$40,000.00 Civil Penalty Assessment, which resulted in a judgement being entered against Rock Spring in the Centre County Court of Common Pleas in September 2021 at Docket No. 2021-2499.

36. If Rock Spring and SCBWA cannot come to an agreement concerning the transfer of the water system, the Commission should order PAWC to acquire Rock Spring pursuant to the determinations made in 66 Pa.C.S. § 529(a) and provide PAWC with an extension of service area upon acquisition of Rock Spring. *See* 66 Pa.C.S. § 529(d).

37. Rock Spring did not meet its burden of proving its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates. 66 Pa.C.S. § 529(i)(1).

APPENDIX C

Proposed Ordering Paragraphs

The Department proposes the following ordering paragraphs:

1. I&E's Petition to Request the Commission Open a Section 529 Investigation into the Acquisition of Rock Spring Water Company filed at Docket No. P-2024-3051313 is granted.
2. Either SCBWA or PAWC is ordered to acquire the Rock Spring water system.
3. The acquiring utility shall submit an application to the Department for the transfer of Rock Spring's permits.
4. The acquiring entity shall submit a Corrective Action Plan to the Department addressing the issues concerning the unaccounted-for water loss and the noncompliant water well pit.
5. The acquiring entity shall enter into a Consent Order and Agreement with the Department to bring the public water system back into compliance with the Safe Drinking Water Act, Act of May 1, 1984, P.L. 206, *as amended*, 35 P.S. § 721.1-721.17, and the Department's regulations.
6. Rock Spring is ordered to pay the Department \$40,000.00 in accordance with the October 17, 2018, Civil Penalty Assessment. The payment shall be made by corporate check or the like made payable to "Commonwealth of Pennsylvania" with a memo denoting "Safe Drinking Water Account" and sent to the following address:

Program Manager
Safe Drinking Water Program
Pennsylvania Department of Environmental Protection
Northcentral Region
208 West Third Street, Suite 101
Williamsport, PA 17701-6448

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Main Brief, via electronic mail upon the persons listed below:

SERVED VIA ELECTRONIC MAIL ON NOVEMBER 7, 2025

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