

# BEARD LAW COMPANY

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November 21, 2025

*VIA E-FILING*

Matthew L. Homsher, Secretary  
Pennsylvania Public Utilities Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utilities Commission is the Reply Brief  
of Rock Spring Water Company Opposing the Section 529 Acquisition Proceeding. A copy of  
this filing is being served in accordance with the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,



Rodney A. Beard

RAB/nld

Enclosure

c: Rock Spring Water Company

All parties on the attached Certificate of Service in the manner specified.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF OF ROCK SPRING WATER COMPANY OPPOSING THE SECTION  
529 ACQUISITION PROCEEDING**

AND NOW, comes Rock Spring Water Company (“RSWC”) by and through its undersigned counsel, and in accordance with the Briefing Order entered by Honorable Administrative Law Judge John Coogan in this matter submits the following Reply Brief in Opposition to the 529 Acquisition Proceeding.

I. DISCUSSION

The other parties in this case have gone to great lengths in their Briefs to detail the long history of regulatory issues that has plagued RWSC over the years. While regulatory non-compliance is one of many items to be considered by the Commission in a Section 529 Proceeding, the most important point to consider in regard to regulatory non-compliance in this case is the testimony of Mr. Nathan White. Mr. White testified that he served as the Sanitarian of Centre County, and was employed by the Pennsylvania Department of Environmental Protection. See direct testimony of Nathan White, DEP Statement No. 3, Page 1, Lines 5 – 21. Mr. White also testified that: “At the time of this testimony [August 25, 2025], the outstanding violations against Rock Spring Water Company are for unaccounted-for water loss and data integrity issues

related to entry point chlorine sampling.” See DEP Statement No. 3, Page 4, Lines 29 – 30. All other violations were resolved or had been addressed.

None of the other parties in their Main Briefs have pointed to any evidence in the record that the Commission discussed with RSWC the alternatives to acquisition listed in Section 529(b). Christopher Keller of the PUC Bureau of Investigation and Enforcement, in his direct testimony, I & E Statement No. 1, at Page 6, stated that: “Based on this information, it is implicit that the above alternatives to acquisition are impractical or not economically feasible; therefore, the criteria for element four have been met.” I & E Statement No. 1, Keller, Page 6, Lines 21 – 23. **The statute does not allow decisions on these matters by implication; the statute requires discussions by the Commission with the small public utility.**

Where the words of a statute are clear, a reviewing court is not free to disregard the language of the statute in order to pursue legislative intent or the spirit of the statute. Department of Transportation, Bureau of Driver Licensing v. Empfield, 526 Pa. 220, 585 A.2d 442 (1991). Where the language of a statute is clear, we must read the statute's provisions in accordance with their plain meaning and common usage. 1 Pa.C.S. § 1903(a); Commonwealth v. Bell, 512 Pa. 334, 516 A.2d 1172 (1988).

As stated by the Pennsylvania Supreme Court in Goodwin v. Goodwin, 280 A.3d 937, at page 943-944 (2022):

We are guided in our analysis by the Statutory Construction Act of 1972 (Statutory Construction Act), 1 Pa. C.S. §§ 1501-1991, which provides that the object of all statutory interpretation "is to ascertain and effectuate the intention of the General Assembly." 1 Pa. C.S. § 1921(a). Generally, the plain language of the statute "provides the best indication of legislative intent." Miller v. Cnty. of Centre, 643 Pa. 560, 173 A.3d 1162, 1168 (Pa. 2017). If the statutory language is clear and unambiguous in setting forth the intent of the General Assembly, then "we cannot disregard the letter of the statute under the pretext of pursuing its spirit." Fletcher v. Pa. Prop. & Cas. Ins. Guar. Ass'n, 603 Pa. 452, 985 A.2d 678, 684 (Pa. 2009) (citing 1 Pa. C.S. § 1921(b)). In this vein, "we

should not insert words into [a statute] that are plainly not there." *Frazier v. Workers' Comp. Appeal Bd. (Bayada Nurses, Inc.)*, 616 Pa. 592, 52 A.3d 241, 245 (Pa. 2012). When the statutory language is ambiguous, however, we may ascertain the General Assembly's intent by considering the factors set forth in Section 1921(c) of the Statutory Construction Act, 1 Pa. C.S. § 1921(c), and other rules of statutory construction. See *Pa. Sch. Bds. Ass'n, Inc. v. Pub. Sch. Emps. Ret. Bd.*, 580 Pa. 610, 863 A.2d 432, 436 (Pa. 2004) (observing that "other interpretative rules of statutory construction are to be utilized only where the statute at issue is ambiguous"). Additionally, "[w]ords and phrases shall be construed according to rules of grammar and according to their common and approved usage," though "technical words and phrases and such others as have acquired a peculiar and appropriate meaning or are defined in [the Statutory Construction Act] shall be construed according to such peculiar and appropriate meaning or definition." 1 Pa. C.S. § 1903(a). "We also presume that 'the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable,' and that 'the General Assembly intends the entire statute to be effective and certain.'" *Berner v. Montour Twp. Zoning Hearing Bd.*, 655 Pa. 137, 217 A.3d 238, 245 (Pa. 2019) (quoting 1 Pa. C.S. § 1922(1)-(2)).

Goodwin v. Goodwin, 280 A.3d 937, 943-944

The other parties in this case would have the Commission read the text of the statute to state that "where it appears by implication that the alternatives set forth in subsection (b) of Section 529 can not be met, or that the PUC has considered the alternatives listed in subsection (b) of Section 529," the requirements of the statute are satisfied. However, that is not the plain language of the statute. The plain language of the statute states: Before the commission may order the acquisition of a small water or sewer utility in accordance with subsection (a), the commission **shall discuss with the small water or sewer utility**, and shall give such utility a reasonable opportunity to investigate, alternatives to acquisition, including, but not limited to: . . . (emphasis added).

None of the witnesses for I & E were able to testify that they discussed anything with RSWC because they did not discuss anything with RSWC. They considered (in their own minds, apparently) documents, and then determined that certain matters were "implicit." Where

that is the case, the plain language of the statute has not been satisfied, and it would be error to disregard the plain language of the statute.

I & E has failed to present any information or evidence of discussion by the Commission with RSWC. There is no evidence in the record that I & E witness Christopher Keller had any discussion with RSWC regarding alternatives to acquisition, and I & E and its Main Brief has failed to point to any such evidence. Furthermore, I & E witness Ethan Kline, at I & E Statement No. 2, Page 4, Lines 13 – 19, listed the items included in his Section 529 investigation of RSWC. Nowhere in that listing is any **discussion** with RSWC included. Basically, all they did was review documents and reach some self-serving determinations by implication; they did not engage in any discussions with RSWC as required by the statute.

Where such is the case, I & E has not met its burden of presenting a *prima facie* case. I & E simply jumped the gun. It would be inappropriate for the ALJ to recommend acquisition of RSWC by another capable public utility or any other entity where I&E has failed to satisfy the requirements of the statute.

Furthermore, RSWC presented testimony of various customers verifying that they have always and continue to receive safe and reliable water service from RSWC.

In addition, RSWC currently continues to furnish and maintain adequate, efficient, safe and reasonable service to its customers under the receivership established in this case. There has been no evidence submitted in this matter that RSWC will fail to provide such service in the future. Rather than ordering a forced acquisition of RSWC, it would be more appropriate to order the PUC (through the Bureau of Investigation and Enforcement and/or the Bureau of Technical Utility Services), to engage in discussions with RSWC regarding the alternatives set forth in subsection (b) of Section 529, and an orderly resolution of the receivership that is in

place. If discussion of those alternatives (and perhaps others) does not yield an appropriate resolution, only then can the Commission consider ordering a forced acquisition.

## II. NO BASIS TO OFFER REASONABLE PRICE RANGE

In its Brief, PA American Water Company (PAWC) requests the ALJ to provide “guidance,” on a reasonable purchase price. Such an exercise would be inappropriate. “It is well settled that the courts do not render decisions in the abstract or offer purely advisory opinions.” *Pittsburgh Palisades Park, LLC v. Commonwealth*, 888 A.2d 655, 585 Pa. 196 (2005); *Harris v. Rendel*, 982 A.2d 1030, 1035 (Pa. Cmwlth. 2009), *aff’d* 605 Pa. 562, 992 A.2d 121(Pa. 2010).

In the event the Commission enters an Order requiring PAWC to acquire RSWC, the statute specifies how the purchase price will be determined. There is no reason, justification, or precedent for the Commission to engage in speculation or guidance regarding a range of reasonable purchase price.

## III. BANKRUPTCY CONSIDERATIONS ARE INAPPROPRIATE

PAWC also suggests that the Commission should authorize PAWC, as receiver, to put RSWC into bankruptcy. While understanding the “creativity,” of this suggestion, it is entirely inappropriate in this proceeding. Bankruptcy is appropriate in certain cases – generally when a debtor is not able to pay its debts or satisfy creditors. Bankruptcy is not appropriate to force a sale of a small public utility. Any such action by the Commission would set horrible precedent and open floodgates of litigation in Federal Court. Furthermore, Appendix A to the March 2025 Order appointing PAWC as receiver specifically gave PAWC “the authority to file a petition for

bankruptcy and participate in such proceedings on behalf of RSWC.” Therefore, if PAWC feels that bankruptcy is appropriate and beneficial to RSWC, PAWC already has the authority to file a petition for bankruptcy. There is no need for the Commission to provide any other direction in this regard.

IV. CONCLUSION

The Commission should deny the Section 529 Acquisition Proceeding filed by I & E because I & E has failed to provide evidence of satisfaction of the statutory requirements. The petition should be dismissed.

Respectfully submitted:

11-21-25  
Date

  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am serving Reply Brief of Rock Spring Water Company Opposing the Section 529 Acquisition Proceeding, dated November 21, 2025, upon the persons, in the manner and upon the persons listed below, which service satisfies the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Served Via Electronic Mail Only**

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