

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

ORDER
DISMISSING PETITION FOR PAYMENT OF COUNSEL FEES

On September 20, 2024, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) filed a Petition to Request the Commission Open a Section 529 Investigation into the Acquisition of RSWC Water Company (Petition).

On October 9, 2024, the Office of Consumer Advocate (OCA) filed a Notice of Intervention. On October 10, 2024, Pennsylvania-American Water Company (PAWC) filed a Petition to Intervene.

On October 11, 2024, a hearing notice was issued establishing a telephonic prehearing conference for October 30, 2024 at 10:00 a.m. and assigning me as the Presiding Officer. A Prehearing Conference Order was issued on October 15, 2024 setting forth rules that would govern the prehearing conference.

On October 16, 2024, Aqua Pennsylvania, Inc. (Aqua) filed a Petition to Intervene. On October 21, 2024, State College Borough Water Authority (SCBWA) filed a Petition to Intervene. On October 23, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention. On October 28, 2024, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) filed a Petition to Intervene.

No party filed an answer to I&E's Petition.

The prehearing conference convened on October 30, 2024, as scheduled. Counsel for I&E, OCA, OSBA, PAWC, Aqua, SCBWA, DEP, and Veolia Water Pennsylvania, Inc. appeared. J. Campbell Roy, President of Rock Spring Water Company (RSWC), appeared, but was not represented by counsel.

On November 5, 2024, I issued Prehearing Order #1, setting forth the procedural matters addressed during the October 30, 2024 prehearing conference, including establishment of a litigation schedule.

On November 11, 2024, Ferguson Township filed a Petition to Intervene.

On December 2, 2024, I issued Prehearing Order #2, granting Ferguson Township's Petition to Intervene.

On January 15, 2025, the Commission issued an initial telephonic hearing notice setting a formal call-in telephonic hearing for the Petition for April 29 and 30, 2025 at 10:00 a.m.

On February 6, 2025, OCA filed a Petition for Issuance of an Interim Emergency Order (Interim Emergency Petition) pursuant to 52 Pa. Code §§ 3.1–3.11.

On February 7, 2025, the Commission issued a telephonic hearing notice setting a formal call-in telephonic hearing for the Interim Emergency Petition for February 14, 2025 at 10:00 a.m. In anticipation of that hearing, I issued a Prehearing Order on February 7, 2025 setting forth various rules that would govern that proceeding.

On February 11, 2025, PAWC and DEP filed answers to the Interim Emergency Petition. On February 13, 2025, SCBWA filed an Answer and New Matter to the Interim Emergency Petition.

On February 14, 2025, the telephone hearing on the Interim Emergency Petition was held. Counsel for I&E, RSWC, OCA, OSBA, PAWC, Aqua, DEP, SCBWA, and Ferguson Township appeared at the hearing. I&E, OCA, DEP, PAWC, Aqua, and SCBWA entered testimony and exhibits into the record at the February 14, 2025 evidentiary hearing regarding OCA's Interim Emergency Petition.

On February 14, 2025, I issued a Briefing Order, directing parties that briefs may be filed by February 18, 2025. On February 18, 2025, I&E, RSWC, OCA, PAWC, Aqua, DEP, and SCBWA filed briefs. On February 18, 2025, OSBA filed a letter in lieu of a brief.

On February 20, 2025, I issued an Order granting the Interim Emergency Petition and certifying the Material Question to the Commission of whether it was appropriate to grant the Interim Emergency Order and appoint PAWC as receiver for RSWC.

On February 27, 2025, PAWC and SCBWA filed briefs on the Material Question.

On March 5, 2025, counsel for RSWC, James N. Bryant, Esquire, and Carolyn M. Larrabee, Esquire, filed a Motion to Withdraw as Counsel, which I treated as a written notice of withdrawal pursuant to 52 Pa. Code § 1.24(b)(3).

On March 13, 2025, the Commission voted 5-0 to adopt a Joint Motion by Chairman Stephen M. DeFrank and Commissioner John F. Coleman, Jr. (Joint Motion) which, among other things, answered the Material Question in the affirmative, and directed RSWC to negotiate in earnest for the transfer of its water system to SCBWA and, if an agreement is reached, to file within 90 days of entry of an Opinion and Order an Application for Approval of Abandonment of its Certificate of Public Convenience (Abandonment Application).

On March 17, 2025, PAWC filed a Motion to Stay the Proceeding (Motion to Stay). PAWC's Motion to Stay indicated that no party to this proceeding, i.e., I&E, OCA, OSBA, Aqua, DEP, SCBWA, Ferguson Township, or RSWC opposed the Motion to Stay.

On March 19, 2025, I issued an Order granting the Motion to Stay. The Order suspended the litigation schedule established by the November 5, 2024 Prehearing Order, and directed that, five days following RSWC's filing of an Abandonment Application, or 95 days following entry of the Commission's Opinion and Order answering the Material Question, whichever occurs first, all parties shall file a status report at the docket of this proceeding, either separately or jointly, to include the parties' understanding of what issues are still in dispute and the need for further proceedings. Also on March 19, 2025, the Commission issued a notice cancelling the initial telephonic hearing for the Petition for April 29 and 30, 2025 at 10:00 a.m.

On March 21, 2025, the Commission entered its Opinion and Order adopting the Joint Motion.

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

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

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

The prehearing conference convened on July 23, 2025, as scheduled. Counsel for I&E, OCA, OSBA, PAWC, Aqua, SCBWA, DEP, RSWC,¹ and Ferguson Township were present at the prehearing conference.

¹ Rodney Beard, Esq., appeared on behalf of RSWC. Mr. Beard subsequently entered his notice of appearance in this proceeding on July 29, 2025.

On July 24, 2025, I issued Prehearing Order #3, setting forth the procedural matters addressed during the July 23, 2025 prehearing conference, including establishment of a new litigation schedule.

On September 2, 2025, Ferguson Township filed a letter to the docket of this proceeding, requesting a public input hearing on September 30, 2025. On September 9, 2025, a Notice of In-Person Public Input Hearings was issued, setting two in-person public input hearings for September 30, 2025, in Ferguson Township. Also on September 9, 2025, I issued Prehearing Order #4, modifying the litigation schedule to include the public input hearings and extend the due date for filing of pre-served surrebuttal testimony.

On September 30, 2025, two in-person public input hearings were held in Ferguson Township.

On October 3, 2025, DEP filed an Application for the Issuance of a Subpoena. On October 8, 2025, I issued an order granting DEP's subpoena request.

The evidentiary hearing was held as scheduled on October 20, 2025. During the hearing, testimony and exhibits were admitted into the record, witnesses were cross-examined, and parties were provided briefing instructions. The hearing concluded on October 20, 2025. With no further matters to address at an evidentiary hearing, the second day of hearings scheduled for October 21, 2025 was cancelled.

On October 21, 2025, a Briefing Order was issued.

On November 7, 2025, I&E, OCA, PAWC, SCBWA, DEP, RSWC, and Ferguson Township filed Main Briefs.

On November 21, 2025, I&E, OCA, PAWC, DEP, and RSWC filed Reply Briefs.

Also on November 21, 2025, Rodney A. Beard, counsel for RSWC, filed a Petition for Payment of Counsel Fees (Fee Petition). The Fee Petition alleges that PAWC, as receiver of RSWC, has refused to pay counsel fees to Mr. Beard. Mr. Beard states that he represents RSWC as a corporate entity in this matter, and that counsel fees incurred by the corporation for representation are incurred in the normal course. Mr. Beard asserts that RSWC currently owes him a total sum of \$16,257.50 through October 31, 2025 for representation in this matter, and it is inappropriate for PAWC to refuse to pay counsel fees to Mr. Beard that were incurred for representation of the corporate entity.

On December 5, 2025, PAWC filed an Answer and New Matter to the Fee Petition. PAWC requests that the Commission deny the Fee Petition. PAWC admits, on information and belief, that Mr. Beard does not represent individual shareholders in this matter. In its New Matter, PAWC avers that the Fee Petition does not comply with Commission regulations because it does not include a verification as required by 52 Pa. Code § 1.36. PAWC additionally avers that Mr. Beard's claim for \$16,257.50 is unsubstantiated. PAWC details support for its position that it does not have sufficient funds on hand from RSWC to pay both the expenses to ensure the provision of reasonable and adequate service to RSWC's customers plus the other expenses of RSWC, such as RSWC's litigation expenses. PAWC further submits that the Commission intended a deferred expense allow PAWC to recover prudent and reasonable legal expenses incurred by PAWC, not RSWC. PAWC's Answer and New Matter included a notice to plead and verification.

No reply to PAWC's New Matter was filed.

For the following reasons, the Fee Petition will be denied.

Mr. Beard's Fee Petition solely seeks that the Commission order PAWC to pay him counsel fees. First, without addressing its merits, I agree with PAWC that the Fee Petition fails to include a verification pursuant to 52 Pa. Code § 1.36. The Fee Petition contains averments of fact not otherwise found in the record, and therefore should include a verification.

Secondly, the Commission has consistently found that it does not have statutory authority to award attorney's fees and costs. *Pa. Pub. Util. Comm'n v. Duquesne Light Co.*, 61 Pa. PUC 495 (Pa. P.U.C. 1986) (*Duquesne Light*); *Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Co.*, 63 Pa. PUC 68, 71 (Pa. P.U.C. 1987); *MCI WorldCom, Inc. v. Bell Atlantic-Pa., Inc.*, 94 Pa. PUC 509 (Pa. P.U.C. 2000); *Edward Kovler and Elena Glozman v. PECO Energy Co.*, Docket No. C-2013-2365555 (Final Order issued Dec. 24, 2013). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa. C.S. §§ 101, *et seq*; *Duquesne Light*. Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977). It is well settled that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348 (Pa. Super 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth 1992).

The Fee Petition did not address the Commission's power to award attorney's fees, either in general or this particular context. I find no reason to depart from Commission precedent holding that nothing in the Public Utility Code gives the Commission the power to grant attorney's fees and costs. Accordingly, the merits of the Fee Petition will not be addressed, and the Fee Petition must be dismissed.

P-2024-3051313 - PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION & ENFORCEMENT PETITION TO REQUEST THE COMMISSION OPEN A SECTION 529 INVESTIGATION INTO THE ACQUISITION OF ROCK SPRING WATER COMPANY

Revised: November 7, 2025

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