



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 20, 2026

VIA ELECTRONIC FILING

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

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

Dear Secretary Homsher:

Enclosed please find the Commonwealth of Pennsylvania, Department of Environmental Protection's Reply to the Exceptions of Rock Spring Water Company to the Recommended Decision of Administrative Law Judge John M. Coogan.

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,

/s/ Amanda Chaplin
Amanda K. Chaplin
Assistant Counsel

c: Matthew L. Homsher, PUC Secretary
Parties

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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 :

**DEPARTMENT OF ENVIRONMENTAL PROTECTION’S REPLY TO ROCK SPRING
WATER COMPANY’S EXCEPTIONS TO THE RECOMMENDED DECISION**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), by and through its undersigned counsel, and respectfully submits the following Reply to Rock Spring Water Company’s Exceptions to the Recommended Decision:

I. INTRODUCTION

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 Water Company (“Petition”) to determine whether the Commission should order a capable public utility to acquire the Rock Spring Water Company (“Rock Spring”) pursuant to Section 529 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529.

On October 11, 2024, the Commission assigned Administrative Law Judge John M. Coogan (“ALJ Coogan”) as the Presiding Officer in this matter. The following parties intervened after the filing of the Petition: the Department, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Aqua Pennsylvania, Inc. (“Aqua”), Pennsylvania-American Water Company, Inc. (“PAWC”), State College Borough Water Authority (“SCBWA”), and Ferguson Township.

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 previous 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 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 requested 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 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 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 20, 2025, ALJ Coogan conducted an evidentiary hearing on I&E's Petition. On October 22, 2025, ALJ Coogan issued a Briefing Order, which required the parties to submit any Main Briefs by November 7, 2025, and to submit any Reply Briefs by November 21, 2025.

On November 6, 2025, both Rock Spring and SCBWA submitted their Main Briefs. On November 7, 2025, the Department, I&E, OCA, PAWC, and Ferguson Township filed their respective Main Briefs. Both OSBA and Aqua submitted letters indicating they would not be submitting Main Briefs.

On November 21, 2025, the Department, I&E, OCA, PAWC, and Rock Spring filed their respective Reply Briefs. Aqua, OSBA, Ferguson Township, and SCBWA submitted letters indicating they would not be submitting Reply Briefs.

On February 18, 2026, the ALJ Coogan issued a Recommended Decision, which found that I&E had met its burden establishing all the elements of Section 529 of the Public Utility Code, 66 Pa. C.S. § 529, and recommended that PAWC acquire Rock Spring.

On March 10, 2026, only PAWC and Rock Spring filed Exceptions to the Recommended Decision. The Department, I&E, OCA, OSBA, Ferguson Township, SCBWA, and Aqua all submitted letters indicating they were not filing Exceptions to the Recommended Decision.

PAWC filed an Exception to the portion of the Recommended Decision that denied PAWC's request to provide guidance on a reasonable purchase price for the Rock Spring water system. The Department is not filing a Reply to PAWC's Exception.

Rock Spring filed Exceptions arguing that 1) the Recommended Decision failed to properly apply the statutory language of Section 529 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529, 2) the Recommended Decision improperly found that the elements of Sections 529(a)(4) and 529(b) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 529(a)(4) and 529(b), had been satisfied, and 3) the Recommended Decision's finding that Rock Spring's arguments are barred by the doctrine of waiver and laches is erroneous and constitutes a due process violation, and the Recommended Decision shifted the burden to Rock Spring to show I&E did not establish a *prima facie* case. Rock Spring Exceptions at 1, 5, and 7. The Department files this Reply in response to the Exceptions filed by Rock Spring.

II. REPLY TO EXCEPTIONS

A. The Recommended Decision is Supported by the Statutory Language of Section 529 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529(b).

ALJ Coogan’s interpretation of the word “discuss” within the Recommended Decision is supported by the statutory language of Section 529(b) of the Public Utility Code, 66 Pa. C.S. § 529(b). The word “discuss” in the statute is ambiguous, and ALJ Coogan turned to proper resources to determine the meaning of “discuss” within a Section 529 proceeding.

Rock Spring argues that Section 529(b) of the Public Utility Code, 66 Pa. C.S. § 529(b), is not ambiguous in its use of the word “discuss,” and, thus, the plain language of the statute requires the Commission to talk about every alternative to ordered acquisition with Rock Spring before the Commission can order another capable public utility to acquire the water system. *See* Rock Spring Exceptions at 1-5. The Department disagrees with Rock Spring that the statute is unambiguous, and the Department has a different interpretation of the statute’s discussion requirements that will be discussed in the next section, below.

When engaging in statutory interpretation, “[t]he object of statutory construction is to ascertain and effectuate legislative intent.” *Interstate Gas Supply, Inc. v. Pub. Util. Comm’n*, 298 A.3d 1181, 1187 (Pa. Cmwlth. 2023), *aff’d*, 343 A.3d 1152 (Pa. 2025) (quoting *Malt Beverage Distribs. Ass’n v. Pa. Liquor Control Bd.*, 918 A.2d 171, 175-76 (Pa. Cmwlth. 2007) (citing 1 Pa. C.S. § 1921(a)). The statute’s plain language is usually the best indication of the legislature’s intent and begins with an examination of the text itself. *Id.* at 1187-88 (quoting *Malt Beverage Distribs. Ass’n*, 918 A.2d at 175-76 (citing *Commonwealth v. McClintic*, 909 A.2d 1241 (Pa. 2006); *Pa. Transp. Auth. v. Holmes*, 835 A.2d 851 (Pa. Cmwlth. 2003))). Words and phrases are to be construed according to the rules of grammar and their common and approved usage. *Id.* at 1188

(quoting *Malt Beverage Distribs. Ass'n*, 918 A.2d at 175-76 (quoting 1 Pa. C.S. § 1903(a)). ““When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.”” *Id.* (quoting *Malt Beverage Distribs. Ass'n*, 918 A.2d at 175-76) (quoting 1 Pa. C.S. § 1921(b)).

However, if there is an ambiguity, ““we must then ascertain the General Assembly's intent by statutory analysis, wherein we may consider numerous relevant factors.”” *Id.* (quoting *Malt Beverage Distribs. Ass'n*, 918 A.2d at 175-76) (quoting *Bowman v. Sunoco, Inc.*, 65 A.3d 901, 906 (Pa. 2013) (citing 1 Pa. C.S. § 1921(c)). ““An ambiguity exists when language is subject to two or more reasonable interpretations and not merely because two conflicting interpretations may be suggested.”” *Id.* (quoting *Malt Beverage Distribs. Ass'n*, 918 A.2d at 175-76) (quoting *Tri-Cnty. Landfill, Inc. v. Pine Twp. Zoning Hearing Bd.*, 83 A.3d 488, 510 (Pa. Cmwlth. 2014)). The Commission is entitled to great deference when interpreting the Public Utility Code and its regulations. *Id.* (quoting *NRG Energy, Inc. v. Pa. Pub. Util. Comm'n*, 233 A.3d 936, 948-49 (Pa. Cmwlth. 2020) (quoting *Energy Conservation Council of Pa. v. Pub. Util. Comm'n*, 995 A.2d 465, 478 (Pa. Cmwlth. 2010)).

Section 529(b) of the Public Utility Code, 66 Pa. C.S. § 529(b), states that before the Commission may order the acquisition of Rock Spring, 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...” several listed alternatives to acquisition.¹ However, there is ambiguity about the meaning of the word “discuss” in the statute.

¹ **(b) Alternatives to acquisition.**—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:

(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.

The Pennsylvania Public Utility Commission is a Commonwealth agency, and the statute is silent on who from the agency is supposed to discuss the alternatives, how to discuss the alternatives with the small utility, and the depth of the discussion needed. Without these mechanisms defined by the statute, there does arise an ambiguity around the word “discuss” within the statute. Discuss is a very broad term that could mean several things, including, but not limited to, sending a letter, sending an email, providing a copy of the statute with the alternatives listed, putting the small utility on notice of the alternatives through filings, directing the small utility to pursue an alternative in writing or verbally, a phone call, an in-person conversation, *etc.* The list of what could be considered a discussion is voluminous. Thus, there are multiple interpretations as to what the word “discuss” could mean. It is an ambiguous term.

To answer this question, ALJ Coogan turned to approved dictionary definitions after first determining that the Public Utility Code and its regulations do not define the word “discuss.” *See* Recommended Decision at 166-67. While Rock Spring argues these definitions include talking, these definitions also include writing and exchanging ideas. *See* Rock Spring’s Exceptions at 2; Recommended Decision at 166-67. As discussed below in the next section, ALJ Coogan properly found that there is evidence on the record that I&E and the Commission had discussions about alternatives to ordered acquisition with Rock Spring under these definitions. Therefore, the Recommended Decision is supported by the statutory language of Section 529(b) of the Public Utility Code, 66 Pa. C.S. § 529(b), and the Commission should deny Rock Spring’s Exceptions and adopt the Recommended Decision.

(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).

B. Substantial Evidence Supports Each Element of Sections 529(a)(4) and 529(b) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 529(a)(4) and 529(b).

Rock Spring's argument that the Recommended Decision is flawed because there is no evidence that the Commission discussed alternatives to acquisition with the company is not supported by the evidence of record. *See* Rock Spring Exceptions at 5-7.

To satisfy Section 529(a)(4) of the Public Utility Code, the Commission must determine "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." 66 Pa. C.S. § 529(a)(4). The Department discussed this requirement at length within its Main Brief. *See* the Department's Main Brief at 33-38. Rock Spring argues that the elements of Section 529(a)(4) of the Public Utility Code, 66 Pa. C.S. § 529(a)(4), have not been met because there is no evidence of discussions between the Commission and Rock Spring about alternatives to acquisition. *See* Rock Spring Exceptions at 5-7.

However, there is substantial evidence within the record demonstrating that the Commission did have discussions with Rock Spring about alternatives to acquisition. First, Rock Spring, I&E, and OCA entered into a Joint Settlement that required Rock Spring 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. I&E is the investigative and enforcement branch of the Commission. An inherent part of entering a Joint Settlement would be that the parties engaged in a discussion. Clearly, Rock Spring has had discussions with I&E to voluntarily sell the

water system, which is an alternative to an ordered acquisition by the Commission. I&E cites the violation of this Joint Settlement in its Petition, and Rock Spring did not file an answer or present evidence denying this violation. *See* I&E Petition at 5, ¶ 17.

Furthermore, Rock Spring and the Commission discussed the alternative of receivership through various filings. After OCA filed the Petition for Issuance of an Interim Emergency Order, Rock Spring's previous counsel filed an Answer to the Petition for Issuance of an Interim Emergency Order specifically requesting that SCBWA be appointed receiver. After the conclusion of the evidentiary hearing on February 14, 2025, Rock Spring's previous counsel filed a brief again specifically requesting the Commission appoint SCBWA as receiver. After considering all the filings and the evidence, the Commission ordered PAWC to act as temporary receiver in its March 21, 2025, Opinion and Order and ordered Rock Spring to negotiate in earnest the transfer of its water system to SCBWA. Opinion and Order dated March 21, 2025, at 39, 41 ¶¶ 1-6, and Appendix A; 66 Pa. C.S. § 529(b)(3) and (5). ALJ Coogan stayed the case to allow Rock Spring to pursue this alternative. Therefore, there is substantial evidence of record that the Commission has engaged in discussions with Rock Spring concerning alternatives to ordered acquisition.

Rock Spring also erroneously argues that the Commission is required to discuss every alternative listed in Section 529(b) of the Public Utility Code, 66 Pa. C.S. § 529(b), with Rock Spring. *See* Rock Spring Exceptions at 5-7. As mentioned in the previous section, above, the Department interprets this section differently than Rock Spring. Section 529(b) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529(b), by its plain language does not require that the Commission discuss "each" of the alternatives or "all" of the alternatives listed within this section. According to Section 529(b), before the Commission may order the acquisition of Rock Spring, the Commission "shall discuss with the small water or sewer utility, and shall give such

utility a reasonable opportunity to investigate, alternatives to acquisition...” 66 Pa. C.S. § 529(b). Notably absent are phrases such as “each alternative” or “all alternatives.” When engaging in statutory interpretation, it is equally important to consider what the statute does not say, and the court may not insert a word that the legislature did not include. *Interstate Gas Supply, Inc.*, 298 A.3d at 1188 (Pa. Cmwlth. 2023) (citing *Malt Beverage Distribs. Ass’n*, 918 A.2d at 175-76 (quoting *Kmonk-Sullivan v. State Farm Mut. Auto. Ins. Co.*, 788 A.2d 955, 962 (Pa. 2001); citing *Girgis v. Bd. of Physical Therapy*, 859 A.2d 852 (Pa. Cmwlth. 2004)).

Rather, this section is merely providing a non-exhaustive list of alternatives to ordered acquisition. The words “including, but not limited to,” within 529(b) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529(b), preceding the list of alternatives indicates that there could be additional alternatives other than the ones specifically listed within this section. *See Tri-Cnty. Landfill, Inc.*, 83 A.3d at 512 (quoting *Dechert, LLP v. Commonwealth*, 998 A.2d 575, 580–81 (Pa. 2010) (quoting *Pa. Human Relations Comm’n v. Alto–Reste Park Cemetery Ass’n*, 306 A.2d 881, 885 (Pa. 1973)) (the word include is meant as an expansive term, especially when followed by the phrase “not limited to”). As discussed above, the Commission has already discussed receivership and the sale of the water system to a municipal authority-SCBWA-with Rock Spring, as well as voluntarily selling the system in general.

Furthermore, I&E has provided evidence as to why the other listed alternatives are not feasible for Rock Spring. I&E witness Christopher Keller, Fixed Utility Financial Analyst for I&E, provided testimony concerning each alternative to acquisition. I&E Statement 1. The Department discussed Mr. Keller’s testimony at length in its Main Brief. *See* the Department’s Main Brief at 37-38. Thus, Rock Spring was on notice that I&E, the investigative and enforcement branch of the Commission, did not consider reorganizing under new management, contracting with another

public utility or management or service company, or merging with another public utility as viable alternatives for Rock Spring. *See* I&E Statement 1 at 6:10-18. It would not make sense for the legislature to intend I&E would be required to discuss alternatives with Rock Spring that I&E has determined are infeasible for the company. Rock Spring had notice through the written testimony.

Therefore, there is substantial evidence that the Commission has already discussed alternatives to acquisition with Rock Spring as required by Section 529(b) of the Public Utility Code, 66 Pa. C.S. 529(b). The Commission should deny Rock Spring's Exceptions and adopt the Recommended Decision.

C. The Doctrines of Waiver or Laches are Irrelevant because I&E Met Its *Prima Facie* Burden.

The Commission does not need to consider Rock Spring's arguments concerning the doctrines of waiver or laches because I&E established a *prima facie* case that all elements of Section 529 of the Public Utility Code, 66 Pa. C.S. § 529, have been satisfied. Rock Spring argues that the Recommended Decision's finding that Rock Spring's arguments are barred by the doctrines of waiver and laches is erroneous and constitutes a due process violation, and Rock Spring also argues that the Recommended Decision shifted the burden on Rock Spring to show that I&E did not establish a *prima facie* case. Rock Spring Exceptions at 7-11; *see also* Recommended Decision at 168. The Commission need not consider the waiver and laches arguments as substantial evidence establishes a *prima facie* case that Rock Spring did not rebut.

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). 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 evidence put forth by the Department and other parties may be considered with the evidence put forward by I&E.

As the Department discussed at length in its Main Brief and Reply Brief, the evidence put forth by I&E, OCA, and the Department overwhelmingly supports each element of Section 529 of the Public Utility Code, 66 Pa. C.S. § 529, and, in particular, Sections 529(a)(4) and 529(b), 66 Pa. C.S. §§ 529(a)(4) and 529(b), as those are the only two sections Rock Spring challenges in its Exceptions. *See* the Department’s Main Brief at 33-38; *see also* the Department’s Reply Brief at 7-9; *but see* Rock Spring’s Exceptions at 5-7. As established above, there is substantial evidence on the record that the Commission engaged in discussions with Rock Spring concerning alternatives to acquisition to satisfy both Sections 529(a)(4) and 529(b), 66 Pa. C.S. §§ 529(a)(4) and 529(b). Thus, the burden shifted to Rock Spring to prove its ability to render adequate, efficient, safe, and reasonable service at just and reasonable rates. 66 Pa. C.S. § 529(i)(1).

Rock Spring did not meet its shifted burden. This matter arises from I&E filing a Petition to determine whether the Commission should order a capable public utility to acquire Rock Spring pursuant to Section 529 of the Public Utility Code, 66 Pa. C.S. § 529. Rock Spring did not file an answer to the Petition. *See* 52 Pa. Code § 5.61; 1 Pa. Code § 35.35 (“A respondent failing to file an answer within the applicable period shall be deemed in default, and relevant basic facts stated

in the complaint or petition may be deemed admitted”). Rock Spring also did not present any evidence establishing that it is capable of providing adequate, efficient, safe, and reasonable service at just and reasonable rates. 66 Pa. C.S. § 529(i)(1). *See* the Department’s Reply Brief at 9-10 and 12-16.

Under these circumstances, the Commission need not consider Rock Spring’s arguments concerning the inapplicability of the doctrines of waiver or laches.² As I&E has established its *prima facie* burden and Rock Spring failed to rebut I&E’s *prima facie* case, Rock Spring’s arguments over two sentences in the Recommended Decision are mere red herrings. *See* Recommended Decision at 168. The evidence against Rock Spring and in favor of the Recommended Decision is overwhelming, and thus, the Commission does not need to go farther in its analysis. Therefore, the Commission should deny Rock Spring’s Exceptions and adopt the Recommended Decision ordering PAWC to acquire Rock Spring.

III. CONCLUSION

Based on the foregoing reasons and the reasons discussed within the Department’s Main Brief and Reply Brief, the Department respectfully requests that the Commission deny Rock Spring Water Company’s Exceptions and adopt the Recommended Decision.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

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Date: March 20, 2026

² Rock Spring admits that the company was aware of its rights under Section 529(b) of the Public Utility Code, 66 Pa. C.S. 529(b). *See* Rock Spring’s Exceptions at 8.

**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 Reply to Rock Spring Water Company's Exceptions, via electronic mail upon the persons listed below:

SERVED VIA ELECTRONIC MAIL ON MARCH 20, 2026

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