

COMMONWEALTH OF PENNSYLVANIA



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March 26, 2024

Via Electronic Mail Only

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
v.
Veolia Water Pennsylvania, Inc.
Docket Nos. R-2024-3045192
R-2024-3045193

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
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Enclosures:

cc: The Honorable Emily DeVoe (email only: edevoe@pa.gov)
Certificate of Service
*4867-6018-6546

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v :
Veolia Water Pennsylvania, Inc. : Docket Nos. R-2024-3045192 (Water)
: R-2024-3045193 (Wastewater)
: C-2024-3047522
: C-2024-3047410
: C-2024-3047317
: C-2024-3047315
: C-2024-3047288
: C-2024-3047644

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission's electronic filing system.

Dated this 26th day of March 2024

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Dated: March 26, 2024
*4866-5113-4642

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2024-3045192 (Water)
	:	C-2024-3046520 (Water)
v.	:	R-2024-3045193 (Wastewater)
	:	C-2024-3046521 (Wastewater)
Veolia Water Pennsylvania, Inc.	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On February 16, 2024, Veolia Water Pennsylvania, Inc. (Veolia or the Company) filed Supplement No. 68 to Tariff Water – PA P.U.C. No. 7 and Supplement No. 5 to Tariff Wastewater-PA P.U.C. No. 2 to become effective April 16, 2024. Veolia’s tariffs propose to increase the Company’s total annual operating revenues by approximately \$16.2 million (\$15.5 million from water operations, a 26.4% increase and \$568,719 from wastewater operations, a 34.8% increase), over Veolia’s annualized total revenues at present rates including Distribution System Improvement Charge (DSIC) revenue for the fully projected future test year (FPFTY), ending October 31, 2025. On March 14, 2024, the Public Utility Commission (Commission) suspended the effective date of the proposed tariffs to November 16, 2024.¹

¹ It is the OCA’s understanding that the Company will be proposing to extend the end of the suspension period until November 22, 2024.

The Consumer Advocate is empowered to represent the interests of consumers before the Commission, pursuant to Act 161 of the General Assembly, as amended. 71 P.S. §§ 309-1, *et seq.* The Consumer Advocate filed a Formal Complaint in this matter to ensure that the Commission fully and fairly adjudicates issues pertaining to whether the Company's existing and proposed rates – and all rate policy changes – are just, reasonable, not unduly discriminatory, and otherwise lawful.

Veolia is engaged in the business of providing water service to over 69,800 customers and wastewater service to 1,611 customers. The Company provides water service to customers in communities in 11 counties: (1) Columbia County: the Town of Bloomsburg, South Centre Township, Scott Township, and portions of the Townships of Hemlock and Montour; (2) Cumberland County: the Borough of Mechanicsburg and portions of the Townships of East Pennsboro, Upper Allen, Lower Allen, Hampden, Silver Spring and Monroe; (3) Dauphin County: the Boroughs of Dauphin, Highspire, Hummelstown, Paxtang and Penbrook; the Townships of Lower Paxton, Middle Paxton and Swatara; portions of the Townships of Derry, Lower Swatara, South Hanover and Susquehanna; (4) Delaware County: portions of Bethel Township and portions of the Township of Concord; (5) Franklin County: portions of Hamilton and Letterkenny Townships; (6) Luzerne County: the Borough of Dallas, Dallas Township, Overbrook, Village of Shavertown and Vicinity, Kingston Township, Harvey's Lake Borough, Lake Township and Lehman Township; (7) Montour County: a portion of Cooper Township and Township of Mahoning; (8) Perry County: the Borough of Marysville, Rye Township and Penn Township; (9) Schuylkill County: the Village of Nuremberg, Township of North Union; (10) Wyoming County, Noxen Township; and (11) York County Newberry Township and portions of Monaghan Township. The Company provides wastewater service in Columbia County in the Township of

South Centre and in Montour County in the Township of Mahoning, a portion of Cooper Township and a portion of Valley Township.

On February 16, 2024, the Office of Consumer Advocate (OCA) filed its Formal Complaint and Public Statement. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on February 21, 2024. On February 26, 2024, the Office of Small Business Advocate (OSBA) filed its Formal Complaint and Public Statement. On March 11, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene.

On March 14, 2024, the Commission issued a Suspension Order in the water and wastewater dockets, initiating investigations into the lawfulness, justness, and reasonableness of the proposed rate increase requests, and suspended the effective date of Tariff Nos. 68 (water) and 5 (wastewater) until November 16, 2024, by operation of law. The Commission assigned this proceeding to the Office of Administrative Law Judge and further assigned this proceeding to Administrative Law Judge Emily I. DeVoe (ALJ DeVoe). ALJ DeVoe issued a Prehearing Conference Order on March 20, 2024, directing parties to file and serve a Prehearing Memorandum on or before noon on March 26, 2024, and scheduling a telephonic Prehearing Conference for March 27, 2024.

The OCA filed a Formal Complaint against the proposed rate increase to protect the interests of Veolia's customers and seeks to ensure that Veolia is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent Veolia from collecting all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise violate the Public Utility Code. The OCA submits that Veolia's current rates and the rates sought by Veolia may be unjustifiable and

unlawful based upon information filed by Veolia in support of its claim.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of Veolia's base rate filing, the OCA has compiled a list of issues and sub-issues, which it anticipates will be included in its investigation if Veolia's rate request. It is anticipated that other issues may arise and may be pursued once the answers to all of the OCA's interrogatories have been received and analyzed. The OCA also anticipates that additional discovery and/or informal discovery meetings can be scheduled to narrow the scope of additional information requests. Once the discovery process is complete, the OCA will file direct testimony which will set forth the specific issues it will address in this proceeding. At that time, the OCA will also make and quantify its specific recommendations.

The issues and sub-issues set forth, and others that may develop during discovery, will be analyzed and presented, as appropriate, by the OCA with the assistance of its expert witnesses:

A. Rate of Return

1. The OCA will perform a detailed analysis of the 10.80% cost of common equity claimed by Veolia. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim.

2. The OCA will examine whether the capital structure proposed by Veolia is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

3. The OCA will examine the embedded cost of debt claimed by Veolia to determine whether it is reasonable and appropriate for ratemaking purposes.

4. The OCA will further examine whether any company-specific adjustments proposed by Veolia are justified.

B. Rate Base/Measure of Value

1. The OCA will examine the reasonableness and accuracy of Veolia's projections related to water/wastewater utility plant in service at the time relevant to this proceeding.

2. The OCA will review the Company's claim for plant additions during the FPFTY.

3. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer deposits, customer advances for construction, and contributions in aid of construction.

4. The OCA will review the Company's forecast of additions to the plant in service, including plant additions related to Veolia's Long-Term Infrastructure Improvement Plan.

5. The OCA will also review the deduction of depreciation reserve and cash working capital claim.

6. The OCA will examine the Company's claims for materials and supplies.

7. The OCA will examine claims related to Veolia's acquisitions, including potential acquisitions that are included in its filing, and determine how acquisitions, if any, that have not been completed should be treated for rate base purposes. The OCA will examine issues to ensure that the acquisition adjustments reflected in the filings comply with the requirements set forth in Section 1327 and 1329 of the Public Utility Code, as applicable. The OCA will examine the Company's claims related to the ratemaking treatment of deferred depreciation and Allowance for Funds Used During Construction (AFUDC).

8. The OCA intends to examine the reasonableness and accuracy of the Company's claimed valuation of its investment.

9. The OCA will examine the Company's Accumulated Deferred Income Tax (ADIT) balances and excess ADIT balances.

C. Revenues and Expenses

1. The OCA will examine whether the projected number of customers at the time periods relevant to this proceeding is reasonable and accurate.

2. The OCA will examine whether the Company's estimates of the volume of water to be sold during future periods are reasonable and accurate.

3. The OCA will examine whether the Company's projections of revenues in the future periods are reasonable and accurate including, but not limited to, its billed days adjustments, metered water sales and the impact of conservation measures, and miscellaneous revenue adjustments.

4. The OCA will evaluate the reasonableness of the Company's claims regarding revenues, including the various inputs and assumptions used by Veolia.

5. The OCA will review, *inter alia*, the Company's claims for wages and benefits, insurance expense, depreciation expense, rate case expense, labor expense, uncollectible accounts, pensions, purchased water and purchased power expense, rent expense, and property tax expense.

6. The OCA will also review the Company's calculation of inflation rates and proposed application of inflation to expenses.

7. The OCA will examine the justness and reasonableness of the Company's employee healthcare expense.

8. The OCA will examine the justness and reasonableness of the Company's justifications and amortization of new acquisition adjustments.

9. The OCA will examine the justness and reasonableness of the Company's claimed rate case normalization period.

10. The OCA will examine claims related to Veolia's acquisitions, including any potential acquisitions that are included in the filing, and determine whether the potential acquisitions are sufficiently certain to occur in the FPFTY in order to justify Veolia's proposed revenue and expense claims in the FPFTY relating to such potential acquisitions.

D. Taxes

1. The OCA will examine issues related to the calculation of taxes including, but not limited to, the calculation of federal and state income taxes and the amount of those taxes included as expenses for ratemaking purposes and will examine whether the Company is in compliance with the Public Utility Code, including with Act 40 of 2016 (Act 40), the Commission's regulations and applicable case law.

2. The OCA will examine the reasonableness of the Company's proposal regarding the tax repairs deductions, and its claims for income taxes, property taxes, and general assessments.

3. The OCA will examine the effect of the Tax Cuts and Jobs Act on the Company's tax expense and its ADIT and the amount, if any, that needs to be returned to ratepayers as a result.

4. The OCA will examine the Company's level of Public Utility Realty Tax (PURTA) and property tax expense.

5. The OCA will examine claims related to Veolia's acquisitions, including any potential acquisitions in the filing, and determine whether the potential acquisitions are sufficiently certain to occur in the FPFTY in order to justify Veolia's proposed tax expense claims in the FPFTY relating to such potential acquisitions.

E. Rate Structure/Cost of Service/Rate Design/Tariffs

1. The OCA will examine the reasonableness of Veolia's proposed distribution or allocation of the revenue increase among customer classes, ratemaking regions or zones, and types of utility service to determine whether the proposal meets all legal requirements and sound ratemaking principles.

2. The OCA will examine Veolia's cost of service studies for water, wastewater, and the separate Mahoning Township COSS, including the methodology used and the reasonableness of the allocations.

3. The OCA also examine the reasonableness of the Company's proposal to increase the customer charge for water service to most customers (5/8-inch or 3/4-inch meters) from \$14.50 to \$19.80 per month, which is an increase of 36.6%.

4. The OCA will examine the reasonableness of Veolia's proposal to move from a monthly consumption charge of \$0.905101 per 100 gallons to \$1.1710 per 100 gallons, for consumption up to 25,000 gallons per month. This change would apply to most Veolia residential customers.

5. The OCA will examine the reasonableness and appropriateness of the Company's proposed tariff changes, including all surcharges and revenue adjustment mechanisms, as well as all proposed changes in the terms and conditions of service. This includes the Company's existing and proposed Distribution System Improvement Charge (DSIC) mechanism and tariff.

6. The OCA will also review Veolia's proposal for the initial metered rates for residential water service customers in Overbrook. These Veolia customers currently pay water rates based upon the number and type of fixtures or connections in their house. Under the new proposed metered rates, these customers would pay a monthly customer charge of \$19.80 for customers with 5/8-inch or 3/4-inch water meters. The consumption charge would be \$1.1710 per 100 gallons, for monthly consumption up to 25,000 gallons. The OCA will examine the reasonableness of the proposed changes.

7. The OCA will examine the reasonableness of Veolia's current Purchased Water Charge (PWC) to bills for water service to the former Veolia Water Bethel customers and the Company's proposal to reset the PWC to zero, upon establishment of new base rates.

8. The OCA will review the reasonableness of Veolia's proposal to change and increase the water customer charge for the former Kensington Water residential customers in Hamilton and Letterkenny, from \$15 per month including a water usage allowance of up to 1,667 gallons, to \$19.80 per month with zero water usage allowance, for customers with 5/8-inch or 3/4-inch water meters. The volumetric rate will increase from \$7.10 per thousand gallons over 1,667 gallons to \$1.1710 per 100 gallons.

9. The OCA will review the reasonableness of Veolia's proposal to change the water customer charge for the Mahoning Township residential customers, from \$21.38 per month, including a water usage allowance of up to 2,000 gallons, to \$19.80 per month with zero water usage allowance, for customers with 5/8-inch or 3/4-inch water meters. The volumetric rate for Mahoning Township customers would increase from \$0.449 per 100 gallons to \$1.1710 per 100 gallons.

F. Depreciation

1. The OCA will examine Veolia's depreciation study, including the proposed service lives, net salvage rates, and depreciation rate calculations to determine if they are reasonable.
2. The OCA will analyze the depreciation rates based upon the actuarial analysis to determine if any modifications are necessary.

G. Low-Income Programs

1. The OCA will analyze current and proposed Veolia operations, practices, procedures, and outreach related to serving low-income customers.
2. The OCA will examine how Veolia's proposed rate increase and rate structure will affect low-income and/or low-usage customers.

3. The OCA will examine Veolia's proposed change to a water discount program for customers at or below 200% of the Federal Poverty Level (FPL). The OCA will review whether modifications are needed to the proposal to provide a full discount on the fixed monthly customer service charge and a volumetric discount on the first 2,000 gallons for the customers from 0-100% of the FPL and a volumetric discount on the first 1,000 gallons for customers from 101-150% of the FPL. The OCA will also examine the reasonableness of Veolia's proposal to provide flexible payment arrangements that will provide an opportunity for arrearage forgiveness in the amount of \$25/per month for customers at or below 200% of the FPL. The OCA will also review Veolia's proposal to hire contractors to provide plumbing repairs up to \$1,500 for customers at or below 150% of the FPL if the customer is in danger of termination or has been terminated. The OCA will review these proposals to determine if they are just, reasonable and consistent with sound ratemaking principles.

4. The OCA will examine Veolia's proposal for a mechanism that would allow it to track the difference between the overall costs of the program and the proposed targeted amount as a regulatory asset or liability to be addressed in the next base rate proceeding. The OCA will review the proposed mechanism to determine if it is consistent with sound ratemaking principles and public policy and may be contrary to the provisions of prior Commission-approved settlements and orders.

H. Quality of Service

1. The OCA review the Company's quality of service to ensure that it is providing safe, adequate, and reliable service, and water that is usable for all household purposes, and that its wastewater service is consistent with the requirements of Section 1501 of the Public Utility Code.
2. The OCA will investigate the water and wastewater quality of service and water and wastewater complaints to Veolia customers.

3. If possible, the OCA may also inspect a sampling of Veolia facilities to evaluate operation and maintenance procedures.

I. Customer Service

1. The OCA will review the Company's consumer protection policies and programs in order to ensure compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

2. The OCA will examine the Company's customer service, including performance trends, internal training, management oversight, policies, and programs.

3. The OCA will examine the Company's consumer education programs, particularly with regard to changes in billing and collection rights and remedies, and complaint process.

J. Other Issues

1. The OCA will examine any relevant environmental issues that arise as a result of the Company's operations.

2. The OCA will investigate to ensure that the Company is complying with all prior orders.

3. The OCA will examine other issues affecting the Company's revenue requirements, rates, charges, and other tariff provisions as they are identified through discovery.

4. The OCA will examine the customer notice for residential water customers attached as Exh. LFK-3 and whether the notice may be deficient in that it only provides the following notice to residential customers about the changes to the water rates. The notice states that "if the company's entire request is approved, the total water bill for a residential customer using an average of 3,500 gallons per month would increase from \$49.64 to \$60.79 per month or by 22%."

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following expert witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that, in addition to e-mailing copies to OCA counsel, parties send copies of all interrogatory answers and testimony to the expert witness(es)

responsible for the appropriate area of the case. The OCA also requests that CDs/thumb drives containing any interrogatory responses be mailed directly to the applicable witness.

Regulatory Policy Issues:

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Quality of Service:

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The OCA specifically reserves the right to call additional witnesses, as necessary. All

parties of record will be notified as soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case.

IV. EVIDENCE

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of other parties to the proceeding. The OCA will also present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

V. PUBLIC INPUT HEARINGS

The OCA is aware of nine Formal Complaints filed by consumers. The OCA requests that one in-person public input hearing be scheduled in the Harrisburg area in the afternoon at 1:00 p.m. and that one evening telephonic public input hearing be held at 6:00 p.m. The OCA requests that the public input hearings be held during the last week of April 2024 to the extent possible.

The OCA requests that the Commission handle registrations for the public input hearings. Unfortunately, due to the volume of on-going and anticipated rate proceedings and OCA staffing limitations, the OCA is not able to handle the registrations for the public input hearings. In addition to the above, the OCA requests that pre-registration at public input hearings, including any telephonic hearings, not be required. Instead, the OCA encourages the Commission to publish the call-in number for any telephonic hearing on the hearing notice itself rather than require pre-registration. If the Commission requires pre-registration, the OCA requests that the following provisions be adopted to facilitate the public input hearings for Veolia's customers:

- A. Pre-registration will only be encouraged but not required for telephonic Public Input Hearings. No pre-registration will be encouraged or required for in-person Public Input Hearings.
- B. Interested witnesses are encouraged to submit any hearing exhibits and pre-register by noon on the day before the telephonic Public Input Hearings.

C. The Commission's notice of the Public Input Hearings will include the phone numbers and access codes necessary for participants to use to fully access all telephonic Public Input Hearings.

D. The Company will be required to, at a minimum, generate a notice to public within the service territory and on its website, for all of the Public Input Hearings, including the date, time, location, phone number and access codes for telephonic Public Input Hearings, and registration information published in the Commission's Public Input Hearing notice.

Finally, to ensure that consumers are adequately informed of the public input opportunities, newspaper notices must be advertised in the general readership sections of local newspapers, not in the legal section. In addition, the OCA requests the other parties involved in the proceeding be permitted to review these public input announcements prior to their publication and distribution and have input into which publications the ads are placed.

VI. SERVICE ON THE OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocates Christy M. Appleby and Darryl A. Lawrence, and Assistant Consumer Advocate Barrett C. Sheridan. The OCA has created a group e-mail address provided below. This is the only email address that is required for service on the OCA; it will provide the emailed materials to all members of the OCA team including the consultants listed above. The OCA will not be providing service via mail and does not expect other parties to serve the OCA by mail. All documents should be served on the OCA by email as follows:

Christy M. Appleby, Senior Assistant Consumer Advocate
Darryl A. Lawrence, Senior Assistant Consumer Advocate
Barrett C. Sheridan, Assistant Consumer Advocate
OCAVEOLIA2024@paoca.org

The OCA requests that service by email by 4:30 p.m. on the due date will satisfy the in-hand service requirement, without the need for follow-up hard copies.

During the prehearing conference, Christy Appleby will speak as lead attorney for the OCA.

VII. PROPOSED SCHEDULE

The OCA proposes that at least two days of evidentiary hearings should be scheduled. As discussed in the prior Section, the OCA requests that email distribution will satisfy all in-hand service dates contained in the schedule. The OCA agrees with the procedural schedule proposed by the Company for the following dates:

Direct Testimony	May 17, 2024
Rebuttal Testimony	June 7, 2024
Surrebuttal Testimony	June 21, 2024
Outline of Oral Rejoinder Testimony	June 25, 2024
Evidentiary Hearing with Oral Rejoinder Testimony	June 26-June 28, 2024
Main Briefs	July 19, 2024
Reply Briefs	August 2, 2024

The OCA notes the proposed schedule is based upon the use of the November 7, 2024, Public Meeting date.

VIII. DISCOVERY

The OCA's proposed modifications to the Commission's discovery regulations are attached as Appendix A. The OCA believes that these modifications will assist the parties in clarifying and narrowing issues and developing a complete record for the Commission. Additionally, the OCA respectfully requests that, if adopted, the proposed modifications take effect on the date of the Prehearing Conference.

IX. SETTLEMENT

The OCA is willing to participate in settlement discussions.

Respectfully Submitted,

/s/ Christy M. Appleby

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DATE: March 26, 2024

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, : Docket Nos. R-2024-3045192 (Water)
: C-2024-3046520 (Water)
v. : R-2024-3045193 (Wastewater)
: C-2024-3046521 (Wastewater)
Veolia Water Pennsylvania, Inc. :

PROPOSED AMENDMENTS TO DISCOVERY REGULATIONS

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission’s procedural rules regarding discovery. The OCA requests that the Presiding Officers direct that the modifications will take effect when addressed during the on the record prehearing conference.

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within ten (10) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service; unresolved objections shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

E. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

G. Answers to on the Record Data requests will be served within five (5) calendar days.