

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3045192 (Water)
	:	R-2023-3045193 (Wastewater)
	:	
Office of Consumer Advocate	:	C-2024-3046520
	:	C-2024-3046521
	:	
Office of Small Business Advocate	:	C-2024-3046893
	:	C-2024- 3046956
v.	:	
	:	
Veolia Water Pennsylvania, Inc.	:	

PREHEARING ORDER

On February 16, 2024, Veolia Water Pennsylvania, Inc. (VWPA or Company) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 68 to its Tariff Water – Pa. P.U.C. No. 7 (Supplement No. 68) at Docket No. R-2024-3045192 and Supplement No. 5 to its Tariff Wastewater – Pa. P.U.C. No. 2 (Supplement No. 5) at Docket No. R-2024-3045193. Through Supplement No. 68, the Company proposes a general increase in annual water revenues of \$15.4M per year, or 26%, including DSIC revenues. Through Supplement No. 5, the Company proposes a general increase in wastewater revenues of \$568K per year, or 35%. The Company proposes that the water and wastewater rate increases become effective on April 16, 2024.

On February 16, 2024, the Office of Consumer Advocate (OCA) filed a Rate Complaint in both the water and wastewater cases; the Complaint in the water case was docketed at C-2024-3046520, and the Complaint in the wastewater case was docketed at C-2024-3046521.

On February 21, 2024, the Bureau of Investigation and Enforcement (BIE) filed a Notice of Appearance in both the water and wastewater cases.

On February 26, 2024, the Office of Small Business Advocate (OSBA) filed a Rate Complaint in both the water and wastewater cases; the Complaint in the water case was docketed at C-2024-3046893, and the Complaint in the wastewater case was docketed at C-2024-3046956.

On March 8, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer.

Additionally, nine customers of VWPA filed Rate Complaints, and many other customers filed comments.

On March 14, 2024, the Commission entered an Order initiating an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations in these proceedings, suspending the effective date of the proposed rates until November 16, 2024, and assigning these matters to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of such hearings as may be necessary, culminating in the issuance of a recommended decision.

On March 20, 2024, the Commission issued a Notice, scheduling a telephonic prehearing conference for March 27, 2024. On March 20, 2024, I issued a Prehearing Conference Order.

On March 26, 2024, prehearing memoranda was filed by the Company, OCA, OSBA, BIE, and CAUSE-PA.

A prehearing conference was held on March 27, 2024, as scheduled. VWPA, OCA, OSBA, BIE, and CAUSE-PA were represented by counsel. Additionally, Elisa Guisto (Ms. Guisto), a customer who filed a Formal Rate Complaint in this proceeding, was present. The parties discussed a variety of matters detailed below.

Litigation Schedule

The parties agreed upon the following litigation schedule:

<u>Date</u>	<u>Event</u>
May 17, 2024	Written Direct Testimony of All Other Parties
June 7, 2024	Written Rebuttal Testimony Due
June 21, 2024	Written Surrebuttal Testimony Due
June 25, 2024	Outline of Expected Oral Rejoinder*
June 26 - 28, 2024	Evidentiary Hearings and Oral Rejoinder
July 19, 2024	Main Briefs Due
August 2, 2024	Reply Briefs Due or Submission of Joint Settlement Petition Executed By Representatives of All Parties, Together With All Parties' Statements In Support of Settlement

* When the parties serve their outline(s) of expected oral rejoinder on June 25, 2024, they must also serve the Presiding ALJ with a witness matrix and list of proposed exhibits.

The parties are reminded of the Commission's requirements for the preparation and filing of written testimony. 52 Pa.Code §§ 5.412 and 5.412a. Written testimony must be accompanied by all exhibits to which it relates. Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness.**

Parties serving prepared testimony in proceedings pending before the Commission pursuant to 52 Pa.Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding, to e-file with the Secretary's Bureau a copy of all testimony furnished to the court reporter during the proceeding consistent with 52 Pa.Code § 5.412a.

The above-stated dates are in-hand dates for service on the parties and the Presiding Administrative Law Judge (ALJ). The I agree to accept email transmission of such

material, so long as the subject email is received by 4:30 p.m. on the date due. My email address is edevoe@pa.gov. There is no need to follow email service upon me with hard copy.

Hearings will begin promptly at **10:00 a.m. on June 26, 27, and 28, 2024**. The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid “holes” or “dead time” during the hearings.

Parties

As of the date of this Order, VWPA, OCA, OSBA, BIE, and CAUSE-PA are the only active parties involved in this case. During the prehearing conference, Ms. Guisto stated she did not want to be considered an active party in this case. No other customer complainants were present.

If a customer has previously filed a formal complaint in this matter and wishes to participate in this case as an active party, he or she must file correspondence with the Commission’s Secretary’s Bureau, and serve me (the Presiding ALJ) and all other active parties with written correspondence indicating their desire to participate as an active party.

In deciding whether to participate as an active party, customer complainants should be mindful that the active parties will be exchanging multiple rounds of written testimony with each other. This written testimony will likely be voluminous.

If a customer complainant elects not to participate as an active party, he or she is not required to take any further action. Further, a customer complainant who elects not to participate as an active party may still provide testimony at one of the public input hearings and will receive a copy of all hearing notices and a copy of the Recommended Decision.

If a customer complainant does wish to participate as an active party, they must comply with all the Commission’s rules and regulations, as well as all terms and directives included in this Order, and any future Order that may be issued in this case. Customer

complainants who want to participate as active parties must file their correspondence with the Secretary's Bureau, and serve me and all parties listed on the "Active Party Service List" by **April 12, 2024**. A Service List of these parties is appended to this Order.

The parties are directed to monitor filings with the Commission's Secretary's Bureau and advise me of any additional formal complaints or petitions to intervene filed after the date of this Order.

Consolidation

During the prehearing conference, without objection from any party, I consolidated the water and wastewater cases, as well as the corresponding Complaints filed by OCA and OSBA, under the water rate proceeding at Docket No. R-2024-3045192.

Petition to Intervene

On March 8, 2024, CAUSE-PA filed a Petition to Intervene and Answer. No party objected to the Petition to Intervene and it was granted.

Public Input Hearings

During the Prehearing Conference, the parties agreed to hold a series of public input hearings. After hearing input from the parties, I decided to hold one in-person public input hearing in Bloomsburg, PA, and two hybrid public input hearings in Harrisburg. Planning for these public input hearings is underway.

Further, I directed the Company to publish notice in the general readership section of a newspaper local to the service area at least two weeks prior to the scheduled hearings. The Company agreed to publicize the public input hearings on its website and social media. The Company agreed to work with the statutory advocates on the specific wording of the notice to be published.

Finally, I decided that pre-registration of witnesses would be strongly encouraged, but not required, and that witnesses for the public input hearings will be directed to submit their proposed exhibits, if any, by noon the day before the hearing at which the witness intends to testify.

Issues

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

Discovery

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission's procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et seq.* The parties must not send the Presiding ALJ discovery material or cover letters, unless attached to a motion to compel. **All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally.** If a motion to compel fails to contain such certification, the Presiding ALJ will contact the parties and direct them to pursue informal discovery.

At the prehearing conference, the parties agreed to the following modifications of the Commission's procedures for formal discovery:

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.

Protective Order

VWPA filed a Petition for Protective Order on March 29, 2024. No party objected, and it was issued March 29, 2024.

Settlement

The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility.

In the event that a partial settlement is achieved, the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.

In the event that a full settlement is achieved, the parties should notify the presiding ALJ as soon as possible prior to the scheduled hearings, but no later than **12:00 p.m. on Monday, June 24, 2024**. If the parties reach a full settlement, they may choose to convene

on June 26, 2024 and/or June 27, 2024 and/or June 28, 2024 as scheduled and offer their written testimonies and exhibits on the record. **If the parties choose to convene solely to have written testimony admitted, the presiding ALJ would request that the in-person hearing be converted to a telephone hearing.** Testimonies and exhibits may be admitted into the record upon oral motion as long as the other parties waive cross-examination of the witness and an appropriate verification has been filed with the Commission's Secretary's Bureau.

If the parties reach a full settlement or otherwise deem it appropriate, they may request that the ALJ cancel the evidentiary hearings. Such a request should be made as soon as possible prior to the scheduled hearings, but no later than **12:00 p.m. on Monday, June 24, 2024.** The ALJ will not cancel the evidentiary hearings unless and until the parties file a fully-executed joint stipulation for the admission of evidence with the Secretary's Bureau. The stipulation must include: (1) a stipulation that all parties waive cross-examination of all witnesses, (2) a list of all testimonies and exhibits to be admitted into the record, either embedded within the stipulation or attached to the stipulation, and (3) a stipulation that the testimonies and exhibits to be admitted into the record are admissible and should be admitted. If such a stipulation is filed, the ALJ may issue an Order adopting the stipulation, admitting the evidence into the record, cancelling the evidentiary hearings, and ordering the parties to file their testimonies and exhibits, with appropriate verifications, with the Commission's Secretary's Bureau along with a copy of the Order.

A Joint Settlement Petition, if any, must be executed by representatives of all parties, and, together with all parties' Statements In Support of Settlement, must be filed with the Secretary's Bureau and received in-hand by the Presiding ALJ no later than **4:00 p.m. on Friday, August 2, 2024.**

Stipulations

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in

litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record in this case either orally at an evidentiary hearing or through a motion filed with the Secretary's Bureau.

Cross-Examination

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

Briefs

The parties must comply with 52 Pa.Code §§ 5.501, *et seq.*, regarding the preparation and filing of briefs. Page limitations on briefs will be discussed on or before the last day of hearing. The parties shall submit an electronic copy of all briefs to the Presiding ALJ **in a Microsoft Office Word format.**

Modification

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: April 1, 2024

/s/
Emily I. DeVoe
Administrative Law Judge

**R-2024-3045192, R-2024-3045193 - PENNSYLVANIA PUBLIC UTILITY COMMISSION
v. VEOLIA WATER PENNSYLVANIA INC**

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