

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Joint Application of Pennsylvania-American
Water Company and the Sewer
Authority of the City of Scranton**

**Public Meeting October 6, 2016
2537209-OSA
Docket No. A-2016-2537209**

**MOTION OF COMMISSIONERS ROBERT F. POWELSON
AND DAVID W. SWEET**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Pennsylvania-American Water Company (PAWC or Company) and the Sewer Authority of the City of Scranton (SSA) (collectively Joint Applicants) and the Office of Consumer Advocate (OCA) to the Recommended Decision (RD) of Administrative Law Judges David A. Salapa and Steven K. Haas, issued on August 24, 2016, in the above-captioned proceeding.

On March 30, 2016, the Joint Applicants filed a Joint Application requesting that the Commission, pursuant to 66 Pa. C.S. § 1102, approve PAWC's acquisition of substantially all of the assets of SSA's sewer system and sewage treatment works and approve PAWC's application to render wastewater service in the areas served by SSA (Joint Application).

We completely agree that the Commission should defer *all* future rate related issues raised by this transaction until PAWC's next base rate case.¹ Disputes over future rates are not ripe for our decision at this time. At closing, PAWC will simply adopt SSA's current (customer and usage) rates.² It is not until the time of PAWC's *next* base rate case that the rate issues arising from this transaction will be ripe for decision.³ It is not appropriate, at this juncture, to prejudge those issues, even if it means that PAWC remains at risk for recovery of costs related to this transaction until the conclusion of that next base rate case.

¹ This includes all valuation issues, as well as rate design issues involved in this matter. It does not affect the requirement that PAWC file a statement of original cost of the acquired system's assets consistent with the Commission's policy statement at 52 Pa. Code § 69.721(f).

² RD at 9 (FOF 36).

³ The Asset Purchase Agreement (APA) contains an agreement that PAWC will not "implement" a rate increase for SSA customers "prior to January 1, 2018." RD at 9 (FOF 40). This is a rates effective stay-out, as opposed to a rate filing stay-out. Our expectation, and the purpose of this motion, is to have all rate issues relating to this transaction fully and fairly decided in the next base rate case.

There are two specific rate design issues that this motion is designed to queue up for consideration in PAWC's next base rate case.⁴ The first is the appropriateness of PAWC's recovery of the SSA system's stormwater collection and treatment related costs⁵ from PAWC's existing water and wastewater customers. I&E and the OCA urge that stormwater costs be separately billed, apart from water and wastewater rates, to prevent the unfair burdening of existing PAWC water and wastewater customers with the capital and operating costs of treating stormwater runoff in Scranton and Dunmore. The OCA further argues that, as part of this approval, we should require separated rates in order to ensure that there will be no harm to existing PAWC customers.⁶ On the other hand, PAWC asserts we should rule now that recovery of stormwater costs from existing wastewater and water customers is appropriate in order to verify that the transaction is economically feasible and to prevent stranded costs.⁷ Although we agree that the Commission should decline to formally address these specific rate issues at this stage of this proceeding, we also believe that the issue of stormwater cost recovery is important and should be afforded full and complete consideration by the Commission in PAWC's next base rate case.

The Commission has some experience with stormwater cost recovery,⁸ but not of the magnitude involved here.⁹ As with all rate design issues, the basis of rate setting is a cost of service study. The absence of a study designed with specific direction to address recovery of stormwater costs as a separate class would be an impediment to the full development of this issue in PAWC's next base rate proceeding.¹⁰

The second issue concerns the rate impact from the rate limitations agreed to in the APA. The OCA argues that, even with removal of the variance adjustment, the "substantial detriments of the transaction outweigh the alleged benefits."¹¹ While not recommending any changes to the ratemaking terms in the APA in this proceeding, I&E argues that the numerous ratemaking terms contained in the APA, including the rate limitations, may cause rate shock issues if not addressed starting in the first base rate case after closing.¹²

⁴ The APA limits the magnitude of increases that *PAWC may propose* for Scranton customers through a multi-year period, but does not restrict any other entity's rate case position or bind the Commission in any way. See, for example, RD at 9-10 (FOF 40-42).

⁵ In this case, stormwater costs includes costs associated with street sweeping and catch basin cleaning in the areas serviced by the combined system that PAWC has agreed to undertake in the purchase agreement.

⁶ OCA RB at 22.

⁷ JA MB at 35-36 (citing 66 Pa. C.S. § 1311(c) as a legal right).

⁸ *Pa. P.U.C. v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366 (Apr. 18, 2013) and *Pa. P.U.C. v. City of Lancaster Sewer Fund*, Docket No. R-0004986, (Sept. 15, 2008).

⁹ I&E states that this represents a case of first impression. I&E MB at 9.

¹⁰ As noted by I&E, "A separate cost of service study would provide ratemaking solutions to this stormwater issue by potentially charging SSA customers or the City for these stormwater costs." I&E MB at 12.

¹¹ OCA R. Exc. at 18-19.

¹² I&E MB at 22-25.

Therefore, we direct PAWC to develop and file cost of service studies in its next base rate case, pursuant to our regulations,¹³ that allow these two issues to be fully vetted within the nine-month time constraint of a fully litigated base rate case. First, PAWC shall include a cost of service study that fully separates the costs of providing stormwater services in the SSA service area. Moreover, PAWC is directed to address the pros and cons of designing rates on this separated basis.

Second, using the same rate design methodology it proposes in the case, PAWC shall take the rates it proposed, remove all costs and revenues associated with the SSA operations (both sewer and stormwater), and develop rates that exclude the impact of the SSA acquisition included in the base rate filing. This study is requested so the Commission will be better positioned in that rate case to evaluate the rate impacts of this transaction on PAWC's existing customers.

Both studies shall be submitted at the time of filing the next base rate case. The requirement of filing these two items is not intended to limit or affect what PAWC may propose as rates or the positions that it or any party, including the Commission, may take.

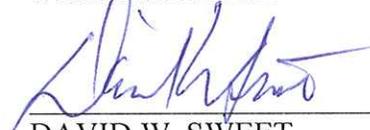
THEREFORE, We move that:

1. At the time of its next base rate case filing, PAWC is directed to submit information consistent with this Motion.
2. That the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Date: October 6, 2016



ROBERT F. POWELSON
COMMISSIONER



DAVID W. SWEET
COMMISSIONER

¹³ 52 Pa. Code § 53.53, Exhibit D, Section VIII.