

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

January 14, 2019

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Application of Pennsylvania -American Water  
Company Pursuant to Sections 507, 1102 and  
1329 of the Public Utility Code for Approval  
of its Acquisition of the Wastewater Assets of  
Exeter Township  
Docket No. A-2018-3004933

Dear Secretary Chiavetta:

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

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christine Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Attachment

cc: Chairman Gladys M. Brown  
Vice Chairman David W. Sweet  
Commissioner John F. Coleman  
Commissioner Norman J. Kennard  
Commissioner Andrew G. Place  
Office of Administrative Law Judge  
Office of Special Assistants (e-mail only: ra-OSA@pa.gov)  
Bureau of Technical Utility Services (email only)  
Shaun Sparks, Esquire, Law Bureau  
Certificate of Service

CERTIFICATE OF SERVICE

Re: Application of Pennsylvania- :  
American Water Company Pursuant :  
to Sections 507, 1102 and 1329 of :  
the Public Utility Code for Approval : Docket No. A-2018-3004933  
of its Acquisition of the Wastewater :  
Assets of Exeter Township :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Petition for Stay, 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:

Dated this 14<sup>th</sup> day of January 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Erika McClain, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

David P. Zambito, Esquire  
Jonathan P. Nase, Esquire  
Cozen O'Connor  
17 North Second Street  
Suite 1410  
Harrisburg, PA 17101

John Evans  
Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

Susan Simms Marsh, Esquire  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

Samuel W. Cortes, Esquire  
Fox Rothschild LLP  
747 Constitution Drive  
Exton, PA 19341

Barnett Satinsky, Esquire  
Fox Rothschild LLP  
2000 Market Street, 20<sup>th</sup> Floor  
Philadelphia, PA 19103-3222

Exeter Township  
4975 DeMoss Road  
Reading, PA 19606

Joan E. London, Esquire  
Kozloff Stoudt  
2640 Westview Drive  
Wyomissing, PA 19610

Michael A. Setley, Esquire  
Georgeadis II Setley, LLC  
4 Park Plaza  
Wyomissing, PA 19610

/s/ Christine Maloni Hoover  
Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Harrison W Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: [HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717)783-7152  
Dated: January 14, 2019  
\*265159

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania- :  
American Water Company Pursuant to :  
Sections 507, 1102 and 1329 of the Public :  
Utility Code for Approval of its Acquisition :       Docket No. A-2018-3004933  
of the Wastewater System Assets of Exeter :  
Township :

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PETITION OF THE OFFICE OF CONSUMER ADVOCATE  
FOR A STAY OF THE PROCEEDING

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The Office of Consumer Advocate (OCA) files this Petition for Stay of the Proceeding (Stay Petition) in the above-captioned Application pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code § 5.41. The OCA submits, as set forth below, that a Stay is necessary to avoid unnecessary litigation and to facilitate resolution of the entire case. If the Pennsylvania American Water Company (PAWC or Company) and Exeter Township notices are provided to customers and are later found to be defective and inconsistent with McCloskey v. Pa. Public Utility Commission, 1624 CD 2017 (Oct. 11, 2018) (New Garden), it will be necessary to provide revised notice to ratepayers, take additional evidence from ratepayers regarding the acquisition and enter a new order, as directed by the Commonwealth Court in New Garden. This would complicate and delay resolution of the proceeding. In contrast, the OCA's requested relief will not harm any parties and will benefit the public interest because due process requirements related to notice will be met, without unnecessary confusion, duplication of effort and cost.

## I. BACKGROUND

1. On December 5, 2018<sup>1</sup>, PAWC filed this Application and seeks, *inter alia*, Commission approval for the acquisition of the wastewater collection and treatment system of Exeter Township, Berks County, and the right of PAWC to provide wastewater service to Exeter Township, portions of Alsace and Lower Alsace Townships<sup>2</sup>, to one bulk service interconnection point with Alsace Township, and to four bulk service interconnections points with St. Lawrence Borough, Berks County and to the Windy Willows development in Alsace Township, which is not currently served by Exeter Township. PAWC also seeks approval of the ratemaking rate base of the assets as determined under Section 1329(c)(2) of the Public Utility Code. Application at 2-3. Exeter Township provides direct wastewater service to 9,015 customers, including 8,747 residential, 236 commercial, 12 industrial, and 20 municipal customer connections. Application at 6.

2. On December 14, 2018, the OCA filed a Petition to Reject or Hold In Abeyance Acceptance (Abeyance Petition). A copy of the Abeyance Petition is attached as Appendix A, hereto. In the Abeyance Petition, the OCA submitted that the notice provided with PAWC's Application does not meet the fundamental requirements of Section 53.45(b)(1-4) or the New Garden Order. The OCA also identified inconsistencies between the proposed notices and the "Milesburg notice" used in the South River Partners filing following the Commonwealth Court's Order in Barasch v. Pennsylvania Public Utility Commission, 546 A.2d 1296(Pa. Cmwlth. 1988)

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<sup>1</sup> The original application was filed on September 25, 2018 and rejected by the Commission on October 1, 2018 by Secretarial letter to the Applicant.

<sup>2</sup> On December 10, 2018, Exeter Township filed an application *nunc pro tunc* for a certificate of public convenience from the Commission related to wastewater service to the public in Lower Alsace Township. Application of Exeter Township for Certificate of Public Convenience at Docket No. A-2018-3006505. PAWC indicates that it hopes to consolidate the Exeter Township application with the applications referenced in this pleading. Application at 5. On December 20, 2018, the Bureau of Investigation and Enforcement (I&E) filed a Motion to Reject or Hold in Abeyance PAWC's Amended Application.

(Milesburg). See South River Partners v. West Penn Power Co., Docket No. C-00935287, Appendix A of the Fifth Interim Order of Administrative Law Judge Nemeec (Attachment B to the OCA's Abeyance Petition (Appendix A, hereto)). The OCA asked the Commission to reject the Application or hold in abeyance the acceptance of the Application to permit the parties and the Commission to resolve the conflicting positions regarding the proper notices to be sent to the existing PAWC customers and to the Exeter Township customers. The OCA provided its proposed revisions to the notices to be sent to the customers of PAWC and Exeter Township and stated its willingness to work with PAWC, Exeter Township, and the Commission to resolve the issues.

3. On December 19, 2018, Secretary Rosemary Chiavetta issued a Secretarial Letter informing PAWC that it has conditionally accepted the Application for filing and directing PAWC to provide individualized notice of the proposed acquisition to all potentially affected PAWC wastewater and water division customers and ensure concurrent notice to all current Exeter Township wastewater customers in similar fashion. Upon receipt of verification that notice has occurred as directed, the Secretary states that the Commission will issue a Secretarial Letter finalizing acceptance of the filing.

4. The OCA has filed its Protest and Public Statement simultaneously with the filing of this Petition for Stay. In its Protest, the OCA raised issues related to the deficiencies in the notice, the appraisals, whether there are substantial affirmative public benefits, and whether there are conditions that may be necessary to protect PAWC's existing customers.

## II. BASIS FOR STAY

When considering a petition for stay the Commission must analyze the factors set forth by the Pennsylvania Supreme Court in Pa. Public Utility Commission v. Process Gas Consumers Group, 502 Pa. 545, 467 A.2d 805 (1983). A petition for stay of a Commission order will be granted when:

1. The petitioner makes a strong showing that he is likely to prevail on the merits.
2. The petitioner has shown that without the requested relief, he will suffer irreparable injury.
3. The issuance of a stay will not substantially harm other interested parties in the proceedings.
4. The issuance of a stay will not adversely affect the public interest.

502 Pa. at 552-53, 467 A.2d at 808-09.

The Pennsylvania Supreme Court held that these criteria “[require] the Court to balance the interests of all parties, and the public where applicable, and [require] the applicant to demonstrate a probability of success on the merits.” Process Gas Consumers Group, 502 Pa. at 553, 467 A.2d at 809. As set forth below, the OCA submits that it has met the criteria for a stay of this proceeding.

### A. The OCA Is Likely To Prevail on The Merits.

Pursuant to the Commonwealth Court’s Order in New Garden, individualized notice of the proposed acquisition must be provided at the start of all proceedings filed under Section 1329. Notice is required because the ratemaking rate base determination made in the proceeding “is fundamental to a determination of rates” and a rate increase involves a substantial property right. New Garden, slip op. at 26. The Commonwealth Court directed the Commission to provide notice to all ratepayers in accordance with 52 Pa. Code § 53.45. Id. Section 53.45 of the

Commission's regulations addresses notice that is required in a rate case. It requires notice to be given to the public by posting in each company office, by written or printed notice, or alternatively by bill insert as part of the monthly billing cycle, and by news release. See 52 Pa. Code § 53.45 (b)(1-4). The regulation contains explicit language for the notice that the utility sends to its customers, including the impact on each customer class. The notices provided with the Application do not meet the fundamental requirements of this regulation or New Garden, thus the OCA submits that it has a substantial likelihood of prevailing on the issue of what constitutes sufficient notice.

As discussed below, even if the Commission does not agree that the OCA has a substantial likelihood of prevailing on the merits, if the other three factors favor the request for a stay, the application of the first standard should not be inflexible. Petition of the Borough of Cornwall for a Declaratory Order that the Provision of Water Service to Isolated Customers Adjoining its Boundaries Does Not Constitute Provision of Public Utility Service Under 66 Pa. C.S. § 102, Docket No. P-2015-2476211, Opinion and Order (Dec. 8, 2016). In Cornwall, the PUC granted the municipal authority's Petition for Supersedeas even though it had denied municipal authority's arguments regarding the Petition for Declaratory Order. The Commission stated, "As we are facing a case in which the other three factors favor interim relief, we will exercise our discretion to grant a stay under the present circumstances. We acknowledge that the Authority has made a case on the merits, although we disagree with the Authority's position. For these reasons, we will grant the Authority's Petition for Supersedeas." Slip op. at 20.

B. The OCA Has Shown That Without The Requested Relief, Customers Will Suffer Irreparable Injury.

Without the requested stay, customers of PAWC and Exeter Township will receive notices that do not meet constitutional and statutory requirements as set forth in New Garden.



Providing inadequate notices will not meet the requirements of due process in violation of the 14<sup>th</sup> Amendment to the United States Constitution. U.S. Const. amend. XIV, § 1; New Garden, slip op. at 23. “[A] violation of law constitutes irreparable harm *per se*.” Core Communications, Inc. v. Verizon Pennsylvania Inc., Verizon North LLC, 2011 Pa. PUC LEXIS 72 at 24 (Pa. PUC 2011) (citing to Pa. PUC v. Israel, 52 A.2d 347 (Pa. 1947)). A violation of law is itself sufficient to satisfy the requirement for irreparable injury.

In addition, when deciding if an injury is irreparable, the Commission “examines whether the harm can be reversed if the request for emergency relief is not granted.” Core Communications at 23. It is possible that following a Commission Order, PAWC and Exeter Township may close on the transaction even if the Order is appealed. If sufficient notice is provided only after an appeal and remand of the Commission’s Order in this proceeding, customers would not have a meaningful opportunity to address concerns with the underlying transaction or resulting ratemaking rate base.

C. The Issuance Of A Stay Will Not Substantially Harm Other Interested Parties In The Proceedings.

A stay will not harm any of the parties to the proceeding (PAWC, Exeter Township, or I&E) because a stay will maintain the status quo while the parties resolve the sufficiency of the notice that will be sent to the PAWC and Exeter Township customers. There is no evidence that maintaining the status quo would result in any harm to the parties or to the customers of PAWC and Exeter Township.

D. The Issuance Of A Stay Will Not Adversely Affect The Public Interest.

The issuance of a stay will not adversely affect the public interest because a stay will permit the parties to address the sufficiency of the notice to ensure that it is consistent with the

requirements of New Garden and 52 Pa. Code § 53.45. Ensuring that the notice is sufficient before notices are sent to customers will advance the public interest because customers will get one notice and will have a meaningful opportunity to participate in the proceeding. If the PAWC and Exeter Township notices are provided to customers and are later found to be defective and inconsistent with New Garden, it will be necessary to provide revised notice to ratepayers, take additional evidence from ratepayers regarding the acquisition and enter a new order, as directed by the Commonwealth Court in New Garden. This would complicate and delay resolution of the proceeding. A stay will advance the public interest because it will ensure that resources for all parties and the Commission are used efficiently because due process requirements related to notice will be met, without unnecessary confusion, duplication of effort and cost. In addition, it is likely that the legal question regarding sufficiency of notice will reappear in other cases. Indeed, PAWC has already filed an additional Application under Section 1329: Steelton Borough (Docket No. A-2019-3006880). Thus, resolution of the notice issue by the appellate court in this proceeding will aid the Commission in resolving the same legal issue in Steelton and future Section 1329 proceedings initiated by PAWC and other utilities.

III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate, for the reasons set forth above, hereby requests that the Commission grant this Petition and order a stay of the proceeding until the notices are revised to reflect the directive of New Garden and 52 Pa. Code § 53.45.

Respectfully Submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Harrison Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: HBreitman@paoca.org

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

January 14, 2019  
265149



COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

December 14, 2018

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

Re: Application of Pennsylvania -American Water  
Company Pursuant to Sections 507, 1102 and  
1329 of the Public Utility Code for Approval  
of its Acquisition of the Wastewater Assets of  
Exeter Township  
Docket No. A-2018-3004933

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Petition to  
Reject or Hold In Abeyance Acceptance of the Application in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Very truly yours,

A handwritten signature in black ink that reads "Christine Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

cc: Bureau of Technical Utility Services (e-mail only)  
Office of Special Assistants (e-mail only)  
Law Bureau  
Certificate of Service

CERTIFICATE OF SERVICE

Re: Application of Pennsylvania- :  
American Water Company Pursuant :  
to Sections 507, 1102 and 1329 of :  
the Public Utility Code for Approval : Docket No. A-2018-3004933  
of its Acquisition of the Wastewater :  
Assets of Exeter Township :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Petition to Reject or Hold In Abeyance of the Application, 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:

Dated this 14<sup>th</sup> day of December 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Erika McClain, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

David P. Zambito, Esquire  
Cozen O'Connor  
17 North Second Street  
Suite 1410  
Harrisburg, PA 17101

John Evans  
Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

/s/ Christine Maloni Hoover  
Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Counsel for  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: December 14, 2018  
\*259986

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania- :  
American Water Company Pursuant to :  
Sections 507, 1102, and 1329 of the Public : Docket No. A-2018-3004933  
Utility Code for Approval of its Acquisition :  
of the Wastewater Assets of Exeter :  
Township :

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OFFICE OF CONSUMER ADVOCATE'S PETITION  
TO REJECT OR HOLD IN ABEYANCE  
ACCEPTANCE OF THE APPLICATION

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I. INTRODUCTION

Pursuant to 52 Pa. Code § 5.41, the Office of Consumer Advocate (OCA) files this Petition to Reject or Hold In Abeyance Acceptance (Petition) of the Application of Pennsylvania American Water Company for Approval of its Acquisition of the Wastewater Assets of Exeter Township (Application) filed pursuant to Sections 507, 1102 and 1329 of the Public Utility Code. 66 Pa. C.S. §§ 507, 1102, 1329. As discussed below, the OCA submits that the notice included in the revised Application does not comply with the Commonwealth Court's decision in McCloskey v. Pa. Public Utility Commission, 1624 CD 2017 (Oct. 11, 2018)(New Garden).

II. BASIS FOR RELIEF REQUESTED

The OCA requests that the Commission reject the Application, or hold in abeyance the acceptance of the Application, to permit the parties and the Commission to resolve the issues regarding the content of a notice to customers that will satisfy the requirements of New Garden. In New Garden, the Commonwealth Court held that to meet due process requirements, individualized notice has to be provided directly to all ratepayers and ratepayers must be afforded an opportunity to participate in the Section 1329 proceeding. New Garden, slip op. at

26. Notice is required because the ratemaking rate base determination made in the proceeding “is fundamental to a determination of rates” and a rate increase involves a substantial property right. Id. The Commonwealth Court directed the Commission to provide notice to all ratepayers in accordance with 52 Pa. Code § 53.45. Id. Section 53.45 of the Commission’s regulations addresses notice that is required in a rate case. It requires notice to be given to the public by posting in each company office, by written or printed notice, or alternatively by bill insert as part of the monthly billing cycle, and by news release. See 52 Pa. Code 53.45 (b)(1-4). The regulation contains explicit language for the notice that the utility sends to its customers. The notice provided with the Application does not meet the fundamental requirements of this regulation or the Commonwealth Court Order.

A rejection of the Application, or holding in abeyance the acceptance of the Application, is necessary to avoid harm and potential confusion if the PAWC and Exeter Township notices are provided to customers and are later found to be defective and inconsistent with New Garden. The OCA’s requested relief will not harm any parties and will benefit the public interest because due process requirements related to notice will be met.

On December 5, 2018, Pennsylvania American Water Company (PAWC or Company) filed a revised Application<sup>1</sup> seeking approval of its proposed acquisition of the wastewater assets of Exeter Township (Township). Application Filing Checklist # 18 asks the Applicant to provide a copy of the notification sent to affected customers describing the filing and the proposed rates. In its response, PAWC attached a notice that it said it will send to its customers, and attached

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<sup>1</sup> The original Application was filed on September 25, 2018. By Secretarial Letter dated October 1, 2018, the Commission notified PAWC that it was declining to accept the filing without because it was incomplete and had several deficiencies.



alternative versions of a notice that will be sent by Exeter Township to its customers. Application, Appendix A-18-d (revised).

The notices that PAWC filed in response to Appendix A-18-d (revised) are attached hereto as Attachment A. The notice that PAWC proposes to send to its customers provides information about the proposed acquisition including the request for the amount of the ratemaking rate base pursuant to Section 1329. The OCA is concerned that the proposed notices do not adequately inform the customers of the impact of the filing on their rates or bills, the PUC's role, and the options that customers have in response to the notice as required by 52 Pa. Code § 53.45.

In New Garden, the Commonwealth Court, in answering the question of notice and due process, directed that individual notice be provided to the existing Aqua wastewater customers and to the New Garden Township customers in accordance with 52 Pa. Code § 53.45, as it had required in Barasch v. Pennsylvania Public Utility Commission, 546 A.2d 1296(Pa. Cmwlth. 1988) (Milesburg). In Milesburg, the Commonwealth Court held:

Because an increase in rates involves a substantial property right, ratepayers are entitled to notice of a Commission's administrative proceeding in which a decision is made to increase rates in a subsequent rate base proceeding.

546 A.2d at 1305-1306. The Commonwealth Court found in Milesburg that notice should be provided in a manner consistent with 52 Pa. Code § 53.45. The OCA has provided an example of a notice that was used in a subsequent qualifying facility contract proceeding. See Attachment B (South River Partners v. West Penn Power Co., Docket No. C-00935287, Appendix A of the Fifth Interim Order of Administrative Law Judge Nemeč). That notice, called a "Milesburg notice" in the proceeding, was ordered to be sent via bill insert to each West Penn Power

customer. The notice provided an estimated monthly cost for each customer class of the proposed energy contract. See Attachment B, page 2 of the notice.

The notice used in rate cases, as well as the “Milesburg notice,” provides specific information about the impact of the proposed action on each customer class by showing the impact on a typical residential, commercial, and industrial customer’s bill. 52 Pa. Code § 53.45(b)(1)(i). As far back as Milesburg, the Commonwealth Court recognized that the notices of actions that would impact future rates needed to be as thorough as those required for general rate increases. Milesburg, 546 A.2d at 1308. Thus, as discussed below, the impact on customers must be included in order to provide a notice that adequately explains the substantial property rights that are involved.

### III. OCA’S PROPOSED REVISIONS TO THE NOTICES PROVIDED BY PAWC

The OCA has identified the following revisions that need to be added to the notices in order to conform to New Garden, Milesburg, and the notice requirements under 52 Pa. Code § 53.45.

a. The notice does not provide any information regarding the impact of the requested \$96 million ratemaking rate base on the customers’ bills. Section 53.45(b)(1)(i) provides the language that is required in the notice, including the impact on the customers’ bills, separated by customer class, and using a typical usage level. In this Application, the OCA submits that, at a minimum, there should be information regarding the impact on revenue requirement depending on whether the revenue requirement increase related to the ratemaking rate base determination is

allocated to PAWC's existing wastewater customers, to Exeter Township customers, or to both the existing PAWC wastewater customers and Exeter Township customers.<sup>2</sup>

The information regarding the impact on customers can be calculated using the information in the filing and other publicly available information. The OCA estimates that the impact on customers (combined existing PAWC wastewater customers and Township customers or existing PAWC wastewater customers) is approximately 16-22%. See Attachment C (Affidavit of Ashley E. Everette, Regulatory Analyst). The OCA submits that the range of the impact on the customers should be added to the notice that is sent to all customers.<sup>3</sup> See Attachment D, OCA Revised Notice, lines 20-22.

The addition to the notice of the range of the estimated impact on the customers is consistent with Milesburg, as discussed above. The notice required by Milesburg includes disclosure of the impact on the customers of the proposed adjudicatory action being taken by the Commission.

b. The notice provided by PAWC in its Application does not include a full description of the PUC's role. See Application, Appendix A-18-d (revised). Pursuant to 52 Pa. Code § 53.45(b)(1)(i), required language in the notice of a rate proceeding is a description of the PUC's role in the proceeding. The OCA has added similar language to what is included in rate case notices regarding the PUC's role, as modified to reflect that this is an application proceeding. See Attachment D, OCA Revised Notice, lines 25-29. This revision should be made in the Exeter Township notices as well.

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<sup>2</sup> The OCA is providing this revised notice based on the circumstances for this particular case. The OCA does not waive any arguments or positions as to the proper notice in other cases.

<sup>3</sup> A similar sentence should be added to the Exeter Township notice to identify the potential impact on their bills. The OCA has calculated that range could be approximately 16-68%. See Attachment C.

c. Contact information for the OCA has been added to give another option to customers who may have questions about the filing and/or may not want to file a protest. See Attachment D, OCA Revised Notice, lines 48-50.

d. The OCA has made additional wording changes that seek to clarify the notice and the process because it is an application proceeding rather than a general rate increase proceeding. See Attachment D, OCA Revised Notice, lines 14-15, 20, 52, and 54. These revisions should be made in the Exeter Township notices as well.

The OCA submits that its proposed changes to the notices will make them consistent with the Commonwealth Court's directive, previous Milesburg notices and with 52 Pa. Code § 53.45, while providing clear, concise information to the impacted customers.

#### IV. CONCLUSION

For the reasons set forth above, the Office of Consumer Advocate requests that the Commission reject the Application or hold in abeyance the acceptance of the Application to permit the parties and the Commission to resolve the conflicting positions regarding the proper notices to be sent to the existing PAWC customers and to the Exeter Township customers. The OCA has provided its proposed revisions to the notices to be sent to the customers of PAWC and Exeter Township and is willing to work with PAWC, Exeter Township, and the Commission to resolve these issues.

Respectfully Submitted,



---

Christine M. Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

December 14, 2018  
263792

# **Attachment A**

**Application of Pennsylvania-American Water Company for Acquisition of  
the Wastewater Assets of the Township of Exeter  
66 Pa. C.S. §1329  
Application Filing Checklist – Water/Wastewater  
Docket No. A-2018-3004933**

18. Rates.
- d. Provide a copy of the notification sent to affected customers describing the filing and the proposed rates.

**RESPONSE:**

- d. Attached is a letter that will be sent by PAWC to its customers. Also attached are alternative versions of a letter that will be sent by Exeter to its customers. Section 7.1 of the APA requires Exeter to increase its current wastewater rates at least 60 days in advance of closing of the Transaction. The first version will be used if Exeter raises its rates for wastewater service on January 1, 2019. The second version will be used if Exeter raises its rates for wastewater service after January 1, 2019.

Please note that all versions of the letter to customers include a blank for the due date for protests and notices of intervention. PAWC asks that the Secretarial Letter conditionally accepting the Amended Application indicate the due date for protests and notices of intervention.

## NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION

Dear Customer:

On December \_\_, 2018, the Pennsylvania Public Utility Commission (PUC) conditionally accepted for filing the application of Pennsylvania American Water (PAW) for approval to acquire the Exeter Township (Exeter) wastewater system assets. Exeter serves approximately 9,000 customers in Berks County, Pa. PAW's application also requests that the PUC authorize an addition of up to \$96.0 million to PAW's rate base pursuant to 66 Pa. C.S. § 1329. A utility's rate base is the value of property used by the utility to provide service to its customers and is one of several components used to establish a utility's customer rates. This acquisition will not immediately, but may in the future, affect your water or wastewater bill. The PUC will issue a decision on the application on or around **[6 months after final acceptance]**.

PAW is not requesting a rate increase as part of the acquisition. Your rates will not change until the conclusion of PAW's next rate case where PAW requests and receives PUC approval to increase its rates. At this time, it is unclear when PAW will file its next rate case and what the impact of the Exeter acquisition may be on your rates.

### ACTIONS YOU CAN TAKE

The PUC is the state agency that reviews proposed acquisitions and proposed rates. You can support or challenge PAW's request by:

- 1) Sending a letter to the PUC. You can tell the PUC why you support or object to PAW's acquisition of Exeter's wastewater system in your letter. This information can be helpful when the PUC investigates the application. Send your letter to the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265.
- 2) Filing a protest or a petition to intervene. If you want to be a party to the case, you must file a protest or a petition to intervene. You then have an opportunity to take part in all the hearings about the proposed acquisition. You can receive copies of all materials distributed by the other parties. Protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before **[Date]**. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on PAW's counsel at Cozen O'Connor, Attn: David P. Zambito, 17 North Second Street, Suite 1410, Harrisburg, PA 17101.

The documents filed in support of the application are available for inspection and copying at the Office of the Secretary of the PUC between 8 a.m. and 4:30 p.m., Monday through Friday, on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov) and at PAW's offices at 800 Hersheypark Drive, Hershey, PA 17033. The PUC docket number is A-2018-3004933.



## NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION

Dear Customer:

On December \_\_, 2018, the Pennsylvania Public Utility Commission (PUC) conditionally accepted for filing the application of Pennsylvania American Water (PAW) for approval to acquire the Exeter Township (Exeter) wastewater system assets. PAW serves 65,139 wastewater customers across Pennsylvania. Additionally, PAW furnishes water service to 659,687 customers across Pennsylvania. PAW's application also requests that the PUC authorize an addition of up to \$96.0 million to PAW's rate base pursuant to 66 Pa. C.S. § 1329. A utility's rate base is the value of property used by the utility to provide service to its customers and is one of several components used to establish a utility's customer rates. This acquisition will not immediately, but may in the future, affect your wastewater bill. The PUC will issue a decision on the application on or around **[6 months after final acceptance]**.

PAW is not requesting a rate increase as part of the acquisition. Your wastewater rates will not increase until the conclusion of PAW's next rate case where PAW requests and receives PUC approval to increase its rates. At this time, it is unclear when PAW will file its next rate case and what the impact of the acquisition may be on your rates.

### ACTIONS YOU CAN TAKE

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- 1) Sending a letter to the PUC. You can tell the PUC why you support or object to PAW's acquisition of Exeter's wastewater system in your letter. This information can be helpful when the PUC investigates the application. Send your letter to the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265.
- 2) Filing a protest or a petition to intervene. If you want to be a party to the case, you must file a protest or a petition to intervene. You then have an opportunity to take part in all of the hearings about the proposed acquisition. You then can receive copies of all materials distributed by the other parties. Protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before **[Date]**. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission at Post Office Box 3265, Harrisburg, PA 17105-3265, with copies served on Exeter's counsel at Fox Rothschild, Attn: Samuel W. Cortes, 747 Constitution Drive, Suite 100, Post Office Box 679, Exton, PA 19341, and PAW's counsel at Cozen O'Connor, Attn: David P. Zambito, 17 North Second Street, Suite 1410, Harrisburg, PA 17101.

The documents filed in support of the application are available for inspection and copying at the Office of the Secretary of the PUC between 8 a.m. and 4:30 p.m., Monday through Friday, on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov) and at PAW's offices at 800 Hersheypark Drive, Hershey, PA 17033. The PUC docket number (which is the number the PUC uses to identify proceedings like this) is A-2018-3004933.

Additionally, Exeter intends to utilize proceeds of the sale of its wastewater system assets to implement a Homestead Tax Exemption for all eligible residents, providing a tax savings to those eligible residents. Please reach out to the Township at 610-779-5660, or attend a Exeter Township Board of Supervisors Meeting (the meeting schedule is listed on the Exeter Township website at <http://www.exetertownship.com>) to learn more about this program and ask any questions about the Homestead Tax Exemption or your eligibility for it.

## NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION

Dear Customer:

On December \_\_, 2018, the Pennsylvania Public Utility Commission (PUC) conditionally accepted for filing the application of Pennsylvania American Water (PAW) for approval to acquire the Exeter Township (Exeter) wastewater system assets. PAW serves 65,139 wastewater customers across Pennsylvania. Additionally, PAW furnishes water service to 659,687 customers across Pennsylvania. PAW's application also requests that the PUC authorize an addition of up to \$96.0 million to PAW's rate base pursuant to 66 Pa. C.S. § 1329. A utility's rate base is the value of property used by the utility to provide service to its customers and is one of several components used to establish a utility's customer rates. This acquisition may, in the future, affect your wastewater bill. The PUC will issue a decision on the application on or around [6 months after final acceptance].

Prior to PAW ownership of the Exeter wastewater system, Exeter will increase its rates by 29% for all customers. After PAW ownership and subject to PUC approval, your wastewater rates will not increase until the conclusion of PAW's next rate case. At this time, it is unclear when PAW will file its next rate case and what the impact of the Exeter acquisition may be on your rates.

### ACTIONS YOU CAN TAKE

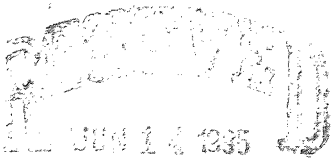
The PUC is the state agency that reviews proposed acquisitions and proposed rates. You can support or challenge PAW's request by:

- 1) Sending a letter to the PUC. You can tell the PUC why you support or object to PAW's acquisition of Exeter's wastewater system in your letter. This information can be helpful when the PUC investigates the application. Send your letter to the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265.
- 2) Filing a protest or a petition to intervene. If you want to be a party to the case, you must file a protest or a petition to intervene. You then have an opportunity to take part in all of the hearings about the proposed acquisition. You then can receive copies of all materials distributed by the other parties. Protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before [Date]. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission at Post Office Box 3265, Harrisburg, PA 17105-3265, with copies served on Exeter's counsel at Fox Rothschild, Attn: Samuel W. Cortes, 747 Constitution Drive, Suite 100, Post Office Box 679, Exton, PA 19341, and PAW's counsel at Cozen O'Connor, Attn: David P. Zambito, 17 North Second Street, Suite 1410, Harrisburg, PA 17101.

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Additionally, Exeter intends to utilize proceeds of the sale of its wastewater system assets to implement a Homestead Tax Exemption for all eligible residents, providing a tax savings to those eligible residents. Please reach out to the Township at 610-779-5660 or attend a Exeter Township Board of Supervisors Meeting (the meeting schedule is listed on the Exeter Township website at <http://www.exetertownship.com>) to learn more about this program and ask any questions about the Homestead Tax Exemption or your eligibility for it.

# **Attachment B**



OFFICE OF  
CONSUMER ADVOCATE

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

South River Power Partners, L.P. :  
v. : Docket No.  
West Penn Power Company : C-00935287

FIFTH INTERIM ORDER

Introduction

South River Power Partners, L.P., has asked this Commission to require West Penn to enter into a long-term contract for the purchase of electric power under the provisions of the Public Utility Regulatory Policies Act of 1978 and this Commission's regulations.

By Order entered June 3, 1994, this Commission granted West Penn's petition for permission to institute competitive bidding for power purchases to the extent that it authorized West Penn to utilize a competitive bidding program for the procurement of qualified facility capacity on an interim basis. In its Order this Commission waived its regulations at 52 Pa. Code §57.31 et seq. to the extent that the regulations require West Penn to negotiate with qualifying facilities for capacity purchases, effective July 22, 1993. With regard to the present case initiated by South River, this Commission stated that:

Therefore, whether or not South River's proposed project is exempted from West Penn's interim competitive bidding program will depend on our final decision on South River's complaint. If we grant South River's requested relief and direct West Penn to enter into a power purchase agreement with South

River, then South River's proposed QF would obviously be exempted from West Penn's interim competitive bidding program. If, however, we dismiss South River's complaint, then South River in order to have the opportunity to sell capacity and associated energy to West Penn, would be required to participate in any interim competitive bidding process conducted by West Penn.

Order entered 6/3/94 at P-00930737, slip op. p. 17.

South River, West Penn and another party filed appeals from the above Order which resulted in the stay of this matter from August 2, 1994 until May 4, 1995, when the stay was lifted by the Fourth Interim Order. The stay was lifted as a result of the withdrawal of the appeals. That order also set forth a schedule to consider West Penn motions pertaining to continuing a stay, dismissing the case and West Penn's request to present testimony on various factual aspects associated with compliance with the "Milesburg notice" requirements. A further prehearing conference was scheduled and held on June 2, 1995 to consider the above matters as well as concerns of South River. The conference was immediately followed by an on-the-record hearing to take oral argument on the motions and any testimony that any party wanted to present on the contents, costs and mechanisms involved in preparing and mailing the "Milesburg notice".

In the course of the conference, counsel for West Penn stated that West Penn was dropping its request for a stay. The matters that were discussed and argued included West Penn's motion to dismiss, the nature, contents and mechanics of a "Milesburg notice", West Penn's request to bifurcate the proceeding to the extent of first addressing the issue of a legally enforceable

obligation, discovery and scheduling. Each is discussed in turn below.

#### Motion to Dismiss

West Penn filed its renewed motion to dismiss under date of April 24, 1995. As reasons to reconsider the prior decision denying its first motion to dismiss, West Penn contends that this Commission's regulations on avoided cost at 52 Pa. Code §57.34(c)(4)(iii) are no longer applicable. Further, West Penn contends that the power purchase area of law is changing rapidly and that state court and FERC decisions indicate that the present matter should be dismissed.

In its response and at the further prehearing conference, South River urged that the motion be denied as had West Penn's first motion to dismiss in an interim order dated December 20, 1993. West Penn is correct, as acknowledged by South River, that the Commonwealth Court has recently questioned the application of this Commission of the so-called coal plant proxy. See Pennsylvania Electric Company v. Pa.P.U.C., \_\_\_ Pa. Commonwealth Ct. \_\_\_, 648 A.2d 63 (1994). However, counsel for South River noted that South River's petition, while asserting that the coal plant proxy applies, nevertheless provides in its paragraph 18 an alternative request for relief which would encompass a different method for the calculation of avoided costs.

Admittedly the area of purchased power is being closely considered in both state and federal forums. That argues more to the need to more fully develop the record in this case than to



terminate it at this juncture. Based on the above brief review and the rationale of the prior interim order that denied the first motion to dismiss, I conclude that the present West Penn motion should likewise be denied.

#### Milesburg Notice

No one disputes the need to notify West Penn's customers of the pendency of the present case. See Interim Order, C-00935287 (this case) dated 2/23/94, slip op. pp. 5-8. The method, timing, cost and content are very much in dispute between West Penn and South River.

As in other cases filed and tried in Pennsylvania, the notice will be provided by a billing stuffer. West Penn will be directed to include the notice in a billing cycle for or before September 1995. I conclude this is doable based on the testimony of West Penn's witness at the June 2, 1995 conference/hearing.

The cost of the notice was dealt with in the second interim order dated February 23, 1994, which directed South River to pay for printing the notice and provide to West Penn for inclusion in the billing envelopes. The testimony presented by West Penn does not support imprinting the envelopes or the payment of overtime for West Penn employees. To be clear here, South River's obligation is to provide the printed notices (paper, ink, imprinting, boxing or other containers, etc. to West Penn's specifications) to West Penn or pay its costs as testified to by its witness.

As to content, the notice drafted by the Commission's Law Bureau is direct and performs the necessary function of providing clear notice to West Penn's ratepayers of the pending application and an approximation of financial effects of various outcomes in the litigation process. Assuming the notice is inserted in the September billing cycle, the date for filing complaints should be October 30, 1995. (If inserted in the August cycle, the date should be October 2, 1995.) For the convenience of the parties, a copy of the Law Bureau notice is attached as Appendix A.

#### Bifurcation and Schedule

After a review of the current cases cited by the parties and the transcript of the prehearing conference presided over by ALJ Kashi in Petition of MidAtlantic Cogen, Inc., P-00940820, February 10, 1995, I am satisfied that resolution of this present matter can be expedited by treating the issue of a legally enforceable obligation as a threshold matter. To that end, the parties are directed to propose a schedule for hearings in November 1995 to address whether a legally enforceable obligation exists. Briefing will be accelerated or done by trial brief. Hearings on all remaining issues would be held in January 1996, or as soon as reasonably possible. All parties should submit their proposals for a schedule to me in writing on or before July 14, 1995. Thereafter a schedule for hearings and briefing(s) will be established in a further interim order. As the prior stay has been lifted, the parties should consider the discovery procedures established in the

interim order dated February 23, 1994 as operative until modified by a further order.

ORDER

In consideration of the foregoing,

IT IS ORDERED THAT:

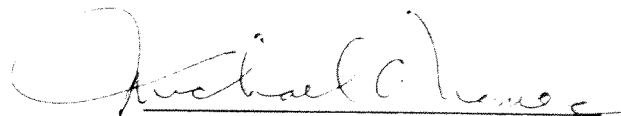
1. The motion of West Penn Power Company to dismiss the present proceeding is denied.

2. West Penn shall include with its bills to its customers on or before its September 1995, billing cycle the Milesburg notice as drafted by this Commission's Law Bureau as approved above and attached here as Appendix A.

3. South River Power Partners, L.P. shall provide the printed Milesburg notice in accordance with West Penn's requirements for inclusion in the billing cycle at its sole and exclusive expense as discussed in the preceding interim order.

4. All parties wishing to do so shall provide the undersigned presiding officer with proposed schedules for hearing and briefing in accordance with the discussion in the preceding interim order on or before July 14, 1995.

Date: June 12, 1995



MICHAEL A. NEMEC  
Administrative Law Judge

Parties of Record: C-00935287

South River Power Partners, L.P.  
51 Locust Avenue  
Suite 302  
New Canaan, CT 06840

Clifford B. Levine, Esquire  
Alice B. Mitinger, Esquire  
Thorp, Reed & Armstrong  
One Riverfront Center  
Pittsburgh, PA 15222

Alan P. Buchmann, Esquire  
Squire, Sanders & Dempsey  
4900 Society Center  
127 Public Square  
Cleveland, OH 44114

Theresa Judith Colecchia, Esquire  
Allegheny Power Service Corp.  
800 Cabin Hill Drive  
Greensburg, PA 15601

Michael D. McDowell, Esquire  
John L. Munsch, Esquire  
West Penn Power Company  
800 Cabin Hill Drive  
Greensburg, PA 15601

Tanya J. McCloskey, Esquire  
Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, PA 17120

Charles E. Rainey, Jr., Esquire  
Law Bureau  
Pa. Public Utility Commission  
Room G-28, North Office Building  
Harrisburg, PA 17105-3265

Charles F. Hoffman, Esquire  
Albert W. Johnson, II  
Office of Trial Staff  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17120

Bernard A. Ryan, Jr., Esquire  
Regina L. Matz, Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101-1503

David F. Boehm, Esquire  
Michael L. Kurtz, Esquire  
Boehm, Kurtz & Lowry  
2110 Society Bank Bldg.  
36 East 7th Street  
Cincinnati, OH 45202

Derrick P. Williamson, Esquire  
David M. Kleppinger, Esquire  
McNees, Wallace & Nurick  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166

Steven F. Baicker-McKee, Esquire  
Joseph Kubacki, Jr., Esquire  
Babst, Calland, Clements  
and Zomnir  
Two Gateway Center, Eighth Floor  
Pittsburgh, PA 15222

NOTICE OF FILING OF PETITION  
FOR AN ORDER DIRECTING WEST PENN  
POWER COMPANY TO PURCHASE CAPACITY  
AND ENERGY FROM SOUTH RIVER POWER  
PARTNERS, L.P.

TO OUR CUSTOMERS:

On October 28, 1993, South River Power Partners, L.P. (South River) filed a petition with the Pennsylvania Public Utility Commission ("PUC") requesting that the PUC order West Penn Power Company ("West Penn") to purchase capacity and energy from South River's proposed qualifying facility (QF). Under a federal law and state regulations implementing that law, electric utilities such as West Penn are required to purchase power from QFs at rates based upon the costs the electric utility can avoid by buying QF power ("avoided costs"). An electric utility's avoided cost includes both avoided capital and operating costs, as applicable. South River contends that West Penn needs capacity and, under PUC regulations, is required to purchase power from South River's proposed QF under a long term contract at rates that include avoided capital and operating costs. West Penn has denied that it needs the capacity represented by South River's proposed QF. West Penn also claims that the cost of the proposed purchase is too high.

South River's petition has been assigned by the PUC to an administrative law judge for evidentiary hearings. At the end of the hearings the PUC will rule on South River's request. If the PUC rules that West Penn needs additional generating capacity and that the purchase price is at or below West Penn's avoided costs, the PUC may order West Penn to sign a power purchase contract with

South River. South River's proposed QF is a 240 MW coal and coal-fired facility to be located in Fayette County, Pennsylvania.

If the PUC orders West Penn to sign a contract with South River, the cost for the purchased power will be collected from ratepayers over the term of the contract. The costs would be collected through West Penn's Energy Cost Rate on a dollar for dollar basis. It cannot be stated exactly what these costs might be because the PUC has not yet determined how much generating capacity West Penn may need, if any. At the low end, the costs may be zero if the PUC finds that West Penn doesn't need any more generating capacity. At the high end the costs may reach approximately \$134 million per year if the PUC finds that West Penn needs all of the capacity offered by South River. However, these costs would be no more than West Penn's avoided costs, as determined by the Commission. West Penn makes no profit on power purchases from QFs.

If South River's petition is granted, average customers may pay the following costs per month based on an annual payment of \$162 million by West Penn:

	<u>Estimated Monthly Cost</u>	
Average Residential Customer (843 kwh/month)	\$	7.48
Average Commercial & Small Industrial Customer (6,700 kwh/month)	\$	55.04
Average Industrial Customer (4,713,467 kwh/month)	\$	30,601.94

If the PUC orders West Penn to buy power from South River these costs would be collected from all ratepayers when South River's proposed QF goes into commercial operation. South River projects its proposed QF will go into commercial operation on July 1, 1998.

You can examine a copy of the petition filed in this case at any local West Penn office or at West Penn's general office in Greensburg, Pennsylvania. You can also examine all of the documents filed in these cases in the PUC's File Room in Harrisburg.

As a customer, you are entitled to participate in the PUC hearings for this case. To do that, you must file a complaint with the PUC no later than \_\_\_\_\_ which is approximately thirty (30) days after all customers have received this notice. You may obtain complaint forms by writing the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17120 or by calling the PUC at (717) 787-6982. You don't need to have an attorney to do so. You can also send a letter with your comments to the PUC and request the PUC to establish a public hearing at which you may state your comments. Complaints and letters must include the case docket number, which is C-00935287. You must send any complaints and letters to: Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.



# **Attachment C**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania- :  
American Water Company. Pursuant to :  
Sections 1102 and 1329 of the Public Utility :  
Code for Approval of its Acquisition of the : Docket No. A-2018-3004933  
Wastewater Assets of the Township of :  
Exeter :

**AFFIDAVIT OF  
ASHLEY E. EVERETTE**

**DECEMBER 13, 2018**

1. My name is Ashley E. Everette. I am a Regulatory Analyst employed by the Pennsylvania Office of Consumer Advocate. My business address is 555 Walnut Street, Forum Place, 5<sup>th</sup> Floor, Harrisburg, Pennsylvania 17101.
2. I have testified as an expert witness on accounting and finance issues in water, wastewater, electric and natural gas cases, including each Section 1329 proceeding that has been filed with the Commission to date.
3. Exeter Township revenues from sewer charges in 2017 were \$6,924,015. Including tapping fees and miscellaneous revenues, total Sewer Fund revenues were \$7,055,515. Appendix A-19-a, 2017 Financial Report, page 12.
4. Exeter Township has agreed to raise its rates by 29% prior to the closing of the acquisition. Appendix A-18-d Revised.

5. PAWC estimates annual revenues in the first year of ownership of \$8,392,000. Appendix K of the Application.
6. The annual revenue requirement is calculated as the sum of the return on net rate base, operation and maintenance expenses, annual depreciation expense, and taxes.
7. PAWC claims that its 2018 capital structure for wastewater operations is 35.24% long-term debt, 21.51% wastewater financing, 0.13% preferred stock, and 43.12% common equity. See Docket No. R-2017-2595853, PAWC Statement No. 13, Exhibit No. 13-A, Schedule 12.
8. PAWC claims that its 2018 cost rates for debt and preferred stock are as follows: 5.25% long-term debt, 4.59% wastewater financing, 8.66% preferred stock. See Docket No. R-2017-2595853, PAWC Statement No. 13, Exhibit No. 13-A, Schedule 12.
9. The cost of equity for Distribution System Improvement Charge (DSIC) purposes shown in the most recent Quarterly Earnings Report for water utilities was 9.85%. See Docket No. M-2018-3005325.
10. Using the above capital structure and cost rates, PAWC's total cost of capital is estimated to be 7.10%, as shown in the chart below:

	Capital Structure	Cost Rate	Weighted Cost
Long-Term Debt	35.24%	5.25%	1.85%
Wastewater Financing	21.51%	4.59%	0.99%
Preferred Stock	0.13%	8.66%	0.01%
Common Equity	43.12%	9.85%	4.25%
			7.10%

11. The estimated net operating income requirement on the \$96 million rate base is \$6,816,000 ( $\$96 \text{ million} \times 7.10\%$ ).
12. The estimated amount of operation and maintenance expense is \$1,943,000.  
Appendix K of the Application.
13. The estimated amount of taxes other than income is \$252,000. Appendix K of the Application.
14. The estimated depreciation expense on the \$96 million rate base is \$3,398,000.  
Appendix K of the Application.
15. For calculating the estimated income tax liability, the estimated amount of tax-deductible interest associated with the acquisition is \$2,726,400, calculated as the weighted costs of debt ( $1.85\% + 0.99\%$ ) times the \$96 million purchase price.
16. The current Pennsylvania corporate income tax rate is 9.99%.
17. The current federal corporate income tax rate is 21%.
18. Based on the levels of the net operating income requirement, operation and maintenance expenses, taxes other than income, and depreciation expense outlined above, the estimated total revenue requirement associated with PAWC ownership of the Exeter Township wastewater system is \$14,070,660. This revenue requirement includes a provision for state income taxes of \$574,551 and federal income taxes of \$1,087,109.

19. A revenue requirement of \$14,070,660 would require an increase of \$5,678,660 over the pro forma Year-1 revenues of \$8,392,000.
20. If the \$5,678,660 increase were applied only to the Exeter Township customers, the rates charged to Township customers would increase approximately 68% over the pro forma revenues in the first year of ownership ( $\$5,678,660 / \$8,392,000$ ).
21. PAWC's pro forma 2018 sales revenues from Wastewater Operations Excluding Scranton Wastewater are \$26,162,360.
22. If the \$5,678,660 increase were applied only to existing PAWC non-Scranton wastewater customers, the rates charged to PAWC non-Scranton wastewater customers would increase approximately 22% over the pro forma 2018 sales revenues ( $\$5,678,660 / \$26,162,360$ ).
23. The combined revenues from Exeter Township wastewater customers and existing PAWC non-Scranton wastewater customers is approximately \$34,554,360 ( $\$8,392,000 + \$26,162,360$ ).
24. If the \$5,678,660 increase were applied equally to Exeter Township and PAWC non-Scranton wastewater customers, the rates charged to these customers would increase approximately 16% over the pro forma 2018 sales revenues ( $\$5,678,660 / \$34,554,360$ ).

25. Thus, if the revenue requirement to existing PAWC wastewater customers includes the costs of ownership of the Exeter Township system, existing PAWC non-Scranton wastewater customers' rates could increase approximately 16%-22% due to this acquisition.

263810

COMMONWEALTH OF PENNSYLVANIA :  
 : SS  
Dauphin County :

Ashley E. Everette, Regulatory Analyst for the Office of Consumer Advocate, being duly sworn (affirmed) according to law, deposes and says that the facts contained in the foregoing Affidavit in the matter of Application of Pennsylvania-American Water Company. Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater Assets of the Township of Exeter, at Docket No. A-2018-3004933 are true and correct; or are true and correct to the best of her knowledge, information and belief and she expects to be able to prove the same at the hearing hereof.



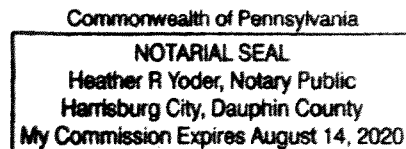
Ashley E. Everette  
Regulatory Analyst,  
Office of Consumer Advocate

Sworn and subscribed  
before me this 13<sup>th</sup> day  
of December, 2018.

My Commission  
Expires August 14, 2020



Signature of Official  
Administering Oath



# **Attachment D**





PENNSYLVANIA  
AMERICAN WATER

NOTICE OF PROPOSED ACQUISITION AND RATE BASE ADDITION

A-2018-3004933

Dear Customer:

On December \_\_, 2018, the Pennsylvania Public Utility Commission (PUC) conditionally accepted for filing the application of Pennsylvania American Water (PAW) for approval to acquire the Exeter Township (Exeter) wastewater system assets. Exeter serves approximately 9,000 customers in Berks County, Pa. PAW's application also requests that the PUC authorize an increase of up to \$96.0 million to PAW's rate base pursuant to 66 Pa. C.S. § 1329. A utility's rate base is the value of property used by the utility to provide service to its customers and is one of several components used to establish a utility's base rates. This acquisition will not immediately, but may in the future, affect ~~your~~ water or wastewater bills of PAW customers, including the new Exeter Township customers. The PUC will issue a decision on the application on or around [6 months after final acceptance].

PAW is not requesting a base rate increase as part of the acquisition. Your rates will not change until the conclusion of PAW's next rate case where PAW requests and receives PUC approval to increase its rates. Currently, it is not known when PAW will file its next rate case. At that time PAW's request for an increase in rate base of up to \$96 million could increase wastewater rates by approximately 16-22%. This amount could change and some of the increase could be paid by PAW's existing water customers. and what the impact of the Exeter acquisition may be on your rates.

**PUC ROLE**

The state agency which approves acquisitions and rates for regulated public utilities is the PUC. The PUC will review and investigate the proposed acquisition and requested \$96.0 million in additional rate base. After examining the evidence, the PUC may approve, modify or deny the acquisition and may approve or, modify or deny the \$96.0 million addition to rate base.

**ACTIONS YOU CAN TAKE**

You may support or challenge PAW's request by:

- 1) Sending a letter to the PUC. You can tell the PUC why you support or object to PAW's acquisition of Exeter's wastewater system in your letter. This information can be helpful when the PUC investigates the application. Send your letter to the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265.
- 2) File a protest or a petition to intervene. If you want to be a party to the case, you must file a protest or a petition to intervene. You then have an opportunity to take part in all the hearings about the proposed acquisition. You can receive copies of all materials distributed by the other parties. Protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before [Date]. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on PAW's counsel at Cozen O'Connor, Attn: David P. Zambito, 17 North Second Street, Suite 1410, Harrisburg, PA 17101.

You also may contact the Office of Consumer Advocate ("OCA") for any questions you have about this filing. The OCA is a state agency that represents the interests of Pennsylvania utility consumers. You can reach the OCA toll-free at 800-684-6560 or at [consumer@paoca.org](mailto:consumer@paoca.org).

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52 The documents filed in support of the application are available on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov), for  
53 inspection and copying at the Office of the Secretary of the PUC between 8 a.m. and 4:30 p.m., Monday  
54 through Friday, ~~on the PUC's website at [www.puc.pa.gov](http://www.puc.pa.gov)~~ and at PAW's offices at 800 Hersheypark Drive,  
55 Hershey, PA 17033. The PUC docket number is A-2018-3004933.