



THOMAS, NIESEN & THOMAS, LLC

Attorneys and Counsellors at Law

THOMAS T. NIESEN
Direct Dial: 717.255.7641
tniesen@tntlawfirm.com

May 10, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Harrisburg, PA 17105-3265

In re: Dockets Nos. A-2018-2642837 and A-2018-2642839
Joint Application of Aqua Pennsylvania, Inc. and the Borough of Phoenixville

Docket No. A-2019-3008980
Application of Pennsylvania American Water Company

Docket No. U-2019-3009763
Request of Pennsylvania American Water Company for Approval of PUMC Agreement

Dear Secretary Chiavetta:

We are counsel for Aqua Pennsylvania, Inc. and are submitting, with this letter via electronic filing, the Joint Motion of Aqua, the Borough of Phoenixville and Pennsylvania American-Water Company for Consolidation of the above referenced proceedings.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

cc: Certificate of Service (via email, w/encl.)
Alexander R. Stahl, Esquire (via email, w/encl.)

JOINT MOTION TO CONSOLIDATE PROCEEDINGS

AND NOW comes Aqua Pennsylvania, Inc. (“Aqua”), the Borough of Phoenixville (“Borough”) and Pennsylvania-American Water Company (“PAWC”) (collectively referred to as the “Moving Parties”)¹ and, pursuant to 52 Pa. Code § 5.81, moves to consolidate the above captioned proceedings. In support thereof, Moving Parties state as follows:

I. BACKGROUND

1. This Motion to Consolidate concerns the Joint Application of Aqua and the Borough, filed with the Public Utility Commission (“Commission”) on January 12, 2018, pursuant to Sections 1102 and 507 of the Public Utility Code (“Code”) (the “Joint Application”), the Application of PAWC at Docket No. A-2019-3008980 filed with the Commission on April 3, 2019, pursuant to Section 1102 of the Code (the “PAWC Application”) and the request of PAWC at Docket No. U-2019-3009763 filed with the Commission on May 8, 2019, pursuant to Section 507 of the Code (the “PAWC Section 507 Filing”).

A. The Joint Application of Aqua and the Borough

2. The Joint Application asks the Commission to issue certificates of public convenience approving Aqua’s acquisition of certain water system assets of the Borough and allowing Aqua to begin to provide public water service in portions of East Pikeland Township, Chester County, and in portions of Upper Providence Township, Montgomery County.

3. The Joint Application also asks the Commission to issue a certificate of public convenience approving the Borough’s abandonment of public water service in East Pikeland Township, Chester County, in Upper Providence Township, Montgomery County, and to certain

¹ The Office of Consumer Advocate, which is a Protestant in the Joint Application proceeding and an Intervenor in the PAWC Application advises that it does not oppose the Joint Motion to Consolidate Proceedings.

locations in Schuylkill Township, Chester County.²

4. The Joint Application also includes a request for approval of contracts including assignment of contracts between Aqua and the Borough, pursuant to Section 507 of the Code. As proposed in the Joint Application, the assignments included a partial assignment of a water supply agreement between the Borough and PAWC, referred to in the Joint Application as the “1986 Water Supply Agreement.”³

5. On February 12, 2018, PAWC filed a Protest challenging, *inter alia*, the partial assignment of the 1986 Water Supply Agreement and averring that Aqua’s proposed service territory would overlap with existing territory of PAWC.

6. On February 16, 2018, the OCA filed a Protest citing the concerns expressed by PAWC and to ensure that the Joint Application is approved only if it is in accord with the Code and Commission regulations.

7. Administrative Law Judge Buckley was assigned to preside over the Joint Application.

B. The Application of PAWC

8. The PAWC Application asks the Commission to, *inter alia*, issue a certificate of public convenience allowing PAWC to begin to provide public water service to 21 customers along Egypt Road in Upper Providence Township, Montgomery County (the “21 Egypt Road

² The Borough is providing water service to four customers (three locations) in Schuylkill Township: 305 Kimberton Road, 120 Schuylkill Road and 130 Schuylkill Road. The customers will transfer to Aqua service at closing. Although Aqua will be acquiring Borough facilities in Schuylkill Township and initiating service to the four customers (three locations), Aqua is not seeking new service territory in the Township. As explained in Paragraphs 5 and 6 of the Joint Application, Aqua already has service authority in the Township. The Schuylkill Township area outlined in blue on Exhibit A to the Joint Application is Area 3 from the Borough Application proceeding at A97204, Order entered May 3, 1974. Aqua acquired the Area 3 territory from the Borough in the Joint Application proceeding at A-212370F0017, Corrected Order entered April 25, 1995. *Joint Application of Philadelphia Suburban Water Company and the Borough of Phoenixville*, Docket No. A-212370F0017, Corrected Order entered April 25, 1995. The Borough, subsequently, initiated service to four customers (the three locations) within that Area.

³ The 1986 Water Supply Agreement is included as Exhibit G2 to the Joint Application.

Customers”), and a specific hydrant location in Upper Providence Township. The 21 Egypt Road Customers are customers of the Borough but are served from a main owned by PAWC. The PAWC Application also addresses the issue of possible overlapping service territory.

9. Aqua filed a petition to intervene on April 11, 2019. The OCA filed a petition to intervene on April 12, 2019. The Borough filed a petition to intervene on April 15, 2019. No other protests or petitions to intervene were filed.

10. Administrative Law Judge Buckley was assigned to preside over the PAWC Application.

C. PAWC’s Section 507 Filing

11. The PAWC Section 507 Filing asks the Commission to issue a certificate of filing for an Amendment to the 1986 Water Supply Agreement between the Borough and PAWC (as successor to the interests of Citizens Utilities Home Water Company) (the “Amendment to the 1986 Water Supply Agreement”).

12. Administrative Law Judge Buckley was assigned to preside over the matter.

II. COMMISSION REGULATION ADDRESSING CONSOLIDATION

13. The Commission’s regulation at 52 Pa. Code § 5.81 addresses consolidation of proceedings:

- a. The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs of delay.

III. CONSOLIDATION

14. Moving Parties are parties to the Joint Application proceeding. They have negotiated a settlement-in-principle of that proceeding, which involves the facts and circumstances addressed in the PAWC Application and the PAWC Section 507 Filing.

15. The proceedings are, thus, clearly intertwined. The PAWC Application and PAWC Section 507 Filing are part and parcel of the negotiated settlement-in-principle. The public's interest in an amicable resolution of the Joint Application is an overarching issue in the three proceedings.

16. It is reasonable and appropriate that the proceedings be consolidated for consideration and decision. Once consolidated, the Moving Parties are prepared to file a Joint Petition for Approval of Settlement of Consolidated Proceedings.

17. A proposed Order Granting Joint Motion to Consolidate is attached.

WHEREFORE, Aqua Pennsylvania, Inc., the Borough of Phoenixville and Pennsylvania-American Water Company request that the Pennsylvania Public Utility Commission consolidate the proceedings at PaPUC Dockets Nos. A-2018-2642837, A-2018-2642839, A-2019-3008980 and U-2019-3009763.

Respectfully submitted,

AQUA PENNSYLVANIA, INC.

By:  _____

Thomas T. Niesen, Esq.
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
tniesen@tntlawfirm.com

Counsel for Aqua Pennsylvania, Inc.

THE BOROUGH OF PHOENIXVILLE

By: _____

Adeolu A. Bakare, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street
Harrisburg, PA 17101
ABakare@mcneeslaw.com

Counsel for The Borough of Phoenixville

**PENNSYLVANIA-AMERICAN WATER
COMPANY**

By: _____

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com

*Counsel for Pennsylvania-American Water
Company*

Dated: May 10, 2019

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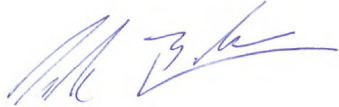
By: _____

Thomas T. Niesen, Esq.
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
tniesen@tntlawfirm.com

Counsel for Aqua Pennsylvania, Inc.

THE BOROUGH OF PHOENIXVILLE

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Adeolu A. Bakare, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street
Harrisburg, PA 17101
ABakare@mcneeslaw.com

Counsel for The Borough of Phoenixville

**PENNSYLVANIA-AMERICAN WATER
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By: _____

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
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*Counsel for Pennsylvania-American Water
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Dated: May 10, 2019

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Thomas T. Niesen, Esq.
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212 Locust Street, Suite 302
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tniesen@tntlawfirm.com

Counsel for Aqua Pennsylvania, Inc.

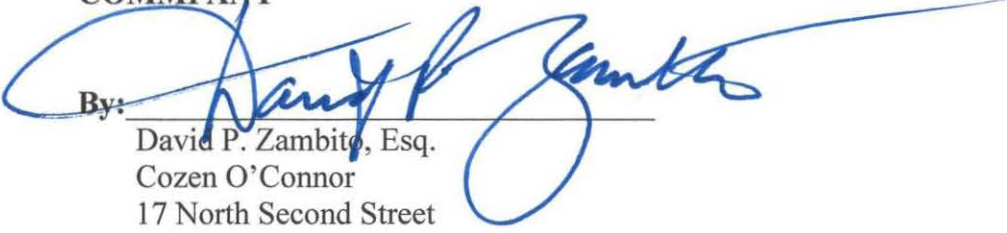
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Adeolu A. Bakare, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street
Harrisburg, PA 17101
ABakare@mcneeslaw.com

Counsel for The Borough of Phoenixville

**PENNSYLVANIA-AMERICAN WATER
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By: _____


David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com

*Counsel for Pennsylvania-American Water
Company*

Dated: May 10, 2019

PROPOSED ORDER

ORDER GRANTING JOINT MOTION TO CONSOLIDATE

This Order grants the Joint Motion to Consolidate the above proceedings filed by Aqua Pennsylvania, Inc. (“Aqua”), the Borough of Phoenixville (“Borough”) and Pennsylvania American Water Company (“PAWC”).⁴

HISTORY

D. The Joint Application of Aqua and the Borough

The Joint Application of Aqua and the Borough at A-2018-2642837 and A-2018-2642839 asks the Public Utility Commission (“Commission”) to issue certificates of public convenience approving Aqua’s acquisition of certain water system assets of the Borough and allowing Aqua to begin to provide public water service in portions of East Pikeland Township, Chester County, and in portions of Upper Providence Township, Montgomery County.

The Joint Application also asks the Commission to issue a certificate of public convenience approving the Borough’s abandonment of public water service in East Pikeland Township, Chester County, in Upper Providence Township, Montgomery County, and to certain locations in Schuylkill Township, Chester County.⁵

The Joint Application also includes a request for approval of contracts including assignment of contracts between Aqua and the Borough, pursuant to Section 507 of the Code. As proposed in the Joint Application, the assignments included a partial assignment of a water supply agreement between the Borough and PAWC, referred to in the Joint Application as the

⁴ The Office of Consumer Advocate, which is a Protestant in the Joint Application proceeding and an Intervenor in the PAWC Application does not oppose the Joint Motion to Consolidate Proceedings.

⁵ The Borough is providing water service to four customers (three locations) in Schuylkill Township: 305 Kimberton Road, 120 Schuylkill Road and 130 Schuylkill Road. The customers will transfer to Aqua service at closing. Although Aqua will be acquiring Borough facilities in Schuylkill Township and initiating service to the four customers (three locations), Aqua is not seeking new service territory in the Township. As explained in Paragraphs 5 and 6 of the Joint Application, Aqua already has service authority in the Township.

“1986 Water Supply Agreement.”⁶

On February 12, 2018, PAWC filed a Protest challenging, *inter alia*, the partial assignment of the 1986 Water Supply Agreement and averring that Aqua’s proposed service territory would overlap with existing territory of PAWC.

On February 16, 2018, the OCA filed a Protest citing the concerns expressed by PAWC and to ensure that the Joint Application is approved only if it is in accord with the Code and Commission regulations.

The undersigned was assigned to preside over the Joint Application.

E. The Application of PAWC

The PAWC Application at A-2019-3008980 asks the Commission to, *inter alia*, issue a certificate of public convenience allowing PAWC to begin to provide public water service to 21 customers along Egypt Road in Upper Providence Township, Montgomery County (the “21 Egypt Road Customers”), and a specific hydrant location in Upper Providence Township. The 21 Egypt Road Customers are customers of the Borough but are served from a main owned by PAWC. The PAWC Application also addresses the issue of possible overlapping service territory.

Aqua filed a petition to intervene on April 11, 2019. The OCA filed a petition to intervene on April 12, 2019. The Borough filed a petition to intervene on April 15, 2019. No other protests or petitions to intervene were filed.

The undersigned was assigned to preside over the PAWC Application.

F. PAWC’s Section 507 Filing

The PAWC Section 507 Filing At U-2019-3009763 asks the Commission to issue a certificate of filing for an Amendment to the 1986 Water Supply Agreement between the

⁶ The 1986 Water Supply Agreement is included as Exhibit G2 to the Joint Application.

Borough and PAWC (as successor to the interests of Citizens Utilities Home Water Company) (the “Amendment to the 1986 Water Supply Agreement”).

The undersigned was assigned to preside over the matter.

G. Joint Motion to Consolidate

On May 8, 2019, Aqua, the Borough and PAWC filed a joint motion to consolidate (Motion) the Joint Application, PAWC’s Application and PAWC’s Section 507 filing. To date, the Motion is unopposed.

DISCUSSION

The Commission regulation pertaining to consolidation appears at 52 Pa.Code § 5.81, and states, in relevant part:

§ 5.81. Consolidation.

- (a) The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

Aqua, the Borough and PAWC are parties to the Joint Application proceeding. They have negotiated a settlement-in-principle of that proceeding, which involves the facts and circumstances addressed in the PAWC Application and the PAWC Section 507 Filing.

The proceedings are, thus, intertwined. The PAWC Application and PAWC Section 507 Filing are part and parcel of the negotiated settlement-in-principle. The public’s interest in an amicable resolution of the Joint Application is an overarching issue in the three proceedings.

The consolidation of the Joint Application at Docket Nos. A-2018-2642837 and A-2018-2642839, the PAWC Application at Docket No. A-2019-3008980 and the PAWC

Section 507 Filing at U-2019-3009763 is warranted and in the public interest.

THEREFORE;

IT IS ORDERED:

1. That the Joint Motion of Aqua Pennsylvania, Inc., the Borough of Phoenixville and Pennsylvania American Water Company to Consolidate the Joint Application at Docket Nos. A-2018-2642837 and A-2018-2642839, the PAWC Application at Docket No. A-2019-3008980 and the PAWC Section 507 Filing at U-2019-3009763 is granted; and

2. That the proceedings at Docket Nos. A-2018-2642837, A-2018-2642839, A-2019-3008980 and U-2019-3009763 are consolidated into one proceeding.

Date: May, 2019

Dennis J. Buckley
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of May, 2019, served a true and correct copy of the foregoing Joint Motion to Consolidate Proceedings, upon the persons and in the manner listed below:

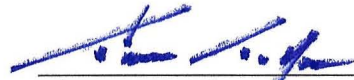
VIA ELECTRONIC MAIL AND/OR FIRST CLASS MAIL, POSTAGE PREPAID

The Honorable Dennis J. Buckley
Administrative Law Judge
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
debuckley@pa.gov

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com

Adeolu A. Bakare, Esq.
McNees, Wallace & Nurick, LLC
100 Pine Street
Harrisburg, PA 17101
ABakare@mcneeslaw.com

Erin L. Gannon
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
egannon@paoca.org



Thomas T. Niesen, Esquire
(PA ID # 31379)