



Eagleview Corporate Center  
747 Constitution Drive  
Suite 100  
Exton, PA 19341-0673  
Tel (610) 458-7500 Fax (610) 458-7337  
www.foxrothschild.com

SAMUEL W. CORTES  
Direct No: 610.458.4966  
Email: SCortes@FoxRothschild.com

May 13, 2019

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
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 System Assets Of Exeter Township; Docket No. A-2018-3004933**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Prehearing Conference Memorandum of Exeter Township in the above-referenced matter. Please contact me if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Samuel W. Cortes', written over a light blue horizontal line.

Samuel W. Cortes

SWC:jcc  
Enclosures

cc: Per Certificate of Service  
Barnett Satinsky, Esq. (via email)

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota  
Nevada New Jersey New York North Carolina **Pennsylvania** South Carolina Texas Washington

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of Pennsylvania-American       : DOCKET A-2018-3004933  
Company Pursuant to Sections 507,       :  
1102, and 1329 of the Public Utility       :  
Code for Approval of Its Acquisition of       :  
the Wastewater System Assets of Exeter       :  
Township                                        :**

**EXETER TOWNSHIP’S PREHEARING CONFERENCE MEMORANDUM TO  
ADMINISTRATIVE LAW JUDGE ANDREW M. CALVELLI**

Barnett Satinsky, Esquire  
Fox Rothschild LLP  
2000 Market Street – 20<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 299-2088 (telephone)  
(215) 299-2150 (fax)  
bsatinsky@foxrothschild.com

Samuel W. Cortes, Esquire  
Fox Rothschild LLP  
Eagleview Corporate Center  
747 Constitution Drive, Suite 100  
Exton, PA 19341-0673  
(610) 458-4966 (telephone)  
(610) 458-7337 (fax)  
scortes@foxrothschild.com

**EXETER TOWNSHIP'S PREHEARING CONFERENCE MEMORANDUM TO  
ADMINISTRATIVE LAW JUDGE ANDREW M. CALVELLI**

Exeter Township ("Exeter"), by and through its counsel, pursuant to 52 Pa. Code § 5.222(d) and in compliance with the Prehearing Conference Order of the Honorable Administrative Law Judge Andrew M. Calvelli, dated April 22, 2019, hereby files this Prehearing Conference Memorandum in the above-captioned matter. In support, Exeter avers as set forth below:

**I. HISTORY OF THE PROCEEDING**

Exeter and Pennsylvania-American Water Company ("PAWC") entered into an Asset Purchase Agreement pertaining to the sale by Exeter of substantially all of the assets comprising Exeter's wastewater system (the "Transaction"). The Asset Purchase Agreement is dated May 29, 2018, as amended by the First Amendment to Asset Purchase Agreement, executed November 26, 2018 (together, the "APA").

In connection with the APA, on September 25, 2018, PAWC filed an Application seeking approval of the Transaction pursuant to Section 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1329. In response, by Secretarial Letter dated October 1, 2018, the Public Utility Commission (the "Commission") notified PAWC that the Application was not accepted for filing purposes because the Commission believed it to be incomplete. Specifically, the Commission advised Exeter and PAWC that, in the Commission's opinion, Exeter requires a certificate of public convenience for the limited wastewater service provided to a small number of customers located in Lower Alsace Township, Berks County, Pennsylvania.

On December 5, 2018, PAWC filed an Amended Section 1329 Application (the “Section 1329 Application”). The Commission conditionally accepted the Section 1329 Application by Secretarial Letter dated December 19, 2018.<sup>1</sup>

On December 10, 2018, Exeter filed an Application for Certificate of Public Convenience, *Nunc Pro Tunc*, (“Application NPT”) seeking approval from the Commission to offer, furnish, render, and supply wastewater service in certain portions of Lower Alsace Township. Subsequently, on December 13, 2018, the Commission directed Exeter to publish newspaper notice of the Application NPT. The Commission further advised that it would publish notice in the *Pennsylvania Bulletin*, which occurred on December 22, 2018. 48 Pa. Bull. 7868.

On January 7, 2019, as directed by the Commission, Exeter filed its Proof of Publication of notice of the Application NPT, demonstrating publication in *The Reading Eagle* on December 20, 2018 and December 27, 2018.

The Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement on December 27, 2018.

On or about April 17, 2019, PAWC and Exeter submitted notices to all those affected by the Section 1329 Application.

The parties are close to achieving a resolution of the Application NPT and hope to have that finalized by the date of the Prehearing Conference.

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<sup>1</sup> The acceptance was conditioned on PAWC meeting certain notice requirements directed by the Commission. Those conditions have now been satisfied and the PUC accepted the Section 1329 Application on April 16, 2019.

## **II. COUNSEL**

Counsel for Exeter are identified below:

Barnett Satinsky, Esquire  
Fox Rothschild LLP  
2000 Market Street – 20<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 299-2088 (telephone)  
(215) 299-2150 (fax)  
bsatinsky@foxrothschild.com

Samuel W. Cortes, Esquire  
Fox Rothschild LLP  
Eagleview Corporate Center  
747 Constitution Drive, Suite 100  
Exton, PA 19341-0673  
(610) 458-4966 (telephone)  
(610) 458-7337 (fax)  
scortes@foxrothschild.com

## **III. SERVICE OF DOCUMENTS**

Exeter's attorneys are authorized to accept service on behalf of Exeter in this proceeding. Exeter agrees to receive service of documents electronically. The "date of service" shall be the date of electronic transmission so long as the electronic email is transmitted before 4:30 p.m., Monday through Friday. Service made after this time shall be deemed effective the next business day. Further, if a recipient's mailbox rejects an electronic transmission, upon notification to the sender, the sender will serve an electronic copy of the documents on a compact disk by federal express for next day delivery.

If the official service list is limited to one counsel for each party, Mr. Cortes should be designated as Exeter's counsel for official service purposes. However, Exeter respectfully

requests that Mr. Satinsky be included on email distribution lists. Exeter has no objection to affording the same accommodation to the other parties and their respective co-counsel.

#### **IV. ISSUES TO BE PRESENTED IN THE CASE**

This case involves PAWC's Section 1329 Application pursuant to the Pennsylvania Public Utility Code. The key issue in the case involves whether the Commission will approve the Transaction, whereby PAWC will acquire substantially all of the assets comprising Exeter's wastewater system.

#### **V. IDENTIFICATION OF WITNESSES**

Exeter expects to present the following witnesses:

1. John Granger, Township Manager, Exeter Township. Mr. Granger will discuss the following: (a) the historical background of Exeter's wastewater treatment system; (b) background regarding the Transaction; (c) Exeter's provision of service to certain portions of Lower Alsace Township; (d) the factual information contained in Exeter's responses to various sets of interrogatories, and documents produced therewith; and (e) the importance of the Transaction to Exeter.
2. Roger Phillips, P.E., Gannett Fleming. Mr. Phillips will discuss the history of the wastewater treatment system, including technical intricacies regarding the system's design, condition, and capacity.
3. A designee of PAWC to discuss the following: (a) the Transaction; (b) the APA; (c) the Section 1329 Application; and (d) information provided to the Commission to date and requested in the future regarding the wastewater treatment system.

4. A designee or designees of the Township to discuss the following: (a) the Transaction; (b) the APA; (c) the Application NPT; (d) how the “substantial public interest” standard will be satisfied by promotion of service, accommodation, convenience, and/or safety to the public; and (e) information provided to the Commission to date and requested in the future regarding the wastewater treatment system if the information is not within the knowledge of one of the aforementioned witnesses.
5. A designee of Lower Alsace Township to discuss the limited wastewater service provided to a small number of its residents, as well as prior agreements between Lower Alsace Township and Exeter regarding such service.
6. Harold Walker, III, of Gannett Fleming. Mr. Walker will discuss the UVE.

Exeter reserves the right to call additional witnesses and present testimony on additional issues as they may arise during the course of the proceeding.

## **VI. IDENTIFICATION OF EVIDENCE**

Exeter has not yet identified the specific evidence it intends to present at the hearing. As a preliminary matter, however, Exeter identifies the following non-exhaustive list:

1. Documents produced with Exeter’s Responses to the Bureau of Technical Utility Services, Water/Wastewater Division Data Requests;
2. Documents and other evidence relating to the Transaction and/or the APA;
3. Documents relating to the Application NPT;
4. Documents produced by any party during the course of discovery;
5. Discovery responses served by any party during the course of discovery; and
6. Evidence identified by any other party to this proceeding.

Exeter reserves the right to identify and present additional evidence during the course of the proceeding.

**VII. DISCOVERY**

Modifications to the discovery schedule have been made by a procedural order issued by Administrative Law Judge Andrew M. Calvelli.

**VIII. SETTLEMENT**

Exeter is willing to engage in settlement discussions. Additionally, the parties to the Application NPT are currently engaged in settlement negotiations with the goal of completing the settlement in a timely manner, as the settlement of the Application NPT would resolve common issues in the proceedings. If settlement of the Application NPT is not achieved, PAWC and Exeter intend to file a motion to consolidate the proceedings.


**IX. PROPOSED LITIGATION SCHEDULE**

The parties have agreed on and will submit a proposed litigation schedule.

Respectfully submitted,

**FOX ROTHSCHILD LLP**

Dated: May 13, 2019

By:   
Barnett Satinsky, Esquire  
Samuel W. Cortes, Esquire  
Attorney ID Nos. 15767; 91494  
*Attorneys for Applicant, Exeter Township*



**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
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**Application of Pennsylvania-American : DOCKET A-2018-3004933  
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the Wastewater System Assets of Exeter :  
Township :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have, on this 13<sup>th</sup> day of May, 2019, served a true copy Exeter Township's Prehearing Conference Memorandum upon the participants listed below via email and First Class U.S. Mail, postage prepaid, unless otherwise specified:

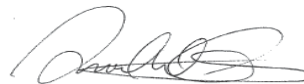
David P. Zambito, Esquire  
Jonathan P. Nase, Esquire  
Cozen O'Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101

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

Christine Maloni Hoover, Esquire  
Harrison W. Breitman, Esquire  
Counsel for Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

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

Administrative Law Judge Andrew M.  
Calvelli  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120



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Samuel W. Cortes, Esquire