



August 21, 2019

VIA E-FILING

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: Application of Pennsylvania-American Water Company under Sections 507, 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of Wastewater System Assets of Exeter Township; Docket Nos. A-2018-3004933 et al.

REPLIES TO EXCEPTIONS OF PENNSYLVANIA-AMERICAN WATER COMPANY

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission, please find Pennsylvania-American Water Company's Replies to Exceptions in the above-referenced matter. A copy of this document has been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase

Counsel for *Pennsylvania-American Water Company*

JPN:kmg
Enclosure

cc: Honorable Andrew M. Calvelli
Per Certificate of Service
Susan Simms Marsh, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water :
Company under Sections 507, 1102 and 1329 of the : Docket No. A-2018-3004933 *et al.*
Public Utility Code for Approval of its Acquisition of :
wastewater system assets of Exeter Township :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of **Pennsylvania-American Water Company's Replies to Exceptions**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

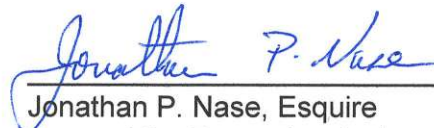
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A handwritten signature in blue ink that reads "Jonathan P. Nase". The signature is written in a cursive style with a large initial "J".

Jonathan P. Nase, Esquire
Counsel for *Pennsylvania-American Water Company*

Date: August 21, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Andrew M. Calvelli

Application of Pennsylvania-American Water :
Company under Sections 507, 1102 and 1329 of the : Docket Nos. A-2018-3004933 *et al.*
Public Utility Code for Approval of its Acquisition :
Of Wastewater System Assets of Exeter Township :

REPLIES TO EXCEPTIONS OF
PENNSYLVANIA-AMERICAN WATER COMPANY

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Counsel for *Pennsylvania-American
Water Company*

Dated: August 21, 2019

AND NOW COMES Pennsylvania-American Water Company (“PAWC” or the “Company”), by and through its counsel, pursuant to 52 Pa. Code § 5.535, to submit these Replies to the Exceptions filed by the Office of Consumer Advocate (“OCA”) on August 16, 2019. Those Exceptions pertain to the Recommended Decision (the “Recommended Decision” or “R.D.”) issued by Administrative Law Judge Andrew M. Calvelli (the “ALJ”) on August 9, 2019, in which the ALJ recommended that the Pennsylvania Public Utility Commission (“Commission”) approve PAWC’s application (the “Application”) regarding the purchase of the wastewater system (the “System”) presently owned by the Township of Exeter (“Exeter”), as modified by the Joint Petition for Approval of Partial Settlement (“Settlement”).

The OCA was a signatory to the Settlement, which was either joined or not opposed by all Parties to this proceeding. In its Exceptions, the OCA makes clear that it is not withdrawing from the Settlement and that it fully supports the ALJ’s recommendation to approve the Application, as modified by the Joint Petition. OCA’s Exceptions p. 1. Nevertheless, the OCA asks the Commission to “clarify” certain points in the Recommended Decision. PAWC respectfully submits that the Commission should adopt the Recommended Decision. Further, because PAWC understands OCA’s request to be one of clarification rather than a challenge to the Settlement or a substantive modification of the Recommended Decision, PAWC does not object to the clarifications requested by the OCA.

I. PAWC’s Replies to Exceptions

A. PAWC Does Not Oppose OCA’s Request that the Commission Not Adopt Findings of Fact 63 and 64

In its Exception No. 1, OCA states that the ALJ made certain Findings of Fact based on PAWC’s Statement in Support of the Settlement, but mischaracterized those facts as being agreed-

to by all Parties. R.D. p. 7. OCA does not agree with Findings of Fact 63 and 64 and asks that the Commission not adopt those findings. In addition, OCA asks that the Commission not adopt a portion of the Disposition section of the Recommended Decision, R.D. p. 49-50, which was based on those disputed Findings of Fact. OCA's Exceptions 2-5.

PAWC continues to believe that the preponderance of the evidence supports Findings of Fact 63 and 64, and that the ALJ properly adopted those Findings of Fact. Nevertheless, in the interest of compromise, PAWC does not object to the OCA's Exception No. 1 asking that the Commission adopt the Recommended Decision except for Findings of Fact 63-64 and a portion of the Disposition section based on those Findings of Fact. Even without these Findings of Fact, there is still substantial evidence in the record, as agreed-to by the Parties, to support a Commission determination that the Settlement is in the public interest and PAWC's purchase of the System (the "Transaction") will affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way. *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972).

B. Customers Received Adequate Notice of, and Opportunity to be Heard on, the Transaction

In Exception No. 2, the OCA contends that PAWC and the ALJ misinterpreted the Settlement. The OCA notes that it argued that PAWC's original notices to customers did not meet the requirements of *McCloskey v. Pa. Pub. Util. Comm'n*, 1624 CD 2017 (Pa. Cmwlth. 2018), *pet. for alloc. denied*, 743 MAL 2018 (April 23, 2019) ("*New Garden*"), and that the Parties to the Settlement did not agree that this notice meets the requirements of *New Garden*. OCA's Exceptions p. 7. The OCA also objects to the ALJ's characterization of the notice of the Settlement as "additional notice." *Id.* p. 8.

The OCA's Exceptions split hairs. In its Statement in Support, the OCA acknowledged that the alleged deficiencies in the March/April notice PAWC provided to its existing customers and the Exeter customers was addressed by the terms of the Settlement. OCA's Statement in Support pp. 7-8 ("The Settlement addresses these issues.").

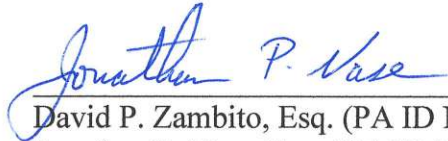
The Commission should not get entangled in an overly-technical reading of the Settlement and the Recommended Decision. The important point – which the ALJ correctly made in his Recommended Decision – is that customers received adequate notice of, and opportunity to be heard on, the Transaction and its potential rate impacts. In adopting the ALJ's Recommended Decision, the Commission should, and need only, find that the two notices together provided customers with adequate notice of and opportunity to be heard on the Transaction. Such a decision is clearly consistent with the Settlement.

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II. Conclusion

WHEREFORE, for all of the reasons set forth above, Pennsylvania-American Water Company respectfully requests that the Commission adopt the Recommended Decision approving the Application as modified by the Settlement. PAWC has no objection to the clarifications requested by the OCA.

Respectfully submitted,



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Dated: August 21, 2019