



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

July 6, 2020

***Via Electronic Filing***

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

Re: Pennsylvania Public Utility Commission v.  
Pennsylvania American Water Company  
Docket Nos.: R-2020-3019369 (Water) and R-2020-3019371 (Wastewater)  
**I&E Answer to the Petition for Reconsideration of Pennsylvania  
American Water Company**

Dear Secretary Chiavetta:

Enclosed please find a copy of the Bureau of Investigation and Enforcement's (I&E) Answer to the Petition for Reconsideration of Pennsylvania American Water Company for the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Due to the temporary closing of the PUC's offices, I&E is only providing electronic Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Carrie B. Wright".

Carrie B. Wright  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 208185  
(717) 783-6156  
[carwright@pa.gov](mailto:carwright@pa.gov)

CBW/jfm  
Enclosures

cc: Honorable Conrad A. Johnson (ALJ, PUC Pittsburgh, via e-mail only)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket Nos.	R-2020-3019369
	:		R-2020-3019371
Pennsylvania American Water Company	:		

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**BUREAU OF INVESTIGATION AND ENFORCEMENT  
ANSWER TO  
THE PETITION FOR RECONSIDERATION  
OF PENNSYLVANIA AMERICAN WATER COMPANY**

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**I. INTRODUCTION**

On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, (Governor Wolf) issued a Proclamation of Disaster Emergency wherein it states: “WHEREAS, a novel coronavirus (now known as COVID-19) emerged in Wuhan, China, began affecting humans in December 2019, and has since spread to 89 countries, including the United states ....” The Proclamation further states: “... NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, *et seq*, I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.”<sup>1</sup> As a result of this Proclamation Commonwealth employees, including those at the Pennsylvania Public Utility Commission (PUC), have been and continue to work from home.

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<sup>1</sup> Proclamation of Disaster Emergency (March 6, 2020)  
<https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

On March 20, 2020, the Commission issued an Emergency Order at Docket No. M-2020-3019262, that provided for the suspension, extension, or waiver of statutory or regulatory deadlines where necessary during the course of the Governor’s Proclamation of Disaster Emergency. In pertinent part it states therein:

In response to the COVID-19 pandemic, the Commission has implemented telework for its entire staff. This means that the physical locations of the Commission, the Keystone Building in Harrisburg as well as satellite state office buildings in Philadelphia, Pittsburgh, and elsewhere across Pennsylvania, are not in use until further direction from the Commission. Obviously, this presents many challenges for the Commission, the regulated community, and the public. For example, the receipt and sending of all mail from the United States Postal Service and other couriers has been interrupted while the Commission has limited, or no, access to its physical facilities.

Under these circumstances, it has become necessary to take additional measures to ensure continued operations during this period. These measures are intended to prevent regulatory or statutory procedural rules, including those providing for the calculation of time periods for final Commission action, from interfering with the overall conduct of Commission business in the public interest during the emergency. For the benefit of the public, we encourage the cooperation of all persons having business before the Commission to assist with implementing measures necessary for continuing Commission operations during the effective dates of this Order and the COVID-19 disaster emergency.<sup>2</sup>

On April 29, 2020, more than a month after the Governor issued his Proclamation of Disaster Emergency, Pennsylvania American Water Company (PAWC or Company) filed Supplement No. 19 to Tariff Water – Pa. PUC No. 5 and Supplement No. 19 to

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<sup>2</sup> *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, EMERGENCY ORDER, Docket No. M-2020-3019262 (dated March 20, 2020, ratified March 26, 2020).*

Tariff Wastewater – Pa. PUC No. 16, requesting an increase in total annual operating revenues totaling \$138.6 million. The rate request was intended to become effective June 28, 2020, with \$92.4 million of the rate increase intended to go into effect in 2021, and \$46.2 million intended to go into effect in 2022.

On May 28, 2020, the Office of Consumer Advocate (OCA) filed a Motion (OCA Motion) requesting a 45-day extension of the statutory period for this base rate case. I&E and filed an Answer in support of the OCA Motion. Pursuant to a Prehearing Conference Order, Administrative Law Judge Conrad Johnson (the ALJ), was assigned to develop an evidentiary record and Recommended Decision in this proceeding. On June 4, 2020, a prehearing conference was held with ALJ Johnson presiding. Additionally, in attendance was Chief Administrative Law Judge Charles Rainey (CALJ), who was present to rule on the OCA Motion. CALJ Rainey ultimately ruled in favor of OCA granting a 45-day extension of the statutory suspension period. As a result, a procedural schedule was set taking into account the additional 45 days. CALJ Rainey's Order granting the 45-day extension was issued on June 4, 2020. On June 18, 2020, PAWC filed Supplement No. 21 to Tariff Water-PA P.U.C. No. 5 and Supplement No. 21 to Tariff Wastewater-PA P.U.C. No. 16 further suspending the investigation until March 15, 2021, in accordance with CALJ Rainey's Order.

On June 24, 2020, PAWC filed the instant Petition of Pennsylvania American Water Company for Reconsideration of Staff Action in which it asks the Commission to: 1) set aside CALJ Rainey's Order, 2) accept PAWC's offer to voluntarily extend the suspension period in this case to February 4, 2021, and 3) direct the ALJ to establish a

procedural schedule consistent with a February 4, 2021 suspension period. Further, PAWC requests that if the Commission extends the procedural schedule beyond February 4, 2021, the Commission authorize PAWC to implement a recoupment surcharge that permits PAWC to recover the increase revenues that the rates approved by the Commission would produce if they had been made effective from the end of the Section 1308(d) suspension period. Lastly, PAWC requests that the ALJ set a date certain by which discovery related to the Company's direct case must be completed. It must be noted that nowhere in its Petition does PAWC allege any harm that would befall it should its Petition not be granted.

The Bureau of Investigation and Enforcement (I&E) hereby files this timely Answer requesting that the Commission deny the requested relief requested in the Company's Petition. Specifically, I&E requests that the Commission deny the Companies' request to reconsider CALJ Rainey's Order granting a 45-day extension of the statutory period for PAWC's base rate case. While PAWC has not alleged any harm that would befall it if the 45-day extension were taken away, at this juncture, the parties have all been operating under a procedural schedule that includes the additional 45 days and to reduce this period at this point would cause severe and irreparable harm to the parties. To the extent the Commission believes a remedy is warranted for PAWC, upsetting the procedural schedule the parties are currently relying on is not the appropriate remedy. As evidenced by the case law cited by PAWC in its Petition for Reconsideration, even under normal operating conditions, i.e. when there has been no Proclamation of Disaster Emergency issued by the Governor, the Commission has at

times, been unable to adhere to the statutorily prescribed timeline for a base rate case.

The Commission has previously dealt with these situations in which the statutory timeline could not be met and has dispensed with those situations without violating the Public Utility Code. Further, I&E requests the Commission deny the Company's request to establish a date certain by which discovery on the Company's direct case must be completed as doing so could hamper the investigation into this base rate filing.

## **II. ANSWER TO PETITION**

As further support to deny this Petition I&E offers the following response in enumerated fashion:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted in part. However, for purposes of clarification, it is also noted

that I&E is without knowledge of when PAWC began preparing its base rate case filing.

I&E, however, does accept that the process began well before the filing of the instant case.

5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.

11. Admitted.

12. Admitted. Section 1308(d) of the Public Utility Code is a statutory provision which speaks for itself, however, I&E agrees that this is an accurate quotation of this portion of the Code.

There are situations in which the review of a base rate case may require more than the statutorily prescribed 9-month timeline. In those instances, there are procedures and instruments such as surcharge mechanisms or other types of mechanisms, that allow for extra time for review while not directly violating the Public Utility Code. The Commission has implemented these types of mechanisms in situations where the statutorily mandated deadline for issuing a final order in a base rate case could be met in the past. It is worth noting, however, that the situation surrounding the COVID-19 pandemic is unique and not something that has been dealt with by the Commission in the past. In the prior cases where the Commission has been unable to meet the statutory deadline, the Commission was not also dealing with operating during a global pandemic.

13. Admitted. The *Bell Tel Co.* case speaks for itself. However, it is I&E's understanding that during the pendency of that proceeding the Commission and the Commonwealth were operating under normal conditions, and not under the mandates of a Proclamation of Disaster Emergency that the Commission and parties are currently operating under in the instant PAWC proceeding.<sup>3</sup> Furthermore, PAWC was aware that on March 20, 2020, the Commission issued an Emergency Order at Docket No. M-2020-

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<sup>3</sup> Proclamation of Disaster Emergency (March 6, 2020)  
<https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

3019262, that provided for the suspension, extension, or waiver of statutory or regulatory deadlines where necessary during the course of the Governor's Proclamation of Disaster Emergency. The Emergency Order states "...in pending rate case litigation, the Chief Administrative Law Judge is authorized to establish reasonable deadlines under the circumstances after consideration of the position of the parties and the presiding Administrative Law Judge."<sup>4</sup> Although, intending to file a base rate case, PAWC did not petition for reconsideration, or otherwise comment on the Commission's authority to alter statutory or regulatory deadlines under that Order. The appropriate time for the resolution of this issue would have been when the Commission issued its Emergency Order; not during the pendency of a proceeding in which a schedule has already been established granting the parties extra time upon which they are relying.

14. Admitted. The *Bell Tel. Co.* case speaks for itself. However, as noted above, it is I&E's understanding that at this point in time, the Commission was not operating under a Proclamation of Disaster Emergency.

15. Admitted.

16. Admitted. As previously explained, during the pendency of the *Bell Tel. Co.* case, the Commission was not operating under a Proclamation of Disaster Emergency. Therefore, while PAWC has presented an accurate portrayal of this case, the *Bell Tel. Co.* case does not take into account the current circumstances of the Commonwealth which are vastly different than the circumstances in which *Bell Tel. Co.* was decided.

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<sup>4</sup> See also, 35 Pa. C.S. § 7301(f)(1).



17. Admitted. PAWC has provided an accurate quotation from the *Joseph Horne Co. v. Pa. P.U.C.* case. However, as with *Bell Tel. Co.*, it must be noted that the Commission was not operating under a Proclamation of Disaster Emergency during the pendency of that proceeding.

18. Admitted. Once again, as previously explained, the cases cited by PAWC all occurred while the Commission was operating under normal circumstances. The current situation faced by the Commission could not be foreseen in those cases. The outcome of the cases cited by the Company may have been different if the Commission were operating under a Proclamation of Disaster Emergency during the pendency of the cited cases.

19. Admitted in part, denied in part. It is admitted that the Commission has a means, that it has used in the past, to deal with situations in which base rate cases are not decided in the prescribed statutory timeline. As noted above, however, under the current circumstances, the Commission was given authority by the Governor as part of his Proclamation of Disaster Emergency to alter statutory requirements that might interfere with the Commission's ability to deal with the COVID-19 pandemic. Furthermore, the Commission issued its Emergency Order specifically acknowledging its authority to alter statutory deadlines as a result of the Governor's Proclamation. The circumstances today are certainly much different than they were in either of the cases cited by PAWC. As explained above, the appropriate time to raise the issue of whether the Commission can alter a base rate case schedule in this manner was when the Commission's Emergency Order was issued. No stakeholders, including those with pending base rate cases,

requested reconsideration or clarification of the Commission’s Emergency Order. It would be unjust and unreasonable to now alter the schedule that the parties to this proceeding have agreed to and are relying on. To now take time away from the parties that they are relying on would impact those parties review of this filing and could substantially limit the record provided to the Commission in this proceeding. A less than thorough review of this filing could result in rates that are neither just nor reasonable. Given the economic impact of this global pandemic it is imperative that the rates charged to PAWC customers are closely scrutinized.

20. The averments of this paragraph represent PAWC’s interpretation of the OCA Motion. The OCA Motion speaks for itself. However, I&E would note that In the Emergency Order issued by the Commission, the Commission correctly noted that the closure of Commission offices presents “many challenges for the Commission, the regulated community, and the public.” The Emergency Order further explained that while the Commission and the regulated community “operate under reasonable statutory and regulatory deadlines necessary to ensure timely administration of the Public Utility Code,” the Commission is cognizant that some deadlines may, at this juncture, hinder the public service mission of the Commission and its stakeholders.<sup>5</sup> Therefore, while the Emergency Order encourages parties before the Commission to cooperate regarding the suspension, extension, waiver, or change of regulatory, statutory or procedural deadlines, it also, however, noted that all statutory, regulatory or procedural deadlines prescribed by

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<sup>5</sup> *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, EMERGENCY ORDER, Docket No. M-2020-3019262*

the Public Utility Code or applicable law may be extended, waived or changed as a result of the Governor's Proclamation of Disaster Emergency. In pertinent part the Commission's Emergency Order states:

These measures are intended to prevent **regulatory or statutory procedural rules, including those providing for the calculation of time periods for final Commission action,** from interfering with the overall conduct of Commission business in the public interest during the emergency.<sup>6</sup>

Importantly, no stakeholders, including PAWC although expecting to file a base rate case, filed a Petition for Reconsideration, or Clarification challenging the Commission's authority to alter statutory and regulatory deadlines in this manner. It is clear from the plain language of the Emergency Order cited above, the Commission does in fact, in conjunction with the Governor's Executive Order, have the authority to alter statutory deadlines.

21. Admitted in part. It is admitted that the portions of Section 7301(f), Section 7308(d), and the Executive Order are accurate quotations. However, the OCA Motion speaks for itself and I&E cannot speak to the extent to which OCA relied this portion of the Executive Order. Furthermore, the Executive Order is not the only authority upon which OCA relied in its Motion.

22. Admitted in part, denied in part. It is admitted that the Governor's Executive Order did not confer unlimited authority to ignore Pennsylvania law. However, the full quote of the section of the Executive Order PAWC cites states:

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<sup>6</sup> *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, EMERGENCY ORDER*, Docket No. M-2020-3019262 (dated March 20, 2020, ratified March 26, 2020) (emphasis added).

I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency. Commonwealth agencies may implement emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

First and foremost, I&E would note that the schedule of a base rate case is inherently procedural. In fact, it is even often referred to as the “procedural schedule.”

Furthermore, a review of the entirety of the language from the Executive Order shows that the power to alter provisions that would interfere with addressing the COVID-19 pandemic are fairly broad and give the Commonwealth’s Agencies and Commissions discretion to implement measure that they need to implement to deal with this pandemic.

23. Admitted in part, denied in part. It is admitted that the rate case time frame designed by statute is not simply procedural. It does generally give utilities a right to have Commission approved rates go into effect by the end of that timeline unless otherwise agreed. Furthermore, the cases the Company cites to do prescribe methods for dealing with situations that may arise when that statutory deadline cannot be met.

However, the global pandemic is currently changing the way most things operate in the Commonwealth. As previously explained, in the cases cited by the Company, the Commission was not dealing with a global health crisis that necessitated its employees

(and likely the employees of the parties to this proceeding) work from home to protect the health and welfare of the public.

There are ways to accommodate both the extension of the statutory timeline and the Company's need for rate relief. The appropriate measure, however, would not be to take away from the parties the 45-day extension that has been granted. To do so would serve to limit those parties ability to review the filing. Further, it would thus limit the Commission's ability to have a full and complete record upon which to base its determination. If the Commission does not have a complete record to base its decision on, it can result in rates that are neither just, nor reasonable. Just and reasonable rates are another statutory mandate of the public utility code. The need for just and reasonable rates cannot be traded for the 45-day extension. Should the Commission determine that the 45-day extension should not have been granted, the Commission should find a remedy that does not interfere with the parties ability to thoroughly review this rate case filing.

24. Admitted in part, denied in part. It is admitted that the has put in place measures to deal with the COVID-19 emergency. However, it is denied that these measures are sufficient so as not to require more time for the parties in these proceedings. In fact, many of the measures the Company cites to that the Commission has put in place to deal with the COVID-19 pandemic require more time. Telephonic hearings, both evidentiary hearings and public input hearings, require time and resources to set up that are not required for in-person hearings. In addition, the Commission's ability to send or receive mail at this time is extremely limited. Therefore, hardcopies of some documents,

many of which would be too voluminous to print on a small home printer, are not available to the Commission or the parties to pending proceedings, thereby, potentially slowing the review process.

Strict compliance with Section 1308(d) may require the Commission to set aside some of the social distancing and other measure put in place to protect the health and safety of its employees and those with whom they interact. For instance, hearings may have to be moved to in person venues and employees may have to come into the workplace to sort and process mail. The Company notes that “...there is no evidence – and none has been produced – to indicate that complying with the seven-month suspension limitation in Section 1308(d) is a roadblock to the Commonwealth’s response to the COVID-19 pandemic.”<sup>7</sup> Yet, as the party bringing this Petition and therefore the party with the burden of proof, the Company has produced no evidence to demonstrate that the Commission could effective comply with the statutory timeline without impeding its response to the COVID-19 pandemic.

25. Denied. OCA’s Motion speaks for itself. However, as previously explained, in the cases cited by the Company, the Commission was not operating under a Proclamation of Disaster Emergency. Yet, in those cases the issue of what to do when rates were not able to be placed into effect at the end of the statutory suspension period still had to be dealt with. In fact, the Company itself notes, “[t]his Commission has, **on many occasions**, allowed utilities to implement an additional charge to recover the

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<sup>7</sup> PAWC Petition, p. 13.

revenues lost between the end of the seven-month suspension period and the subsequent date of the utility's compliance tariff are finally approved.”<sup>8</sup> If the Commission has been faced with a similar issue when operating under normal conditions, it is not unreasonable to infer that when faced with a global pandemic, the Commission may require more than the statutorily prescribed timeframe to deal with this large and complex base rate case.

26. Admitted in part, denied in part. It is not simply the Commission's Emergency Order that unilaterally gives it the authority to extend statutory deadlines. When read in conjunction with the Governor's Proclamation of Disaster Emergency, however, the Commission's Emergency Order allows for the extension of the statutory timeline in a base rate case. Furthermore, I&E disagrees with the implication that the Commission is purporting to authorize non-compliance with substantive statutory law. It is admitted that these Orders do not allow for wholesale departure from substantive law. However, the current COVID-19 is a unique situation that have never been dealt with before. Therefore, there have been novel measures that the Commission has needed to put in place in order to allow it to operate as efficiently as possible, while still doing its part to preserve the health and safety of the public.

27. Admitted.

28. The averments of this paragraph represent PAWC's interpretation of the OCA Motion. The OCA Motion speaks for itself.

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<sup>8</sup> PAWC Petition, p. 13 (emphasis added).

29. Denied. It is denied that OCA's characterization of this case as complex is inaccurate. There are certainly many issues of first impression that will be decided by the Commission in this proceeding. For instance, this is the first case before the Commission in which acquisitions under Section 1329 of the Public Utility Code are included in the case. PAWC has also included many novel issues such as a multi-year rate plan, a novel surcharge mechanism, and a pension tracker. Furthermore, the Commission's Emergency Order did not establish a requirement that a case be "complex" in order for the Commission to alter the schedule in that proceeding. Therefore, even if a determination were to be made that this base rate case is not complex, that would not suggest that the Commission could not alter the statutory timeframe in this proceeding.

30. Denied. As there is no benchmark to determine what makes a case "complex," and all base rate cases could likely be considered complex in nature, it is denied that this is not a complex base rate case. As noted above, there are certainly issues of first impression to be decided in this case by the Commission, as well as novel surcharges and other elements of the filing that are not routine. However, the complexity of the filing is immaterial to the determination of whether the statutory period can be extended as neither the Governor's Executive Order or the Commission's Emergency Order required that a case be complex in order for the provisions found therein to apply.

31. Admitted in part, denied in part. It is admitted that surcharge mechanisms and trackers have been used for a long time in utility ratemaking in the Commonwealth. However, even commonplace elements of a base rate case require close scrutiny to ensure the rates charged to customers are just and reasonable. Furthermore, items that are



routinely included in base rate filing can be deemed to be complex for various reasons. It is specifically denied, however, that the mere fact that these types of items may be common in a base rate case is sufficient to require the Commission to dismiss the CALJ's determination that a 45-day extension is warranted. As noted above, complexity or a lack thereof, was not part of the requirements under either the Commission's Emergency Order or the Governor's Executive Order.

32. Admitted in part, denied in part. The OCA Motion speaks for itself. However, I&E agrees certain aspects of I&E's review of this filing have been slowed and impacted due to these new and unprecedented working conditions likely for all parties. I&E further agrees that the financial challenges presented by this global pandemic must be considered in the instant proceeding. However, it is specifically denied that extending the statutory suspension period until February 4, 2020 is sufficient address these challenges fully.

33. Admitted in part, denied in part. I&E agrees that part of the concern requiring extension of the procedural schedule is the financial impact of the government's response to the current pandemic. Specifically, low and moderate-income customers who may already be struggling to afford their utility bills may be hit particularly hard as non-essential business remains largely halted. These already struggling customers are likely facing substantial loss of income. In turn, the loss of income by these customers may serve to drive up PAWC's uncollectible expense. It will also require reexamination of PAWC's low-income programs. At this juncture, it is impossible to determine how many more customers in this service territory will be in need of rate assistance. Therefore,

more time is necessary to assess the impact of the current crisis on PAWC's low- and moderate-income customers.

While I&E appreciates PAWC's proposal to expand its low-income assistance program and engage in a collaborative dialogue to assist those customers adversely affected by the COVID-19 pandemic, I&E disagrees that this is not a sufficient basis for requesting an extension of the statutory time period. Importantly, in footnote 15 to its Petition for Reconsideration, PAWC notes that it ceased terminations for non-payment and stopped sending termination notices. It bears noting that the Commission issued its Emergency Order Regarding Public Utility Service Termination Moratoriums (Termination Moratorium Order) at Docket No. M-2020-3019244. The Termination Moratorium Order stated:

Therefore, all electric, natural gas, water, wastewater, telecommunications, and steam utilities subject to the Commission's jurisdiction are prohibited from terminating service during the pendency of the Proclamation of Disaster Emergency, unless to ameliorate a safety emergency, or unless otherwise determined by the Commission.<sup>9</sup>

Under Section 1406(a) of the Public Utility Code, a utility is statutorily allowed to shut off utility service for a customer for non-payment. Interestingly while PAWC seems to balk at the Commission's modification of its statutorily prescribed right to have its base rate case decided in 9 months, it seems to take no issue with the Commission modifying its statutorily prescribed right to terminate customers for non-payment of utility bills. Utilities must not be allowed to pick and choose which of the Commission's mandates

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<sup>9</sup> [http://www.puc.pa.gov/general/pdf/Emergency\\_Order\\_M-2020-3019244\\_031320.pdf](http://www.puc.pa.gov/general/pdf/Emergency_Order_M-2020-3019244_031320.pdf)

they will adhere to and which they will not based on personal preference. At this juncture all parties are operating under a timeline which has been laid out in ALJ Johnson's Prehearing Conference Order. To alter the schedule at this point is contrary to the public interest as it would severely impact the ability to review this filing.

34. Admitted in part, denied in part. It is admitted that the Commission can, and has, extended procedural schedules without violating the Public Utility Code. However, it is denied that an extension of the procedural schedule in this proceeding cannot be conflated with an extension of the statutory period as this appears to be exactly what the Commission's Emergency Order and CALJ Rainey's Order intended.

35. Admitted in part. It is admitted that the Commission generally, under normal operating conditions, issues a final order in a base rate case near, but before the end of the suspension period for a base rate case. Further, I&E agrees that in circumstances where the Commission has been unable to adhere to the statutory schedule the Commission has done so without violate the statutory requirement by allowing the utility to right to begin to recover increased revenues under fully-adjudicated rates as of the end of the suspension period. However, the instant proceeding was filed during a Proclamation of Disaster Emergency, when operating conditions are certainly not normal for the Commission or most parties to this proceeding. The other instances referenced by PAWC wherein the Commission has required longer than the statutory suspension period to decide a case have been under normal operating conditions. Therefore, those cases do not directly correlate to the instant case.

36. Admitted.

37. Admitted in part. I&E agrees that the procedures such as those used in the 2014 FirstEnergy base rate cases referenced in paragraph 36 could be implemented in the instant proceeding without violating the Public Utility Code.

38. Denied. It is denied that the ALJ should direct that discovery related to the Company's request should cease by a date certain. First, PAWC's request that the parties only be able to "...conduct the same magnitude of discovery they would have conducted under a normally- applicable schedule..." is unjust and unenforceable. There is no limit in the Public Utility Code to the amount of interrogatories a party can send to the utility in a base rate proceeding. There is no way to determine how much discovery a party would have propounded given the procedural schedule under a statutory period ending February 4, 2020.

Second, limiting discovery to a date certain may unnecessarily limit the parties ability to investigate this case. Investigation of all facets of a company's claims in a base rate proceeding is essential to setting rates that are just and reasonable. It is impossible to determine when a party may spot an issue which warrants further investigation before direct testimony is due in a base rate case. If the ALJ sets a date by which discovery must be completed, it could negatively impact the parties', the ALJ's, and the Commission's review of this base rate case. For instance, if the ALJ orders that discovery be completed on a date certain and one day later a party discovers an expense item that may violate the public code, but this determination cannot be made without more information from the Company, that party would not be able to complete that investigation. Without that information the Commission will not have a complete record

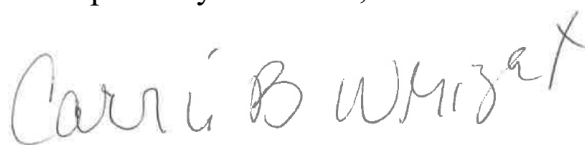
on that issue on which to base its determination. As a result, the rates charged to customers may not be just and reasonable.

### III. CONCLUSION

For the reasons stated above, I&E respectfully requests that the Commission deny the Petition for Reconsideration of Pennsylvania American Water Company.

Specifically, I&E requests that the Commission not rescind the 45-day extension that has already been granting and which is being relied upon by the parties. I&E further requests the Commission not establish a date certain by which all discover on the Company's direct case must be completed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carrie B. Wright".

Carrie B. Wright  
Prosecutor  
PA Attorney ID No. 208185

Bureau of Investigation and Enforcement  
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Dated: July 6, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket Nos.	R-2020-3019369
	:		R-2020-3019371
Pennsylvania American Water Company	:		

**VERIFICATION**

I, Carrie B. Wright, Prosecutor of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa C.S. § 4904 relating to unsworn falsification to authorities.



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Carrie B. Wright  
Prosecutor  
PA Attorney ID No. 208185  
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Pennsylvania Public Utility Commission  
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Dated: July 6, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket Nos.	R-2020-3019369
	:		R-2020-3019371
Pennsylvania American Water Company	:		

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Answer to the Petition for Reconsideration of Pennsylvania American Water Company** dated July 6, 2020, in the manner and upon the persons listed below:

**Served via Electronic Mail Only**

Kenneth M. Kulak, Esq.  
Anthony C. DeCusatis, Esq.  
Brooke E. McGlinn, Esq.  
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