

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG PENNSYLVANIA 17120**

**Pennsylvania Public Utility Commission**  
v.  
**Pennsylvania-American Water Company**

**Public Meeting held August 6, 2020**  
**3019369-OSA**  
**Docket No. R-2020-3019369**

**MOTION OF VICE CHAIRMAN DAVID W. SWEET**

Before the Commission is the Petition for Reconsideration of Staff Action filed by Pennsylvania-American Water Company (PAWC) seeking reversal of the June 4, 2020 Order of Chief Administrative Law Judge Charles Rainey granting the motion of the Office of Consumer Advocate.<sup>1</sup> The motion sought and the order granted an extension of the statutory deadline from January 28, 2021 to March 15, 2021. This motion denies in part and grants in part that Petition.

The Governor's Proclamation of Disaster Emergency<sup>2</sup> provides that agencies may suspend, waive or change a statutory or regulatory deadline which may hinder, rather than further, the mission of the agency, and this authority was delegated to the Bureau Directors and to the CALJ to be exercised after consultation with all interested parties, as deemed necessary and appropriate. The Commission's Emergency Order,<sup>3</sup> containing the same wording, gives the CALJ the authority to issue an extension for a statutory deadline under appropriate circumstances.

The CALJ's Order recognized that when the Governor directed all but essential workers in the Commonwealth to stay out of their business offices, the short period of time in which parties could serve discovery and prepare written witness testimony became insufficient for the preparation of a thorough record for eventual Commission consideration. The issuance of the Order was within his authority as delegated by the Commission under the state of emergency that exists.

However, the Commission recognizes that a public utility files a base rate case with a specific target date upon which the final approved rates will take effect, and the utility plans accordingly. It is only fair to allow the final approved rates to take effect on that date regardless of the difficulty that the parties have had in litigating the matter, and that portion of the Petition for Reconsideration of Staff action will be granted.

I note, however, that the Recommended decision is due in a case with a statutory deadline 60 days before the last reasonable public meeting prior to the expiration of the suspension date.<sup>4</sup>

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<sup>1</sup> The Commission's Order providing authority to Bureau Directors and the CALJ provides that the decisions of Bureau Directors, which would be issues as Secretarial Letters, are subject to Commission review under 52 Pa. Code §5.44. Orders of the ALJ or any ALJ are subject to interlocutory review under 52 Pa. Code §5.302. Citing the wrong regulation here is harmless error.

<sup>2</sup> Issued pursuant to the Emergency Management Services Code, 35 Pa. C.S. §7101 *et seq.*

<sup>3</sup> *Emergency Order Re Suspension of Regulatory and Statutory Deadlines*, Docket No. M-2020-3019262.

<sup>4</sup> The 60 days is comprised of 30 days for exceptions and reply exceptions, 20 days for the Office of Special Assistants to review the record and prepare a recommendation on those exceptions, and nine days for the Commissioners' and their staff to consider the record, exceptions, and recommendation and prepare a motion on this

As the Commission may alter the staff recommendation at a public meeting by motion, there must be sufficient time for staff to prepare and enter a revised Commission Opinion and Order. In this situation, the date of the suspension expiration is March 15, 2021, and that means that the last reasonable public meeting at which the Commission may consider the staff recommendation is the public meeting of February 25, 2021. Accordingly, deadline for the issuance and filing of the Recommended Decision of the presiding ALJ is Thursday, December 24, 2020.

THEREFORE,  
I MOVE:

1. That the Petition for Reconsideration of Staff Action filed by Pennsylvania-American Water Company is granted in part and denied in part, consistent with this Motion.
2. That the June 4, 2020 Order of Chief Administrative Law Judge Charles Rainey is affirmed insofar as it grants an extension of the suspension date of this matter from January 28, 2021 to March 15, 2021.
3. That the effective dates of the approved rates that result from this proceeding shall be January 23, 2021, unless another date is approved by the Commission.
4. That the Recommended Decision in this matter shall be served and filed no later than Thursday, December 24, 2020.
5. That the Office of Special Assistants shall prepare an appropriate order consistent with this Motion.

August 6, 2020  
DATE



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DAVID W. SWEET  
VICE CHAIRMAN

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and the 30 to 50 public meeting staff reports appearing on a typical public meeting. A reasonable time for preparation of a rewrite following the public meeting is between 10 and 14 days. I assume that all of those involved in the motion for extension of time are aware of this schedule and took the rewrite time into consideration when determining the appropriate number of days for the extension.