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November 3, 2020

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Statement in Support of the Pennsylvania-American Water Large Users Group ("PAWLUG"), in the above-referenced proceeding.

As shown by the attached Certificate of Service and per the Commission's March 20, 2020, Emergency Order, all parties to this proceeding are being duly served via email only due to the current COVID-19 pandemic. Upon lifting of the aforementioned Emergency Order, we can provide parties with a hard copy of this pleading upon request.

Sincerely,

McNEES WALLACE & NURICK LLC

By 

Adeolu A. Bakare

Counsel to the Pennsylvania-American Water Large Users Group ("PAWLUG")

c: Administrative Law Judge Conrad A. Johnson (via e-mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Certificate of Service

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Adeolu A. Bakare

Counsel to the Pennsylvania-American Water
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Dated this 3rd day of November, 2020, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2020-3019369 (Water)
	:	R-2020-3019371 (Wastewater)
Pennsylvania-American Water Company	:	

**STATEMENT IN SUPPORT OF THE
PENNSYLVANIA-AMERICAN WATER LARGE USERS GROUP**

The Pennsylvania-American Water Large Users Group ("PAWLUG"), by and through its counsel, submits this Statement in Support of the Joint Petition for Non-Unanimous Settlement of Rate Investigation ("Settlement"), entered into by and among Pennsylvania-American Water Company ("PAWC") the Pennsylvania Public Utility Commission ("PUC" or "Commission") Bureau of Investigation and Enforcement ("I&E"), PAWLUG, and AK Steel Corp. ("AK Steel") (the "Signatories") on October 30 and 31, 2020.¹ PAWLUG offers this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

I. BACKGROUND

1. On April 29, 2020, the Company filed Supplement No. 19 to Tariff Water-Pa. P.U.C. No. 5 ("Water Tariff") and Supplement No. 19 Tariff Wastewater-Pa. P.U.C. No. 16 ("Wastewater Tariff"), which contained changes in rates, rules and regulations calculated to produce approximately \$138.6 million over the two years of the Company's proposed multi-year rate plan ("MYRP") consisting of calendar years 2021 ("Rate Year 1") and 2022 ("Rate Year 2).

¹ PAWC, I&E, and PAWLUG entered into the Settlement on October 30, 2020. AK Steel joined the Settlement on November 2, 2020.

Specifically, the Company requested a revenue increase of \$92.4 million in 2021 or 12.9%, and approximately \$46.2 million or 5.8% in 2022.

2. On June 4, 2020, PAWLUG filed a Complaint in the above-captioned proceeding, which set forth a list of issues to be investigated, including:

- a. the size of the requested rate increase, especially in light of the relief provided by the PUC in PAWC's 2017, 2013, and 2011 base rate proceedings;
- b. the accuracy and legitimacy of the Cost of Service Study allocation methodology;
- c. the proposed distribution of the increase among customer classes;
- d. rate structure and rate design;
- e. the reasonableness of PAWC's proposed Regionalization and Consolidation Surcharge ("RCS");
- f. The reasonableness of PAWC's proposed pension tracker;
- g. issues relating to ongoing recovery from ratepayers for infrastructure improvements under the Distribution System Improvement Charge ("DSIC"); and
- h. the nexus between PAWC's revenue claims in this proceeding and the benefits that the Company has received, and will continue to receive, through the DSIC.

3. A telephonic Prehearing Conference was held on June 4, 2020, before Administrative Law Judge ("ALJ") Conrad A. Johnson, and a procedural schedule was established for discovery, written testimony, settlement discussions, and hearings.

4. Consistent with the procedural schedule approved by the ALJ, PAWLUG submitted the Direct Testimony and Exhibits of Billie S. LaConte ("PAWLUG Statement No. 1") on September 8, 2020; the Rebuttal Testimony of Billie S. LaConte ("PAWLUG Statement No. 1-R") on September 29, 2020; and the Surrebuttal Testimony of Billie S. LaConte ("PAWLUG Statement No. 1-S") on October 20, 2020.

5. On or about October 23, 2020, the parties informed the ALJ that a settlement in principle had been reached.

II. STATEMENT IN SUPPORT

6. The Commission has a strong policy favoring settlements. As set forth in the PUC's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231. Consistent with the Commission's policy, the Joint Petitioners engaged in several negotiations to resolve the issues raised by various Parties. These ongoing discussions produced the foregoing Settlement.

6. The Joint Petitioners agree that approval of the proposed Settlement is in the best interest of the Parties involved.

7. The Joint Petition is in the public interest for the following reasons:

- a. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be less than they would have been if the proceeding had been fully litigated.
- b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Joint Petition.
- c. The Joint Petition results in an increase in PAWC's rates of \$70.5 million, which is approximately 51% of the Company's original request of \$138.6 million. Joint Petition at 5.
- d. The Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding. Similarly, the Joint Petition is presented without prejudice to any position any party may advance in future proceedings involving the Company. Joint Petition at 22.
- e. The Joint Petition provides guidance as to PAWC's collection of unbilled revenue in the event that the Settlement is not approved by the January 28, 2020 expiration of the Commission's statutory review period by confirming that "The revenue increase not billed from the effective date

through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes." Joint Petition at 21.

8. In addition, the Joint Petition specifically satisfies the concerns of PAWLUG in this proceeding. PAWLUG's testimony opposed the Company's proposed RCS on grounds that the proposal would allow PAWC to recover costs of acquisition through single issue ratemaking despite a lack of policy or public interest basis supporting recovery of such costs through an automatically adjusted surcharge. *See* PAWLUG Statement No. 1 at 2-8; PAWLUG Statement No. 1-S at 3-8. Although PAWLUG primarily recommended that the Commission deny the RCS, PAWLUG also proposed minimum conditions that could mitigate some of the adverse customer impacts and potential interclass subsidization resulting from the proposed surcharge. *See id.* PAWLUG also proposed that PAWC adopt a third rate block for the Commercial rate class in order to ensure large users within the Commercial rate class pay rates reflective of cost of service. *See* PAWLUG Statement No. 1 at 8-12; PAWLUG Statement No. 1-S at 2-3. Finally, PAWLUG opposed a proposal from AK Steel to shift costs from the 4th Industrial rate block to other Industrial customers by reducing the percentage increase to the 4th rate block in contravention with PAWC's Cost of Service Study. *See* PAWLUG Statement No. 1-R at 2.

9. The Joint Petition provides a reasonable resolution to the issues raised by PAWLUG by: (1) providing for a reasonable compromise among the Parties concerning the water system rate increase, distribution of such increase among customer classes, rate design, and reduction to the wastewater revenue requirement allocated to water customers.² *See* Joint Petition at 8-10, 17-19; and (2) rejecting the proposed RCS and other alternative ratemaking

² PAWLUG understands that several supporting exhibits will be filed on November 6, 2020 and reserves all rights to address any inconsistencies between the Joint Petition and the supporting exhibits, as well as any information in the supporting exhibits that materially differs from the informal exhibits exchanged during settlement discussions.

mechanisms that would have unreasonably increased costs for PAWLUG members. *See id.* at 11.

10. PAWLUG supports the Joint Petition because it is in the public interest; however, in the event that the Joint Petition is rejected by the ALJ or the Commission, PAWLUG will reserve all rights to resume its litigation positions.

11. As set forth above, PAWLUG submits that the Settlement is in the public interest and adheres to the Commission policies promoting negotiated settlements. The Settlement was achieved after numerous settlement discussions. Although the Joint Petitioners have invested time and resources in the negotiation of the Joint Petition, this process has allowed the Parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable, and non-discriminatory result. Joint Petitioners have thus reached an amicable resolution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further litigation of a number of major issues in this proceeding. *See* 52 Pa. Code § 69.391.

III. CONCLUSION

WHEREFORE, the Pennsylvania-American Water Large Users Group respectfully requests that the Administrative Law Judge and the Pennsylvania Public Utility Commission approve the Joint Petition for Settlement of Rate Investigation without modification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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