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**VIA** eFiling

June 9, 2021

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

Re: Pennsylvania Public Utility Commission v.  
The Indian Springs Water Company  
Docket Nos. M-2019-3011972 and C-2019-3012933

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Reply of Pennsylvania-American Water Company, as Receiver for The Indian Springs Water Company, to Exceptions of Thomas V. Tinsley, Jr. ("Reply Exceptions").

A copy of the Reply Exceptions is being served on the parties listed on the enclosed Certificate of Service.

If you have any questions, please contact me.

Sincerely,

  
Elizabeth Rose Triscari

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Enclosure

cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| <b>PENNSYLVANIA PUBLIC UTILITY<br/>COMMISSION</b> | : |  |
|   | : |  |
| <b>v.</b>   | : | <b>Docket Nos. M-2019-3011972<br/>C-2019-3012933</b> |
| <b>THE INDIAN SPRINGS WATER<br/>COMPANY</b>       | : |  |
|   | : |  |

**REPLY OF PENNSYLVANIA-AMERICAN WATER COMPANY,  
AS RECEIVER FOR THE INDIAN SPRINGS WATER COMPANY,  
TO EXCEPTIONS OF THOMAS V. TINSLEY, JR.**

**I. INTRODUCTION**

On May 3, 2021, Administrative Law Judge Steven K. Haas (“ALJ”) issued his Recommended Decision (“R.D.”) recommending that the Pennsylvania Public Utility Commission (“Commission”) approve the Joint Petition for Approval of Settlement of All Issues (“Settlement”), without modification, filed by Pennsylvania-American Water Company (“PAWC”), The Indian Springs Water Company (“ISWC”), The Glen Summit Company (“Glen Summit”), the Office of Consumer Advocate (“OCA”), and the Commission’s Bureau of Investigation and Enforcement (“I&E”) (singularly, a “Joint Petitioner” and collectively, the “Joint Petitioners”) to resolve the investigation initiated by the Commission on May 18, 2019, pursuant to Section 529 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 529 (“Section 529”), into whether the Commission should order a capable public utility to acquire the water system assets of ISWC.

Thomas V. Tinsley, Jr. filed a formal complaint against ISWC on September 5, 2019 in which he expressed his disagreement with the involvement of PAWC and the potential requirement that residents be disconnected from the ISWC system and forced to construct and connect to

individual wells. Mr. Tinsley filed an addendum to his formal complaint on October 14, 2019. Mr. Tinsley also submitted comments to the ALJ in opposition to the Settlement.

On May 27, 2021, Mr. Tinsley submitted Exceptions to the ALJ's R.D. to which PAWC, as Receiver for ISWC, hereby submits Reply Exceptions.

## **II. REPLIES TO EXCEPTIONS**

### **1. The ALJ Was Correct in Finding that the \$5,000 Contribution to Customers is Adequate to Find that the Settlement is in the Public Interest**

Mr. Tinsley argues that the \$5,000 contribution to customers provided for in the Settlement is inadequate because the cost to install a well is approximately \$25,000 and further argues that the cost should be solely born by Glen Summit. There is no evidence in the record to support Mr. Tinsley's assertion regarding the cost of drilling a well and it is entirely speculative as noted in the R.D. at page 31. Regardless, the \$5,000 was never intended to fully cover the costs but rather to be a contribution to offset the cost of drilling a well. Moreover, Mr. Tinsley's assertion that only Glen Summit is benefiting from the Settlement is incorrect. The Settlement ensures that the current and former customers of ISWC will all have an alternative source of water supply prior to the system being abandoned and will receive a significant contribution towards drilling individual wells. The Settlement also preserves the Land for the benefit of the entire community.<sup>1</sup>

### **2. Whether Customers Will Owe Taxes on the Contribution Does Not Outweigh the Finding that the Settlement is in the Public Interest**

Mr. Tinsley makes several assertions with respect to potential income tax liability on the \$5,000 contributions to be paid by ISWC that are unsupported in the record and raised for the first time in Exceptions. PAWC has not undertaken an analysis of potential income tax liability but the contributions will be reported to applicable tax authorities and it will be the responsibility of

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<sup>1</sup> Capitalized terms used herein and not otherwise defined shall have the same meaning as in the Settlement.

customers who opt to receive the contribution to contact an attorney or tax advisor to determine if the contribution constitutes taxable income. Even if the contributions are taxable, the Settlement remains in the public interest for all of the reasons stated in the R.D.

**3. Whether ISWC Will Owe Taxes Does Not Outweigh the Finding that the Settlement is in the Public Interest**

Mr. Tinsley raises for the first time in his Exceptions concerns regarding what appears to be the realty transfer taxes that will be owed by ISWC in connection with the sale of the Land to Glen Summit and ISWC's ability to pay those realty transfer taxes. There is again no evidence in the record to support Mr. Tinsley's assertions regarding the value of the real property to be sold and the realty transfer taxes that will be owed. Mr. Tinsley's claim that the Land has a fair market value of over \$6 million is entirely speculative and not based on facts in the record. The realty transfer taxes will be based on the assessed value of the land and will be shared equally at closing by ISWC and Glen Summit pursuant to Section 7.1(a)(iii) of the Asset Purchase Agreement, attached to the Settlement as Appendix D. The Settlement provides that PAWC's costs of receivership will include all costs necessary to effectuate the Settlement, which would include ISWC's share of the realty transfer tax. PAWC estimates the realty transfer tax will be somewhere in the vicinity of \$5,000. Including these nominal transfer taxes in PAWC's cost of receivership (which will be fully reimbursed by ISWC at the time of closing on the sale of the land) is no reason not to find the Settlement to be in the public interest.

**4. The Compensation for the Sale of Land is Fair and is in the Public Interest**

Mr. Tinsley argues the compensation being paid by Glen Summit to ISWC for the Land is not fair and Glen Summit is being "gifted" the Land. However, pursuant to the APA, Glen Summit is purchasing the Land for a substantial sum that will cover ISWC's obligations under the Settlement with respect to offering \$5,000 contributions to current and former customers and

reimbursing PAWC for its receivership expenses. Although the exact purchase price will not be finalized until the time of closing, it is in no way insignificant. Glen Summit is purchasing the Land for its preservation and continued use by the community. ISWC, with the assistance of counsel, has agreed that the purchase price is fair and allows a complex problem to be resolved.

**5. There is No Evidence of Glen Summit's Lack of Financial or Managerial Ability that Would Cause the Settlement to be Found Not in the Public Interest**

Mr. Tinsley alleges without citing to any record evidence that Glen Summit is not capable of purchasing or managing the Land. PAWC has no reason to believe Glen Summit will not secure adequate financing to meet the terms of the APA and the Settlement and Mr. Tinsley has provided no evidence otherwise.

**6. Loss of Speculative and Highly Unlikely Potential for Future Fire Hydrants Does Not Outweigh the Finding that the Settlement is in the Public Interest**

Mr. Tinsley raises a concern that customers will lose the ability to have fire hydrants due to abandonment of service, which he again raises for the first time in Exceptions. ISWC does not currently have operable fire hydrants and the loss of the slim, if any, potential for fire hydrants in the future given the state of the water system does not outweigh all of the other reasons the Settlement is in the public interest.

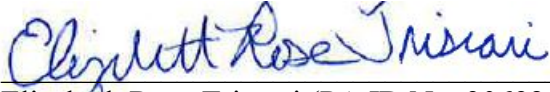
**7. Adequacy of Status Reports**

Mr. Tinsley further objects to the adequacy of the status reports submitted by the Joint Petitioners regarding settlement negotiations. The Joint Petitioners followed the ALJ's directives with respect to status reports. Mr. Tinsley has been given adequate opportunity to share his concerns with respect to the Settlement and to have them taken into consideration by the Commission.

### III. CONCLUSION

For the reasons set forth above, the Commission should deny the Exceptions of Thomas V. Tinsley, Jr. and adopt the Recommended Decision of Administrative Law Judge Steven K. Haas.

Respectfully submitted,



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Date: June 9, 2021

Counsel for *Pennsylvania-American Water Company*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION :  
COMMISSION :  
V. : Docket No. M-2019-3011972  
: C-2019-3012933  
THE INDIAN SPRINGS WATER :  
COMPANY :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Reply of Pennsylvania-American Water Company, as Receiver for The Indian Springs Water Company, to Exceptions of Thomas V. Tinsley, Jr., upon the individuals listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**VIA Electronic Mail**

Scott B. Granger, Esquire  
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Bureau of Investigation and Enforcement  
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**VIA Electronic Mail**


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**VIA Electronic Mail**

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**United States Postal Service-Certified First Class Mail**

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Date: June 9, 2021