

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560 (in PA only)

FAX (717) 783-7152  
consumer@paoca.org

IRWINA. POPOWSKY  
Consumer Advocate

December 13, 2010

Honorable David A. Salapa  
Administrative Law Judge  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17101

Re: Shane and Melissa Elison  
v.  
Pennsylvania-American Water Company  
Docket No. C-2010-2175673

Dear Judge Salapa:

Enclosed please find two copies of the Prehearing Memorandum of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. #85824

Enclosures

cc: Certificate of Service  
Secretary's Office of the PUC

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Shane and Melissa Elison, <i>et al.</i>	:	
	:	
v.	:	Docket No. C-2010-2175673
	:	
Pennsylvania-American Water Company	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION AND PROCEDURAL HISTORY**

On May 8, 2010, Shane and Melissa Elison filed a Formal Complaint following the installation of a new meter by Pennsylvania-American Water Company (PAWC). The OCA filed its Notice of Intervention and Public Statement on July 1, 2010. The Office of Trial Staff (OTS) filed a Notice of Appearance on December 2, 2010.

Initially, the matter was set for mediation. Thereafter, the OCA requested that the matter be set for litigation and assigned to the Office of Administrative Law Judge. The Office of Administrative Law Judge further assigned Administrative Law Judge David A. Salapa to the matter. A Prehearing Conference is scheduled for December 14, 2010, and the OCA submits this Prehearing Memorandum pursuant to the scheduled Prehearing Conference.

## **II. ISSUES**

Based upon a preliminary analysis of this proceeding, the OCA intervened in order to ensure that PAWC fulfills its obligation to provide safe, adequate and reliable service to its customers pursuant to the Public Utility Code. Further, under the Public Utility Code, customers have the right to an accurate and functioning meter which correctly measures their water usage. The OCA has issued one set of interrogatories to date and has made two site visits with Company representatives to the Elison home.

The OCA plans to present the following issue(s) in this proceeding:

- (1) to determine the scope of the problem, specifically whether the backflow issue experienced by the Elisons is unique to their home or whether it is a larger, more global problem across all of the Neptune meters;
- (2) if the issue is more global, then to determine under which factual circumstances the backflow problem occurs; and
- (3) to develop appropriate remedies such as notice to consumers and education of customer service representatives concerning the issue.

The OCA specifically reserves the right to raise additional issues as discovery responses are received and its investigation continues.

## **III. WITNESS**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witness in this proceeding. The witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be e-mailed directly to the OCA's expert witness, as well as e-mailing and mailing a copy to counsel for the OCA.

Terry L. Fought  
780 Cardinal Drive  
Harrisburg, Pa. 17111  
Telephone: (717) 580-4235  
E-mail: [tlfengr@comcast.net](mailto:tlfengr@comcast.net)

#### **IV. SERVICE ON OCA**

The OCA will be represented in this case by Assistant Consumer Advocate Christy M. Appleby and Senior Assistant Consumer Advocate Dianne E. Dusman. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby  
Assistant Consumer Advocate  
Dianne E. Dusman  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, Pa. 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
E-mail: [cappleby@paoca.org](mailto:cappleby@paoca.org)  
[ddusman@paoca.org](mailto:ddusman@paoca.org)

#### **V. DISCOVERY**

The OCA does not request any discovery rule modifications or a Protective Order at this time.

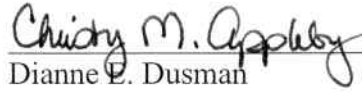
#### **VI. SCHEDULE**

The OCA will work with the parties to develop a mutually agreeable procedural schedule.

**VII. SETTLEMENT**

The OCA is willing to participate in settlement discussions.

Respectfully submitted,



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Dianne E. Dusman  
Senior Assistant Consumer Advocate  
Pa. Attorney Id. No. 38308  
E-mail: [ddusman@paoca.org](mailto:ddusman@paoca.org)  
Christy M. Appleby  
Assistant Consumer Advocate  
Pa. Attorney Id. No. 85824  
E-mail: [cappleby@paoca.org](mailto:cappleby@paoca.org)

Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, Pa. 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152s

DATE: December 13, 2010

CERTIFICATE OF SERVICE

Re: Shane and Melissa Elison  
v.  
Pennsylvania-American Water Company  
Docket No. C-2010-2175673

I hereby certify that I have this day served a true copy of the foregoing document, Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 13th day of December 2010.

SERVICE BY EMAIL and IN PERSON

Johnnie E. Simms, Esquire  
Adeolu A. Bakare, Esquire  
Office of Trial Staff  
Pa. Public Utility Commission  
400 North Street  
Harrisburg, PA 17101

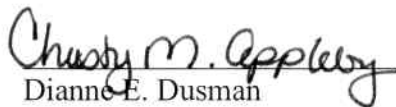
SERVICE BY EMAIL and FIRST CLASS MAIL, POSTAGE PREPAID

Shane and Melissa Elison  
8 Dana Drive  
Collegeville, PA 19426

Michael D. Klein, Esquire  
Dewey & LeBoeuf, LLP  
1101 New York Avenue, NW  
Washington, DC 20005-4213

Kathy Pape, President  
Pennsylvania-American Water Company  
800 Hershey Park Drive  
Hershey, PA 17033

Susan Simms Marsh, Esquire  
Pennsylvania-American Water Company  
800 Hershey Park Drive  
Hershey, PA 17033



Dianna E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #38308  
Email: DDusman@paoca.org

Christy Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. #85824  
Email: CAppleby@paoca.org

Counsel for  
Office of Consumer Advocate  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
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