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December 30, 2010

VIA HAND DELIVERY

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

Re: *Portia Harris v. Pennsylvania-American Water Company*,
Docket No. C-2010-2214628

Dear Secretary Chiavetta:

I have enclosed for filing, on behalf of Pennsylvania-American Water Company, an original and three (3) copies of the *Preliminary Objections of Pennsylvania-American Water Company to the Complaint of Portia Harris* and the *Answer and New Matter of Pennsylvania-American Water Company to the Complaint of Portia Harris*.

Copies of these documents are being provided to the Complainant in the manner indicated on the attached Certificate of Service.

Very truly yours,



Brian J. Knipe

For BUCHANAN INGERSOLL & ROONEY

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BJK/kra

Enclosures

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PORTIA HARRIS	:	
Complainant	:	
	:	
v.	:	Docket No. C-2010-2214628
	:	
PENNSYLVANIA-AMERICAN WATER	:	
COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that you are required to file an Answer to the enclosed Preliminary Objections of Pennsylvania-American Water Company within **ten (10) days** from the date of service of the Preliminary Objections. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania-American Water Company, and where applicable, the Administrative Law Judge presiding over the case.

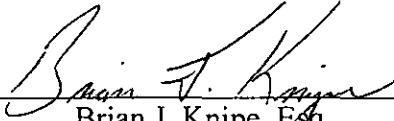
File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Brian J. Knipe, Esq.
Buchanan Ingersoll & Rooney PC
17 North Second Street, 15th Floor
Harrisburg, PA 17101-1503

Dated: December 30, 2010



Brian J. Knipe, Esq.

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BEFORE THE
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PORTIA HARRIS :
Complainant :
 :
v. : Docket No. C-2010-2214628
 :
PENNSYLVANIA-AMERICAN WATER :
COMPANY :
Respondent :

**PRELIMINARY OBJECTIONS OF PENNSYLVANIA-AMERICAN WATER
COMPANY TO THE COMPLAINT OF PORTIA HARRIS**

Pennsylvania-American Water Company ("Pennsylvania-American" or the "Company"), by and through its attorneys, files these preliminary objections pursuant to 52 Pa. Code § 5.101, and moves to dismiss the formal Complaint filed by Portia Harris ("Complainant") for legal insufficiency. In support thereof, Pennsylvania-American states as follows:

1. Complainant requests that the Pennsylvania Public Utility Commission ("Commission") issue a payment agreement in connection with Pennsylvania-American's water service to Complainant. Compl. ¶ 5.

2. The Commission has previously issued a payment agreement to Complainant, on April 19, 2010, in informal case No. 2668143. This previous Commission payment agreement was for a budget payment of \$48 per month plus \$15 toward arrears, beginning in June 2010. A copy of the BCS decision in informal case No. 2668143 is attached as **Exhibit A**.¹

3. Complainant defaulted on the Commission payment agreement issued in informal case No. 2668143. On or about October 18, 2010, Complainant filed an informal complaint against Pennsylvania-American in informal case No. 2755200, alleging a change in income and

¹ The Commission's regulations provide for the incorporation of records from other proceedings and the official and judicial notice of facts. 52 Pa. Code §§ 5.407, 5.408.

requesting a new Commission payment agreement. On November 8, 2010, the BCS dismissed the complaint in informal case No. 2755200, finding Complainant had defaulted on her previous Commission payment agreement without a change in income, and therefore was barred from obtaining a second Commission payment agreement under Section 1405(d) of the Public Utility Code, 66 Pa.C.S. § 1405(d). A copy of the BCS decision in informal case No. 2755200 is attached as **Exhibit B**.

4. In the instant formal Complaint, Complainant alleges that her income has not changed. *See* Compl. ¶ 5.

**FIRST PRELIMINARY OBJECTION —
MOTION TO DISMISS COMPLAINT FOR
LEGAL INSUFFICIENCY
(52 Pa. Code § 5.101(a)(4))**

5. Pennsylvania-American incorporates by reference the averments contained in Paragraphs 1 through 4 as if fully set forth herein.

6. Chapter 14 of the Public Utility Code, 66 Pa.C.S. §§ 1401-1418, limits circumstances in which a customer is entitled to a second payment agreement established by the Commission: "[a]bsent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement." 66 Pa.C.S. § 1405(d).

7. Chapter 14 defines a "change in income" as "[a] decrease in household income of 20% or more if the customer's household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer's household income level is 200% or less of the Federal poverty level." 66 Pa.C.S. § 1403.

8. Complainant defaulted on her previous Commission payment agreement issued in informal case No. 2668143. See **Exs. A and B**.

9. As the BCS found in informal case No. 2755200, and Complainant admits in Paragraph 5 of the instant formal Complaint, Complainant has had no change in income.

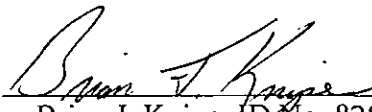
10. Accordingly, Complainant is not entitled to another Commission payment agreement, pursuant to 66 Pa.C.S. § 1405(d).

11. The formal Complaint fails to state a legally sufficient claim and should be dismissed in its entirety.

WHEREFORE, Respondent, Pennsylvania-American Water Company, respectfully requests that this Honorable Commission grant its preliminary objections to the formal Complaint of Portia Harris at Docket No. C-2010-2214628, and dismiss the formal Complaint in its entirety.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

By: 
Brian J. Knipe, ID No. 82854

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brian.knipe@bipc.com

Dated: December 30, 2010

Attorneys for Pennsylvania-American
Water Company

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AMERICAN WATER

PA Public Utility Commission Complaints and Reports

CASE CLOSING

BCS Case#	2668143	Date Case Closed	4/19/2010
BCS Investigator:	FRANK WOLFE	Account Number:	2420149300
Customer Name	PORTIA HARRIS		
Service Address	606 WALLS STREET, NEW CASTLE, PA, 16101		

Decision Issue :	Y	Violation	NO
Oral/Written	W		
Chapter		SectionRule	
TotalBalance:	402.26	BalanceDate	4/19/2010
Resolution:	LEVEL 1, BB 48.00 + 15.00 = 63.00 BEGINNING JUN 2010 DUE DATE. WAIVE LPCS:		
Serv. Cont. Amount	0	Serv. Cont. Date	
Service Restored Pay	0	Terms :	JUNE 2010 DUE DATE
Special Budget Amount	63	Regular Budget Amount	48
ArrearsPaymentPlus	15	FinalMonthlyPayment	0
CurrentMonthlyPayment	0	EndMonthlyPayment	0
LetterDescription	EGW STRAIGHT PAR/NO LPCS/BUDGET + FOR LEVEL 1 HOUSEHOLDS		
ParDescr.			
HeadDate	4/19/2010	BillDate	
ReconnectAmount	0	PayAmount	0

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PA Public Utility Commission Complaints and Reports

CASE CLOSING

BCS Case#	2755200	Date Case Closed	11/8/2010
BCS Investigator:	LORI MARRAZZO	Account Number:	242014930
Customer Name	PORTIA HARRIS		
Service Address	606 WALLS STREET, NEW CASTLE, PA, 16101		

Decision Issue :	N	Violation	NO
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Oral/Written	W
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Chapter	SectionRule
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TotalBalance:	357.02	BalanceDate	10/18/2010
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Resolution: CASE DISMISSED PER 1405D. ACCORDING TO THE COMPANY REPORT, CUSTOMER DEFAULTED ON PRIOR PUC PAR #2668143. CUSTOMER WAS SENT CIIVERIFY LETTER ON 10/19/10. CUSTOMER DID NOT SEND IN ANY DOCUMENTATION TO PROVIDE PROOF OF CHANGE IN INCOME. CII NOT VALID.

Serv. Cont. Amount	0	Serv. Cont. Date	
--------------------	---	------------------	--

Service Restored Pay	0	Terms :	
----------------------	---	---------	--

Special Budget Amount	0	Regular Budget Amount	0
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ArrearsPaymentPlus	0	FinalMonthlyPayment	0
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CurrentMonthlyPayment	0	EndMonthlyPayment	0
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LetterDescription	CHAPTER 14 EGW ON DISMISS LETTER		
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ParDescr

HeadDate	11/10/2010	BillDate	
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ReconnectAmount	0	PayAmount	0
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VERIFICATION

I, JUDY MCCOY JORDAN, hereby state that the facts above set forth are true and correct (or 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).

Dated: 12/30/10


Judy McCoy-Jordan
Billing & Collection Manager
Pennsylvania-American Water Company

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	:	
PENNSYLVANIA-AMERICAN WATER	:	
COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via First-Class U.S. Mail

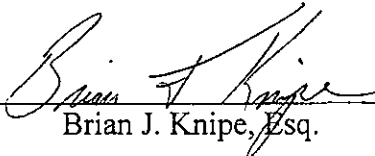
Portia Harris
606 Wall Street
New Castle, PA 16101

Dated this 30th day of December, 2010.

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DEC 30 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Brian J. Knipe, Esq.

Counsel for
Pennsylvania-American Water Company