

Seth A. Mendelsohn  
Corporate Counsel

*A-2300 73F0012*

June 12, 2007

**RECEIVED**

JUN 12 2007

Ms. Doreen Trout  
Pennsylvania Public Utility  
Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

**DOCUMENT  
FOLDER**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

~~of Pennsylvania American Water Company~~  
In re: Application of ~~Pennsylvania American Water Company~~ for Approval of (1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, Pennsylvania.

Dear Ms. Trout:

Enclosed please find the executed signature page for the above-referenced application. I apologize for any inconvenience this may have caused you.

Respectfully,

**BA**

*Seth A. Mendelsohn*  
Seth A. Mendelsohn *oly*

blg

Enclosure

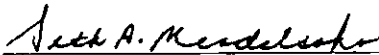
Pennsylvania-American Water  
800 West Hersheypark Drive  
Hershey, PA 17033 USA

T 717-531-3263  
F 717-531-3252  
[seth.mendelsohn@amwater.com](mailto:seth.mendelsohn@amwater.com)

WHEREFORE, Applicant prays your Honorable Commission to issue the necessary Certificates of Public Convenience under the Public Utility Code, as amended, 66 Pa. C.S. §§1102(a), 507, authorizing:

- (a) the transfer, by sale, of substantially all the assets, properties and rights of CDJMA related to or used in connection with its wastewater system to Pennsylvania-American in accordance with the Agreement, and;
- (b) the commencement by Pennsylvania-American of wastewater service to the public in all the Borough of Claysville and a portion of Donegal Township, Washington County, Pennsylvania, and;

Respectfully submitted,



Velma A. Redmond, Esquire  
Susan D. Simms, Esquire  
Seth A. Mendelsohn, Esquire  
Counsel for  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

Dated: 6/12, 2007

ORIGINAL

June 18, 2007

James J. McNulty, Secretary  
Pennsylvania Public Utility  
Commission  
Commonwealth Keystone Building  
400 North Street, PO Box 3265  
Harrisburg, PA 17120-3265

DOCUMENT  
FOLDER

Re: Application of Pennsylvania-American Water Company for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and in portions of Donegal Township, Washington County, Pennsylvania. Docket No. A-230073F0012.

Dear Mr. McNulty:

Enclosed please find a Proof of Service which evidences copies served upon the affected offices as per your letter of June 8, 2007.

Respectfully,

  
Seth A. Mendelsohn

blg

Attachment

RECEIVED  
2007 JUN 28 AM 8:45  
SECRETARY'S BUREAU

Pennsylvania-American Water  
800 West Hersheypark Drive  
Hershey, PA 17033 USA

T 717-531-3263  
F 717-531-3252  
[seth.mendelsohn@amwater.com](mailto:seth.mendelsohn@amwater.com)

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Application of Pennsylvania-American Water Company for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and in portions of Donegal Township, Washington County, Pennsylvania. Docket No. A-230073F0012.

**PROOF OF SERVICE**

I hereby certify that I am this day serving the above-referenced Application upon the persons and in the manner indicated below, which service satisfies the requirements of 52 Pa. Code §3.61 and §3.62 and 1 Pa. Code §33.36:

Service by first class mail addressed as follows:

Washington County Commissioners  
Washington County Courthouse  
One South Main Street  
Washington, PA 15301

Washington County Planning Commission  
Washington County Courthouse  
One South Main Street  
Washington, PA 15301

Donegal Township  
Board of Supervisors  
8 Fidler Lane  
West Alexander, PA 15376

Donegal Township  
Planning Board  
8 Fidler Lane  
West Alexander, PA 15376

Borough of Claysville  
Borough Council President  
P.O. Box 197  
Claysville, PA 15323

Borough of Claysville  
Planning Commission  
P.O. Box 197  
Claysville, PA 15323

Department of Environmental Protection  
400 Waterfront Drive  
Pittsburgh, PA 15222-4725

Office of Trial Staff  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Office of Consumer Advocate  
555 Walnut Street, Fifth Floor  
Forum Place  
Harrisburg, PA 17101-1923

Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101



Velma A. Redmond, Esquire  
Susan Simms Marsh, Esquire  
Seth A. Mendelsohn, Esquire  
Corporate Counsel for  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033  
(717) 533-5000

SECRETARY'S BUREAU

2007 JUN 28 AM 8:45

RECEIVED



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

A-212285F0145 & A-230073F0012

June 26, 2007

Velma A. Redmond, Esq.  
Susan D. Simms, Esq.  
Seth A. Mendelsohn, Esq.  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

DOCUMENT  
FOLDER

Re: PAWC applications to acquire Claysville-Donnegal Joint Municipal Authority assets  
Docket Nos. A-212285F0145 & A-230073F0012

Dear Attorneys Redmond, Simms and Mendelsohn:

In order for us to complete our analysis of PAWC's applications, the Water/Wastewater Industry Group requires answers to the enclosed data requests.

An early and expeditious conclusion of your request is dependent upon full and responsive answers to the enclosed data requests, which should be received by this office no later than ten working days from the date of this letter.

Answers to these data requests need not be typed but restate each data request and its corresponding number before answering. Internal and informal worksheets, as long as they are legible, will suffice. It is requested that three copies of the data requests be provided to:

Mr. James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P O Box 3265  
Harrisburg, PA 17105-3265  
Attention: Ralph Wax (717)787-3836  
Water/Wastewater Industry Group  
Bureau of Fixed Utility Services

**Your answers should be verified per 52 Pa. Code § 1.36.** If any problems should arise that prevent a full response within ten working days or any clarification of these data requests is required, please contact the above staff person. Thank you for your cooperation.

**DOCKETED**  
JUL 16 2007

Sincerely,

H. Edwin Rodrock, Supervisor  
Water/Wastewater Industry Group  
Bureau of Fixed Utility Services

HER:rew  
Enclosures  
cc: CDJMA

**Bureau of Fixed Utility Services  
Water/Wastewater Industry Group  
PAWC applications to acquire Claysville-Donnegal Joint Municipal Authority assets  
Docket Nos. A-212285F0145 & A-230073F0012  
Data Requests**

**Note:** Restate the data request prior to providing a response and include the name of the person providing the response.

**Application - A-212285F0145 (Water)**

- A-1 a) Provide a description of the subject water system; the sources of supply, treatment facilities, types and sizes of mains, number of storage tanks and volumes, and when the subject system was constructed.  
b) Indicate when the Authority assumed ownership and began operating the water system.
- A-2 a) Provide a list of the repairs/upgrades which are needed and the projected cost of each item.  
b) Indicate whether there are any outstanding DEP compliance issues. If yes, provide a summary.  
c) Provide the level of line loss.
- A-3 a) Indicate whether all of the Authority customers' water usage is metered. If no, provide an explanation.  
b) Provide the total number of fire hydrants on the subject system.  
c) Provide a list identifying the entities and the number of hydrants for which they are billed.
- A-4 Indicate whether there are/will be any bulk water sales agreements. If yes, identify the parties along with a general description of the contents of the agreements.
- A-5 a) Indicate whether the Authority's existing water sources will be abandoned following completion of the interconnection to PAWC's supply mains.  
b) Indicate if other water system assets will no longer be used after connection. If yes, list the items.  
c) Indicate the disposition of the unneeded assets and who will be responsible for their removal.
- A-6 a) Provide a description of the proposed interconnection; the length of the line, the type/size of the mains, the projected number of additional customers and the cost of the line. Indicate how this expenditure be financed.  
b) Indicate why the interconnection is being made rather than continuing to utilize the existing water sources.  
c) Provide the current status of the line construction.  
d) Indicate whether Buffalo Township has been informed of the line extension.
- A-7 a) Indicate whether the \$1.25 million purchase price for the water system includes the Jack Cutler dam and properties as well as the School Street Dam #1.

- b) Provide a list of the dams included in the transfer.
- c) Indicate why the School Street Dam #1 will be breached.

- A-8
- a) Indicate why PAWC is handling the sale arrangements for the Jack Cutler dam and properties.
  - b) Provide a description of the dam and properties; acreage, # of lots, etc.
  - c) Provide the requested sale prices.
  - d) Indicate who will receive the proceeds from the sale.
  - e) Indicate whether a buyer has been located. If yes, indicate whether the buyer has any connection to the Authority or local government.

**Application - A-230073F0012 (Wastewater)**

- A-9
- a) Provide a description of the subject wastewater system; the type of process, types and sizes of collection mains, number of pump stations, treatment plant capacity and when the subject system was constructed.
  - b) Indicate when the Authority assumed ownership and began operating the system.
- A-10
- a) Provide a list of the repairs/upgrades which are needed and the projected cost of each item.
  - b) Indicate whether there is a significant inflow/infiltration problem. Identify the most likely sources.
  - c) Indicate whether an inspection has been performed to determine if all the storm drains/roof drains/unpermitted connections have been disconnected from the wastewater collection system. If not, indicate whether an inspection will be performed prior to closing.
- A-11
- a) Provide a breakdown of the Authority's wastewater customers by type of classification.
  - b) Indicate whether there are/will be any bulk wastewater treatment agreements. If yes, identify the parties along with a general description of the contents of the agreements.
- A-12
- a) The current NPDES Permit will expire on November 22, 2007. Indicate whether the Authority has applied for renewal of the Permit.
  - b) Indicate whether there is an active CO&A between the Authority and DEP. If yes, provide a copy.
  - c) Indicate whether there are outstanding DEP compliance issues. If yes, provide a summary.
  - d) Provide the status of the CO&A addressed in Paragraph 8.1.16 of the Purchase Agreement.
  - e) Indicate whether it is intended that any issues regarding the wastewater by-pass will be corrected by the Authority prior to closing.
  - f) Indicate whether Donegal Township is willing to revise its Act 537 Plan.
- A-13
- Indicate if PAWC is currently providing wastewater service within Washington County. If yes, provide the pertaining Docket Number/s. If not, identify the wastewater service area which is closest to the subject system.
- A-14
- Identify the two Authority employees who will be offered employment by PAWC and provide a brief summary of their job duties.

## Applications – General

- A-15 A purchase price of \$2 million for the water/wastewater systems was listed in the Purchase Agreement. Indicate how the \$750,000 - \$1,250,000 split was determined.
- A-16 In reference to Exhibits “B” of the applications – the Authority Statement of Net Assets, the total original cost of the combined assets is listed as \$10,601,898 with a net of depreciation value of \$6,663,754.
- a) Provide the total amounts collected as tap-in fees for the water and for the wastewater systems.
  - b) Indicate whether the value of the tap-in fees was applied as contributions against the original cost values. If yes, provide the journal entries.
  - c) If the tap-in fees were not applied as contributions, describe the disposition of the fees.
- A-17 Indicate whether PAWC will treat the projected \$4.663 million acquisition adjustment as “above the line” income. If not, provide the reasons and reference the applicable regulations.

# SUSAN P. MOSER

Facsimile: (724) 663-5545

ATTORNEY • MEDIATOR

(724) 663-7374

150 MAIN STREET, P.O. BOX 371, CLAYSVILLE, PA 15323

August 9, 2007

Mr. James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

RE: PAWC applications to acquire Claysville-Donegal Joint Municipal Authority assets  
Docket Nos. A-2285F0145 & A-230073F0012

A-22285F0145

Dear Mr. McNulty:

Enclosed is a petition for Claysville Borough Council, co-organizer with Donegal Township of the Claysville-Donegal Joint Municipal Authority. For the reasons set forth therein, the Borough requests leave to intervene in order to protect the interests of the ratepayers to adequate, efficient and affordable water and sewage service in the Borough. A proposed Order also is enclosed. We have this date served the CDJMA and PAWC by their attorneys.

Very truly yours,



Susan P. Moser

pc: Claysville Borough Council  
G. Sweat, Esq.  
V. Redmond, Esq.  
S. Simms, Esq.  
S. Mendelsohn, Esq.

RECEIVED  
2007 AUG 13 AM 10:41  
PA P.U.C.  
SECRETARY'S BUREAU

DOCUMENT  
FOLDER

DOCKETED  
AUG 14 2007

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: PAWC application to acquire  
Claysville-Donegal Joint  
Municipal Authority

Docket Nos. A-212285F0145  
A-230073F0012

PETITION TO INTERVENE

Filed on behalf of  
Claysville Borough Council

COUNSEL OF RECORD FOR THIS  
PARTY:

Susan P. Moser, Esq.  
PA. I.D. No. 27467  
150 Main Street  
P.O. Box 371  
Claysville, PA 15323  
(724) 663-7374  
(724) 663-5545 - fax  
email: [moserlaw@verizon.net](mailto:moserlaw@verizon.net)

PA. P.U.C.  
SECRETARY'S BUREAU

2007 AUG 13 AM 10:41

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DOCUMENT  
FOLDER

DOCKETED  
AUG 14 2007

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED  
2007 AUG 13 AM 10:41  
PA PUC BUREAU  
SECRETARY'S BUREAU

IN RE: PAWC application to acquire Docket Nos. A-212285F0145  
Claysville-Donegal Joint A-230073F0012  
Municipal Authority

PETITION TO INTERVENE

Now comes the Council of the Borough of Claysville in Washington County, Pennsylvania by its solicitor, and for its petition states as follows:

1. The Pennsylvania American Water Company (PAWC) has filed a petition to the PUC for approval of the acquisition by PAWC of the Claysville-Donegal Joint Municipal Authority (CDJMA) assets. The Authority provides water and sewage services to all of the Borough and part of Donegal Township which is adjacent to the Borough.

2. The Borough office is located at 154 Main Street, P.O. Box 423, Claysville, PA 15323.

3. The CDJMA was created by the Township and the Borough in 1976.

4. Upon information and belief, the CDJMA owes approximately \$2,413,874 (as of December 2006) for a bond issue guaranteed by both the Borough and the Township which must be paid in full during this acquisition.

5. The CDJMA has assets in real estate and tangible property for which the ratepayers and the member municipalities of the CDJMA should receive fair value as a result of the acquisition.

6. The CDJMA has substantial liabilities including its obligation to DEP under state regulations and previous citations, and to PAWC under the proposed purchase agreement (hereinafter the Contract), to bring the sewage plant into DEP compliance before closing the sale.

7. The Borough wishes to intervene to ensure that the PUC has all the information and issues before it to ensure that the residents who are tapped into the CDJMA system will have no less than adequate, efficient, and affordable sewage and water service as a result of the acquisition.

8. The Borough did not receive notice of a 60-day period in which to object to the acquisition by PAWC.

8 a. It is impossible to know whether objections are appropriate or necessary because the applications are incomplete.

9. The issues that must be resolved from the standpoint of the Borough in order to determine whether adequate, efficient, and affordable sewage and water service will result from the acquisition are as follows:

a. CDJMA and PAWC have not demonstrated that the Contract price is adequate to pay off the bond issue and fund the required repairs and improvements to the sewage plant;

b. because PAWC can choose to acquire the water but not the sewage system under the parties' proposed Contract, this acquisition could leave the sewage system without staff, equipment, offices, assets, legal authority, or adequate cash flow to operate the sewage system standing alone. *See Purchase Agreement, Schedule 4.15;*

c. the Contract does not recite the value of the specific real estate and personal assets of the CDJMA, nor how that value was determined;

d. the Contract does not recite the name of the purchaser or the consideration for the Jack Clutter Dam for purposes of determining whether there has been a sweetheart deal with insiders related to the acquisition. *See Purchase Agreement, Schedule 1.22;*

e. the Contract does not set forth the time-frame and procedures for physically changing the source of water from CDJMA reserves to PAWC sources, though PAWC's pipeline must come from McGuffey High School at least 5 miles away from Claysville.

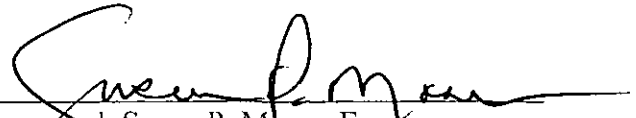
f. The CDJMA financial Statement (Exhibit B) is too old (2005);

g. Exhibit J indicates there is a purchase agreement dated March 21, 2007 but Claysville Borough has only seen one dated December 6, 2006, which also is the Contract submitted to the PUC.

h. the Contract does not guarantee to the Borough the present CDJMA administration building on Main Street, Claysville as promised by the CDJMA board.

WHEREFORE, the Borough requests leave to intervene in this acquisition proceeding as an interested party, and that the parties be ordered to furnish to the Borough a true and correct copy of all pleadings, exhibits, orders and answers to data requests filed prior to the effective date of intervention.

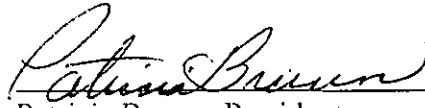
COUNCIL OF BOROUGH OF  
CLAYSVILLE

  
By counsel, Susan P. Moser, Esq.

VERIFICATION

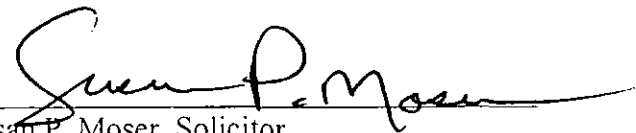
I verify that the statements made in this Petition to Intervene are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: August 6, 2007

  
Patricia Brown, President

CERTIFICATE OF SERVICE

I certify that I served the following with the Petition to Intervene by sending a true and correct copy of the same to the following by first class mail, postage prepaid, on the 9th day of August, 2007: Gary Sweat, solilcitor of CDJMA, at 23 East Beau Street, Washington, PA 15301; Velma A. Redmond, Esq., Susan D. Simms, Esq, and Seth A. Mendelsohn, Esq. at Pennsylvania-American Water Company, 800 West Hersheypark Drive, Hershey, PA 17033.

  
Susan P. Moser, Solicitor

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: PAWC application to acquire  
Claysville-Donegal Joint  
Municipal Authority

Docket Nos. A-212285F0145  
A-230073F0012

NOTICE OF APPEARANCE

Filed on behalf of  
Claysville Borough Council

COUNSEL OF RECORD FOR THIS  
PARTY:

Susan P. Moser, Esq.  
PA. I.D. No. 27467  
150 Main Street  
P.O. Box 371  
Claysville, PA 15323  
(724) 663-7374  
(724) 663-5545 - fax  
email: [moserlaw@verizon.net](mailto:moserlaw@verizon.net)

PA.P.U.C.  
SECRETARY'S BUREAU

2007 AUG 13 AM 10:12

RECEIVED

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

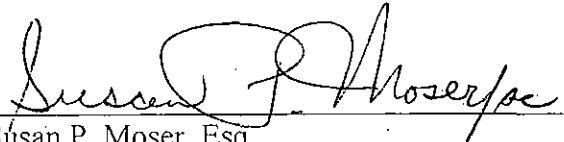
RECEIVED  
2007 AUG 13 AM 10:13  
SECRETARY'S OFFICE

IN RE: PAWC application to acquire Docket Nos. A-212285F0145  
Claysville-Donegal Joint A-230073F0012  
Municipal Authority

NOTICE OF APPEARANCE

Please enter my appearance in the above-described matter on behalf of Claysville Borough Council. I am authorized to accept service on behalf of said party in this matter.

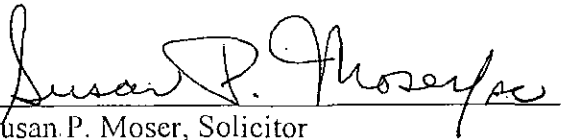
On the basis of this notice, I request a copy of each document hereafter issued by the Commission in this matter.



Susan P. Moser, Esq.  
P.O. Box 371  
Claysville, PA 15323  
724-663-7374  
724-663-5545 - fax  
email: [moserlaw@verizon.net](mailto:moserlaw@verizon.net)  
PA. I.D. No. 27467

CERTIFICATE OF SERVICE

I certify that I served the following with the Notice of Appearance by sending a true and correct copy of the same to the following by first class mail, postage prepaid, on the 9th day of August, 2007: Gary Sweat, solicitor of CDJMA, at 23 East Beau Street, Washington, PA 15301; Velma A. Redmond, Esq., Susan D. Simms, Esq, and Seth A. Mendelsohn, Esq. at Pennsylvania-American Water Company, 800 West Hersheypark Drive, Hershey, PA 17033.



Susan P. Moser, Solicitor

DATE: August 14, 2007

SUBJECT: A-212285F0145  
A-230073F0012

TO: Bureau of Fixed Utility Services

**BTL**

FROM: *KB* James J. McNulty, Secretary

Pennsylvania American Water Company  
Claysville-Donegal Joint Municipal Authority

---

Attached is a copy of a Petition to Intervene,  
filed by Claysville Borough Council, in connection with  
the above docketed proceeding.

This matter is assigned to your Bureau for  
appropriate action.

Attachment

cc: LAW

ksb

DOCUMENT  
FOLDER

**DOCKETED**  
AUG 14 2007

# LEBOEUF, LAMB, GREENE & MACRAE LLP

NEW YORK  
WASHINGTON, D.C.  
ALBANY  
BOSTON  
CHICAGO  
HARTFORD  
HOUSTON  
JACKSONVILLE  
LOS ANGELES  
PITTSBURGH  
SAN FRANCISCO

200 NORTH THIRD STREET, SUITE 300  
P.O. Box 12105  
HARRISBURG, PA 17108-2105  
(717) 232-8199  
FACSIMILE: (717) 232-8720  
E-MAIL ADDRESS: MKLEIN@LLGM.COM  
WRITER'S DIRECT DIAL: (717) 232-8196

LONDON  
A MULTINATIONAL  
PARTNERSHIP  
PARIS  
BRUSSELS  
JOHANNESBURG  
(PTY) LTD.  
MOSCOW  
RIYADH  
AFFILIATED OFFICE  
ALMATY  
BEIJING

August 29, 2007

## BY HAND

James J. McNulty, Secretary  
Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
2nd Floor, Room-N201  
400 North Street  
Harrisburg, PA 17120

DOCUMENT  
FOLDER

SEC... BUREAU  
2007 AUG 29 PM 2:37

RE: Application of Pennsylvania-American Water Company for approval of:  
(1) the transfer, by sale, of substantially all of Claysville-Donegal Joint  
Municipal Authority's assets, properties and rights related to its wastewater  
system to Pennsylvania-American Water Company; and (2) the rights of  
Pennsylvania-American Water Company to begin to offer or furnish  
wastewater service to the public in all of Claysville Borough and portions of  
Donegal Township, Washington County, PA

PUC Docket No. **A-230073F0012**


**Answer with New Matter to Petition to Intervene by Borough**

Dear Secretary McNulty:

Enclosed for filing please find the original and three (3) copies of the Answer  
with New Matter ("Answer") by Pennsylvania-American Water Company (Respondent)  
("PAWC") to the Petition for Intervention ("Petition") filed by the Borough of Claysville  
("Borough"). A Certificate of Service is enclosed.

Please time-stamp and return the additional copies of this filing. If you have any  
questions or concerns, please contact me. Thank you.

Sincerely yours,

  
Michael D. Klein

Enclosure

cc: Parties on Certificate of Service  
Susan Simms Marsh, Esquire

RJP

33

**Before the  
Pennsylvania Public Utility Commission**

Application of Pennsylvania-American Water Company for approval of: (1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, PA

No. A-230073F0012

2007 AUG 29 Pti 2:37  
SECRETARY'S OFFICE

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**Notice to Plead**

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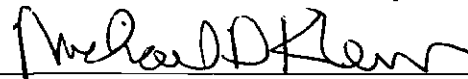
To: **Borough of Claysville**  
c/o  
Susan P. Moser, Esquire  
P.O. Box 371  
Claysville, PA 15323

You are hereby notified to file a written response to the enclosed **New Matter** within **twenty (20) days** from service hereof or a judgment may be entered against you. 52 Pa. Code § 5.61(a). Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy to the undersigned counsel for the Respondent.

Dated: August 29, 2007

Susan Simms Marsh, Esquire  
Associate Regional Counsel  
American Water Southeast Region  
800 West Hersheypark Drive  
Hershey, Pennsylvania 17033  
(717) 531-3208  
Fax: (717) 531-3252

Respectfully Submitted,

By:   
Michael D. Klein, Esquire  
Carl R. Shultz, Esquire  
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**Attorneys for Respondent,  
Pennsylvania-American Water Company**

**Before the  
Pennsylvania Public Utility Commission**

Application of Pennsylvania-American Water Company for approval of: (1) the transfer, by sale, of substantially all of Claysville-Donnegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, PA

No. A-230073F0012

2007 AUG 29 P11 2:37  
SEALING UNIT

**DOCUMENT  
FOLDER**

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**Answer with New Matter of  
Pennsylvania-American Water Company  
to the Petition to Intervene by the  
Borough of Claysville**

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**DOCKETED**  
AUG 30 2007

Pennsylvania-American Water Company ("Applicant," "Respondent" or "PAWC"), by and through its undersigned Counsel, hereby files this Answer with New Matter (collectively, "Answer") to the Petition for Intervention ("Petition") of Borough of Claysville ("Borough" or "Petitioner"). In support whereof, PAWC avers as follows:

**Answer**

1. **Admitted in Part and Denied in Part.** It is admitted that PAWC filed the applications at PUC Docket No. A-212285F0145 (water) and A-23007F0012 (wastewater). It is denied that these applications have been consolidated by the Commission as is suggested by the Borough's Petition.
  
2. **Admitted.** The location and address of the office of the Borough are admitted.

3. **Admitted in Part and Denied in Part.** It is admitted that the Claysville-Donegal Joint Municipal Authority (“CDJMA”) is a municipal authority. It is also admitted that the incorporating municipalities of the CDJMA are the Borough and the Township of Donegal (“Township”).

It is denied that the CDJMA was created in 1976. It is PAWC’s understanding and belief that CDJMA was formed on September 30, 1977, as a body corporate and politic, under the Municipalities Authority Act, Act of June 19, 2001, P.L. 287, No. 22, § 1, as amended, 53 Pa. C.S. §§ 5601 to 5623.

4. **Admitted in Part and Denied in Part.** It is admitted that CDJMA has outstanding financial obligations. It is also admitted that the CDJMA is required to convey CDJMA’s assets to PAWC free and clear of any outstanding obligations. It is further admitted that Schedule 4.15 of the Purchase Agreement indicates that the payoff figures as of December 31, 2006 for amounts owed by CDJMA collectively total \$2,413,873.46. The Purchase Agreement (together with the related Schedules and Exhibits), which was filed with the application for the above-captioned proceeding (“Application”), is incorporated herein by reference.

By way of further answer, PAWC notes that the Addendum to the Purchase Agreement states that (a) the completion of the transaction between CDJMA and PAWC is dependent on CDJMA being completely debt free after the receipt of the Purchase Price and the use of the available funds held by CDJMA; and (b) if CDJMA does not have sufficient funds to cover any and all of its debts and obligations, then CDJMA retains the sole right to cancel the Purchase Agreement.

PAWC does not have sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 4 of the Borough's Petition. Such allegations are, therefore, denied. Strict proof of said allegations is demanded at the time of hearing in this matter.

5. **Denied.** It is denied that the Borough is entitled to "fair value" as a result of PAWC's acquisition of the assets of CDJMA. CDJMA is a separate entity substantially free from legal control by the Borough. CDJMA, as a municipal authority, is an entity distinct from both the Commonwealth and a political subdivision; it is a separate and distinct "municipal corporation." Greer v. Metropolitan Hospital, 235 Pa. Super. 266, 341 A.2d 520, 527 (1975), *citing*, Commonwealth v. Erie Metropolitan Transit Authority, 444 Pa. 345, 281 A.2d 882, 885 (1971).

CDJMA may sell, lease, transfer or dispose of its assets without the participation of the Borough. 53 Pa.C.S. § 5607(d)(4); County of Allegheny v. Moon Township Municipal Authority, 543 Pa. 326, 671 A.2d 662 (1996), affirming, 141 Pa. Commw. 647, 596 A.2d 1181 (1991). Incorporating municipalities may not interfere in the decisions of a municipal authority. See Bristol Township Water Authority v. Lower Bucks County Joint Municipal Authority, 130 Pa. Commw. 230, 567 A.2d 1110 (1989). See also Helmerick Drive-It-Yourself v. Erie Municipal Airport Authority, 149 Pa. Commw. 1, 612 A.2d 562 (1991), affirmed, 530 Pa. 271, 608 A.2d 495 (1991) (municipal authorities have wide discretion in determining their actions).

It is denied that the ratepayers of CDJMA are entitled to "fair value" as a result of PAWC's acquisition of the assets of CDJMA. Ratepayers cannot directly receive a portion of the proceeds from an asset sale. Courts have long recognized that ratepayers are **not** entitled to proceeds "simply because they are the users of the service furnished by the utility." Board of Public Utility Commissioners v. New York Telephone Company, 271 U.S. 23, 31-32 (1926).

In 1926, the United States Supreme Court stated that: "The relation between the company and its customers is not that of partners, agent and principal, or trustee and beneficiary. ... Customers pay for service, not for the property used to render it. Their payments are not contributions to depreciation or other operating expenses, or to capital of the company. By paying bills for service they do not acquire any interest, legal or equitable, in the property used for their convenience or in the funds of the company. Property paid for out of moneys received for service belongs to the company, just as does that purchased out of proceeds of its bonds and stock." Board of Public Utility Commissioners v. New York Telephone Company, 271 U.S. 23, 31-32 (1926).

This rule is followed in numerous jurisdictions including (but not limited to) Pennsylvania. Philadelphia Suburban Water Co. v. Pennsylvania Public Utilities Commission, 427 A.2d 1244 (Pa. Commw. 1981). See also Democratic Central Committee of D.C. v. Washington Metropolitan Area Transit Commission, 485 F.2d 786, 806-07 (D.C. Cir. 1973) ("the right to capital gains on utility assets is tied to the risk of capital losses"); In the Matter of: Application For Approval Of The Transfer Of Control Of Kentucky-American Water Company To Rwe Aktiengesellschaft And Thames Water Aqua Holdings GMBH, Kentucky Public Service Commission, Case No. 2002-00018, 2002 Ky. PUC LEXIS 234 (May 30, 2002) ("To the extent that KAWC's ratepayers bore no risk as to fluctuations in the price of [AWW's] shares, we find no basis to support any claim to entitlement to any share of the increase in that stock's price as a result of the merger.").

6. **Admitted in Part and Denied in Part.** It is admitted that wastewater operations of the CDJMA have a history of non-compliance. However, by way of further answer, PAWC notes that there is not an active Consent Order and Agreement between CDJMA and the

Pennsylvania Department of Environmental Protection. A draft Consent Order and Agreement (pursuant to Paragraph 8.1.16 of the Purchase Agreement) is being discussed with the Pennsylvania Department of Environmental Protection.

Please note that the topic covered by Paragraph 6 of the Petition is also covered by PAWC's Response to Data Request A-12 from the Bureau of Fixed Utility Services, which is incorporated herein by reference.

It is also admitted that CDJMA has contractual obligations under the Purchase Agreement between CDJMA and PAWC. The averments in Paragraphs 4 through 5 of PAWC's Answer to the Petition are incorporated by reference.

The remaining averments of Paragraph 6 of the Borough's Petition state conclusions of law or the Borough's interpretation of the CDJMA's obligations. In either circumstance, no response is necessary. To the extent the remaining averments of Paragraph 6 of the Borough's Petition are deemed factual, they are denied.

7. **Admitted in Part and Denied in Part.** It is admitted that the Borough has expressed a desire to intervene in the above-captioned proceeding. It is denied that the Borough is entitled to intervene in this proceeding to protect the interests of the ratepayers of the CDJMA. The averments in Paragraphs 1 through 6 and Paragraphs 8 to 37 of PAWC's Answer to the Petition are incorporated by reference.

8. **Denied.** It is denied that the Borough is entitled to a sixty-day period to object to the Application. By way of further answer, PAWC submits that the Notice in the *Pennsylvania Bulletin* set July 2, 2007 as the deadline for filing formal protests and petitions to intervene in the above-captioned matter. 37 Pa. Bull. 2761, 2789 (June 16, 2007). The averments in Paragraphs

5 to 7 and Paragraphs 8a through 37 of PAWC's Answer to the Petition are incorporated by reference.

8.a **Denied**. It is denied that the Application is incomplete. To the contrary, the Application contains complete and sufficient information to support the Application and the relief requested therein. The averments in Paragraphs 9 through 37 of PAWC's Answer to the Petition are incorporated by reference.

9. **Denied**. The Borough's expressed concerns are not the kind of substantial interest that should be resolved by intervention in this proceeding. The averments in Paragraphs 1 through 8a and Paragraphs 10 to 37 of PAWC's Answer to the Petition are incorporated by reference.

Subparagraphs (a), (c) and (d) of Paragraph 9 of the Petition raise issues on the sufficiency, allocation or distribution of the purchase price set forth in the Purchase Agreement. The Purchase Agreement was freely negotiated between PAWC and CDJMA. The Borough is not a party to the Purchase Agreement between CDJMA and PAWC, and is not entitled to the relief requested.

Please note that the topic covered by Subparagraph (a) of Paragraph 9 is resolved by the Addendum to the Purchase Agreement. This Addendum is described in Paragraph 4 of PAWC's Answer and is attached to the Purchase Agreement and the Application.

Please note that the topic covered by Subparagraph (d) of Paragraph 9 of the Petition is also covered by PAWC's Response to Data Requests A-7 and A-8 from the Bureau of Fixed Utility Services, which are incorporated herein by reference.

Subparagraph (b) of Paragraph 9 of the Petition seeks to eliminate the CDJMA's

ability to sell only the assets of the water system to PAWC. The Purchase Agreement was freely negotiated between PAWC and CDJMA. Section 8.1.24 of the Purchase Agreement indicates that the Purchase Agreement is conditioned on the sale of the assets of **both** the water system and the wastewater system to PAWC. It expressly indicates that if PAWC desires to purchase only the assets of the water system, the subject Purchase Agreement would be terminated and a new agreement would be executed. The Borough is not a party to the Purchase Agreement between CDJMA and PAWC, and cannot control whether (or not) the subject Purchase Agreement is terminated or the contents of a new agreement between CDJMA and PAWC. The Borough is not entitled to the relief requested.

Subparagraph (e) of Paragraph 9 of the Petition seeks additional information on the Pre-Closing obligation of PAWC to interconnect the PAWC's existing water facilities with the water facilities being acquired from CDJMA. In fact, Section 8.1.21 of the Purchase Agreement states that "PAWC will have interconnected the PAWC existing water system to the CDJMA Water System prior to closing." A completion date for this interconnection has not been established at this time. The interconnection is currently in the design phase. The Borough is not entitled to the relief requested.

Please note that the topic covered by Subparagraph (e) of Paragraph 9 of the Petition is also covered by PAWC's Response to Data Request A-6 from the Bureau of Fixed Utility Services, which is incorporated herein by reference.

Subparagraph (h) of Paragraph 9 of the Petition seeks to enforce an alleged "promise" of CDJMA. This promise was allegedly made between CDJMA and the Borough. The Commission cannot require CDJMA to fulfill its promise to the Borough. The Borough is not entitled to the relief requested.

Please note that Schedule 1.2 of the Purchase Agreement specifically excludes the property “located at 314 East Main Street, Claysville, PA 15323 and all office equipment including desks, chairs, copiers, computers, filing cabinets, etc. which are situate within the office building.” Thus, the Purchase Agreement does not interfere with CDJMA’s ability to fulfill its alleged promise to the Borough.

The Borough also raises non-substantive issues concerning Exhibits to the Application. The Exhibits filed with the Application are publicly available from the Commission.

Subparagraph (f) of Paragraph 9 of the Petition seeks an updated or revised Exhibit B. The Application notes that Exhibit B is the latest information available. The Borough is not entitled to the relief requested.

Subparagraph (g) of Paragraph 9 of the Petition suggest that there is a Purchase Agreement dated March 21, 2007 between CDJMA and PAWC. This is **not** the case. The only Purchase Agreement between CDJMA and PAWC is dated as of December 6, 2007. Section 8.2.3 of the Purchase Agreement states that the Purchase Agreement “is subject to and contingent upon the approval [of] CDJMA’s Board of Directors, after execution by the CDJMA.” The CDJMA’s Board of Directors approved the Purchase Agreement on March 21, 2007, as evidenced by Exhibit J to the Application. The Borough is not entitled to the relief requested.

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## New Matter

### **No Intervention in Uncontested Proceedings:**

10. The averments in Paragraphs 1 through 9 of PAWC's Answer to the Petition are incorporated by reference.

11. An intervenor cannot participate in an uncontested proceeding because intervention is derivative. See Application of Philadelphia Suburban Water Company, A-212370F0052, Commission Opinion and Orders entered September 14, 2000 and November 30, 2000, where the Commission stated at 13: "Once the Protest was dismissed there was no longer a proceeding in which N. Dovin could intervene and participate." See also Application of Shangri-La Water Company, Docket No. A-212715F2000, Initial Decision By ALJ Chestnut, October 24, 2001, has become final without further action by the Commission on January 4, 2002, and the Final Order approving the Application was entered on February 8, 2002.

12. A copy of the Application was served upon the Borough, the Township and others on June 18, 2007. A true and correct copy of the Certificate of Service evidencing such service is attached hereto as **Exhibit A**, and incorporated herein by reference.

13. Notice of the Application for this proceeding was published in the *Pennsylvania Bulletin* on Saturday, June 16, 2007. 37 Pa. Bull. 2761, 2789 (June 16, 2007). A true and correct copy of such Notice is attached hereto as **Exhibit B**, and incorporated herein by reference.

14. The Notice in *the Pennsylvania Bulletin* set July 2, 2007 as the deadline for filing formal protests and petitions to intervene. Id.

15. Publication in the *Pennsylvania Bulletin* serves as constructive notice, and is sufficient to, give notice of the contents of such document to any person subject thereto or affected thereby. See 45 Pa.C.S. § 904 (constructive notice).

16. The Application was also published in a newspaper of general circulation in the company's service territory (between June 20 and June 27, 2007) as required by the Commission. A true and correct copy of such the Notice of Publication is attached hereto as **Exhibit C**, and incorporated herein by reference.

17. A newspaper article in said newspaper of general circulation on June 22, 2007 also noted the deadline for participation. A true and correct copy of such Article is attached hereto as **Exhibit D**, and incorporated herein by reference.

18. No formal protests were filed on or before July 2, 2007 in this proceeding.

19. No petitions to intervene were filed on or before July 2, 2007 in this proceeding.

20. This proceeding was uncontested at the time the Borough's Petition was filed with this Commission.

21. A public meeting was held at the Claysville Fire Hall on November 16, 2006 with representatives of CDJMA and PAWC and the public to discuss the sale of the CDJMA's systems to PAWC. It is PAWC's recollection that no one spoke against the subject transactions. PAWC further believes, and therefore avers, that representatives of the Borough were in attendance at this meeting.

22. Because the proceeding is uncontested and the deadline for intervention has passed, the Borough cannot intervene in this proceeding. See, e.g., Application of Philadelphia Suburban Water Company, supra; and Application of Shangri-La Water Company, supra.

**No Good Cause Shown for Late Intervention:**

23. The averments in Paragraphs 1 through 22 of PAWC's Answer to the Petition are incorporated by reference.

24. "Petitions to intervene ... may be filed following the filing of an application ... but no later than ..., except for good cause shown, the date fixed for filing protests as published in the *Pennsylvania Bulletin*." 52 Pa.Code § 5.74(a).

25. A late-filed intervention which does not set forth "good cause" as to why it is untimely filed is properly dismissed. Re Mercer Gas Company, 71 Pa PUC 19 (1989), 52 Pa.Code § 5.74(a).

26. The Borough filed its Petition on August 13, 2007.

27. The Borough's Petition was filed 42 days after the deadline established by the Notice in the *Pennsylvania Bulletin*.

28. The Borough's Petition does not explain the reason or justification for the delay by the Borough in filing the Petition.

29. The Borough's Petition does not state a reasonable excuse for missing the deadline for protests and interventions in this proceeding as established by the Notice in the *Pennsylvania Bulletin*.

**Late Participation is not Justified**

30. The averments in Paragraphs 1 through 29 of PAWC's Answer to the Petition are incorporated by reference.

31. The Commission has developed four standards which must be met before untimely intervention is allowed. These are: (1) where the petitioner has a reasonable excuse for missing the protest due date; (2) where the proceeding is contested at the time of the filing of a petition for intervention; (3) where the grant of intervention will not delay the orderly progress of the case; and (4) where the grant of intervention will not broaden significantly the issues, or shift the burden of proof. Re S.T.S. Motor Freight, Inc., 54 Pa PUC 343, 344(1980); Joint Application of Pennsylvania-American Water Holding Company and Thames Aqua Holdings GmbH, PUC Docket Nos. A-212285F0096; A-230073F0004, 2002 Pa. PUC LEXIS 15 (Order Entered, May 9, 2002).

32. As noted in Paragraphs 23 to 29 of PAWC's Answer to the Petition, the Borough does not have a reasonable excuse for missing the deadline for protests and interventions in this proceeding as established by the Notice in the *Pennsylvania Bulletin*.

33. As noted in Paragraphs 10 to 22 of PAWC's Answer to the Petition, this proceeding was uncontested at the time of the filing of Borough's Petition.

34. The grant of intervention will delay the orderly progress of the case. As the Application had been uncontested, it had been referred to the Commission's staff for review and resolution.

35. The grant of intervention will broaden significantly the issues in this proceeding.

36. The Borough's Petition does not challenge the financial, technical, operational, and managerial resources of PAWC.

- a. PAWC is fit to provide the service that is the subject of the above-captioned proceeding.
- b. The result of the approval by the Commission of this proposed asset transfer to PAWC will be improvements to the system, which will result in the provision of safe, adequate, reasonable and efficient service for the transferred customers.
- c. The transferred customers will benefit from PAWC's financial, technical, operational, and managerial resources, which will facilitate the making of capital and operational improvements.

37. Based on the foregoing, the Borough's Petition does not satisfy the above-mentioned standard for granting late intervention in this proceeding.

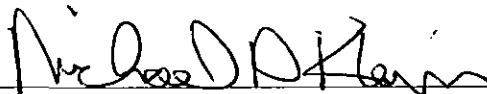
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**Relief Requested**

WHEREFORE, PAWC, as the Applicant and Respondent herein, respectfully requests that this Honorable Commission (a) deny the Borough's late-filed Petition; **and**, (b) grant any other relief deemed appropriate.

Respectfully Submitted,

By:



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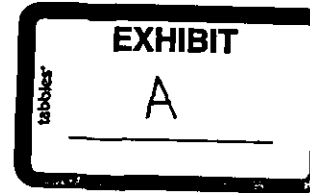
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**Attorneys for Respondent,  
Pennsylvania-American Water Company**



Seth Mendelsohn  
Corporate Counsel

June 18, 2007



James J. McNulty, Secretary  
Pennsylvania Public Utility  
Commission  
Commonwealth Keystone Building  
400 North Street, PO Box 3265  
Harrisburg, PA 17120-3265

Re: Application of Pennsylvania-American Water Company for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and in portions of Donegal Township, Washington County, Pennsylvania. Docket No. A-230073F0012.

Dear Mr. McNulty:

Enclosed please find a Proof of Service which evidences copies served upon the affected offices as per your letter of June 8, 2007.

Respectfully,

*Seth A. Mendelsohn*  
Seth A. Mendelsohn

blg

Attachment

2007 JUN 29 PM 2:37  
SECRETARY'S OFFICE

Pennsylvania-American Water  
800 West Hersheypark Drive  
Hershey, PA 17033 USA  
T 717-531-3263  
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# PENNSYLVANIA BULLETIN

Volume 37

Number 24

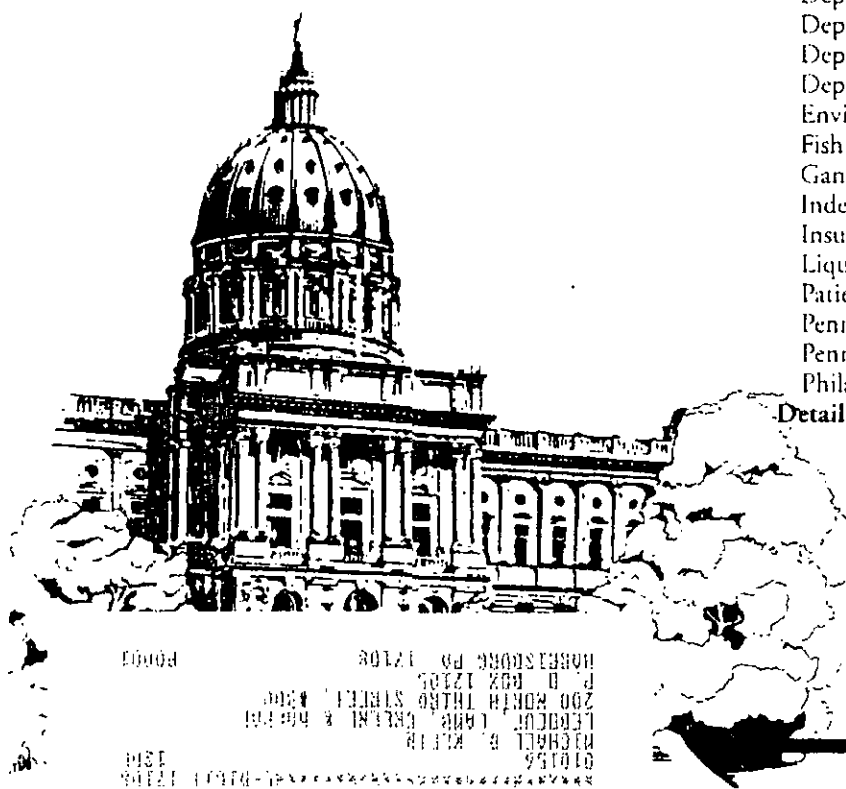
Saturday, June 16, 2007 • Harrisburg, PA

Pages 2671—2790

### Agencies in this issue

- The General Assembly
- The Courts
- Department of Agriculture
- Department of Banking
- Department of Conservation and Natural Resources
- Department of Environmental Protection
- Department of General Services
- Department of Labor and Industry
- Department of Revenue
- Department of Transportation
- Environmental Hearing Board
- Fish and Boat Commission
- Game Commission
- Independent Regulatory Review Commission
- Insurance Department
- Liquor Control Board
- Patient Safety Authority
- Pennsylvania Gaming Control Board
- Pennsylvania Public Utility Commission
- Philadelphia Regional Port Authority

Detailed list of contents appears inside.



HARRISBURG, PA 17108  
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 RICHARD G. KELLER  
 01056  
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 JUN 19 2007

utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 07-1073. Filed for public inspection June 15, 2007, 9:00 a.m.]

### Wastewater Service

**A-230073F0012. Pennsylvania-American Water Company.** Application of Pennsylvania-American Water Company for approval of: 1) the transfer, by sale, of substantially all of Claysville-Donnegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 2, 2007. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania-American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan D. Simms, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 07-1074. Filed for public inspection June 15, 2007, 9:00 a.m.]

### Water Service

**A-212285F0145. Pennsylvania-American Water Company.** Application of Pennsylvania-American Water Company for approval of: 1) the transfer, by sale, of substantially all of Claysville-Donnegal Joint Municipal Authority's assets, properties and rights related to its water system to Pennsylvania-American Water Company; and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish water service to the public in the Borough of Claysville and in portions of Donegal, East Finley and Buffalo Townships, Washington County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 2, 2007. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania-American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan D. Simms, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 07-1075. Filed for public inspection June 15, 2007, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

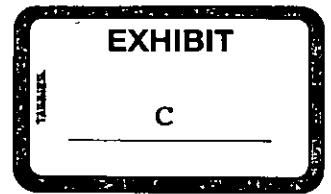
### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #07-056.6. Replace Fire Alarm System, 5-Year Testing & Certification at Tioga Administrative Building until 2 p.m. on Thursday, July 12, 2007. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available June 19, 2007. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

Mandatory prebid job site meeting will be held June 28, 2007, 10 a.m. at Tioga Administration Building, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,  
Executive Director

[Pa.B. Doc. No. 07-1076. Filed for public inspection June 15, 2007, 9:00 a.m.]



**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**NOTICE TO BE PUBLISHED**

Application of Pennsylvania-American Water Company for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, Pennsylvania. Docket Number: A-230073F0012.

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Formal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code, on or before July 2, 2007. All filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Applicant. The documents filed in support of the Application are available for inspection and copying at the Office of the Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

Applicant:

Pennsylvania-American Water Company

Through and By Counsel:

Velma A. Redmond, Esquire  
Susan D. Simms, Esquire  
Seth A. Mendelsohn, Esquire  
800 West Hersheypark Drive  
Hershey, PA 17033

2007 AUG 29 PM 2:37  
SECRETARY'S BUREAU

BY THE COMMISSION

A handwritten signature in cursive script that reads "James J. McNulty".

James J. McNulty  
Secretary

OBSERVER PUBLISHING COMPANY  
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Ad# 555513 First taken by elnor 06/19/2007 10:50  
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(724) 873-3674 Acct# 53926  
PA AMERICAN WATER CO  
RATE DEPARTMENT *John Santand*  
800 W. HERSHEY PARK DRIVE  
HERSHEY, PA 17033  
Subscr? N AR Acct# 22426

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Start 06/20/2007 Stop 06/27/2007  
Comm Bill Monthly  
Class 005 PUBLIC NOTICE  
Index: APPLICATION PENNSYLVANIA PUBLIC UTI  
Cols 2 Lines 29 Inches 2.81 Words 202 Box? N

Pb#	Code	Rate	Base-Charge	Addl-Charge	Total-Cost	Ins	Start	Stop	SMTWTFSS
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TOTAL AD COST 440.72

Application

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
NOTICE TO BE PUBLISHED**

Application of **Pennsylvania-American Water Company** for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, Pennsylvania. Docket Number: A-230073F0012.

Formal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code, on or before July 2, 2007. All filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Applicant. The documents filed in support of the Application are available for inspection and copying at the Office of the Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

Applicant:  
Pennsylvania-American Water Company  
Through and By Counsel:  
Velma A. Redmond, Esquire  
Susan D. Simms, Esquire  
Seth A. Mendelsohn, Esquire  
800 West Hersheypark Drive  
Hershey, PA 17033

**BY THE COMMISSION**  
James J. McNulty  
Secretary

6-20,27

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## Claysville water deal appears likely

By Christie Campbell

Staff writer

[chriscam@observer-reporter.com](mailto:chriscam@observer-reporter.com)

If all goes well, the sale of the Claysville water and sanitary sewer company to Pennsylvania American Water Co. could be completed before the end of the year.

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The agreement between Claysville-Donegal Joint Municipal Authority and PAWC, if finalized, will provide water to an estimated 600 customers.

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The CDJM authority board voted last year to sell after deciding that the small water company would continue to lose money. Regular maintenance alone, said authority Secretary Jerry Seaman, was becoming cost prohibitive.

As part of PAWC's process to acquire the Claysville authority, the Pennsylvania Utilities Commission is soliciting public comment.

Formal protests must be filed with James J. McNulty, PUC secretary, by July 2, at P.O. Box 3265 in Harrisburg.

Seaman doubts there will be much objection. A public meeting earlier this year to discuss the sale was well-attended, and Seaman said no one spoke against the move.

"It's such a win for the community," he said. "We just got to thank God that someone wants to buy it."

PAWC provides water service to McGuffey High School. The company is completing engineering to install a 12-inch water line from the school to Claysville. Seaman said households along Route 40 west of the school are already experiencing dry wells this summer, requiring people to haul in water.

Once the sale is completed, water rates could be reduced by as much as 20 percent, Seaman said.



Philip Cynar, communication specialist for PAWC, did not comment on that possibility, but noted that Pennsylvania American recently acquired Redstone Water Co. in Fayette County and those rates were reduced.

In addition to the lower rates, Seaman noted there will be no tap-in cost with PAWC. The Claysville authority was charging \$1,200.

As part of the agreement, the authority will be dissolved and Pennsylvania American will absorb its debts, estimated at more than \$2 million, Seaman said. The authority's office building will be turned over to the borough for a municipal building.

Cynar said PAWC has no plans for either the Jack Clutter or School Street dams now used by the authority.

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The authority, which is headed by Earl Tustin, provides water service to Claysville and portions of Donegal, East Finley and Buffalo townships. It provides wastewater removal to Claysville and portions of Donegal Township. Seaman said sanitary sewer bills will probably remain the same.

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**VERIFICATION**

I, Bernard Grundusky, Manager Business Development, hereby state that the facts above set forth 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).



\_\_\_\_\_  
Bernard Grundusky  
Pennsylvania-American Water Company

2007 JUN 29 PM 2: 38  
SECRET

## Certificate of Service

I hereby certify that this 29th day of August, 2007, a true and correct copy of the foregoing document was served upon counsel for the parties, in the manner and to the addresses set forth below:

### Via First Class Mail (Postage Prepaid):

Susan P. Moser, Esquire  
P.O. Box 371  
Claysville, PA 15323

*Counsel for  
Claysville Borough Council*

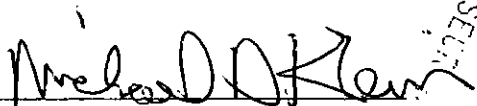
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Harrisburg, PA 17120

Frank B. Wilmarth, Assistant Counsel  
Law Bureau - Director's Office  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
3rd Floor, West  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17120

John Simms, Director  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
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Michael D. Klein  
Carl R. Shultz  
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200 North Third Street, Suite 300  
P.O. Box 12105  
Harrisburg, PA 17108-2105  
**Attorneys for  
Pennsylvania-American Water Company**

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Application of Pennsylvania-American Water Company for approval of 1) the transfer, by sale, of substantially all of Claysville-Donegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company, and 2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and in portions of Donegal Township, Washington County, Pennsylvania. Docket No. A-230073F0012.

PROOF OF SERVICE

I hereby certify that I am this day serving the above-referenced Application upon the persons and in the manner indicated below, which service satisfies the requirements of 52 Pa. Code §3.61 and §3.62 and 1 Pa. Code §33.36:

Service by first class mail addressed as follows:

Washington County Commissioners  
Washington County Courthouse  
One South Main Street  
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Washington County Courthouse  
One South Main Street  
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Board of Supervisors  
8 Fidler Lane  
West Alexander, PA 15376

Donegal Township  
Planning Board  
8 Fidler Lane  
West Alexander, PA 15376

Borough of Claysville  
Borough Council President  
P.O. Box 197  
Claysville, PA 15323

Borough of Claysville  
Planning Commission  
P.O. Box 197  
Claysville, PA 15323

Department of Environmental Protection  
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Pittsburgh, PA 15222-4725

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300 North Second Street  
Harrisburg, PA 17101

Seth A. Mendelsohn

Velma A. Redmond, Esquire  
Susan Simms Marsh, Esquire  
Seth A. Mendelsohn, Esquire  
Corporate Counsel for  
Pennsylvania-American Water Company  
800 West Hersheypark Drive  
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James J. McNulty, Secretary  
Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
2nd Floor, Room-N201  
400 North Street  
Harrisburg, PA 17120

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RE: Application of Pennsylvania-American Water Company for approval of:  
(1) the transfer, by sale, of substantially all of Claysville-Donegal Joint  
Municipal Authority's assets, properties and rights related to its wastewater  
system to Pennsylvania-American Water Company; and (2) the rights of  
Pennsylvania-American Water Company to begin to offer or furnish  
wastewater service to the public in all of Claysville Borough and portions of  
Donegal Township, Washington County, PA  
PUC Docket No. **A-230073F0012**  
**Preliminary Objections to Petition for Intervention by Borough**

Dear Secretary McNulty:

Enclosed for filing please find the original and three (3) copies of the Preliminary  
Objections by Pennsylvania-American Water Company (Respondent) ("PAWC") to the Petition  
for Intervention ("Petition") filed by the Borough of Claysville ("Borough"). A Certificate of  
Service is enclosed.

Please time-stamp and return the additional copies of this filing. If you have any  
questions or concerns, please contact me. Thank you.

Sincerely yours,

  
Michael D. Klein

Enclosure

cc: Parties on Certificate of Service  
Susan Simms Marsh, Esquire

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**Before the  
Pennsylvania Public Utility Commission**

Application of Pennsylvania-American Water Company for approval of:  
(1) the transfer, by sale, of substantially all of Claysville-Donnegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and  
(2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, PA

No. A-230073F0012

2007 11 29 PM 2:39  
SECRETARY'S OFFICE

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**Notice to Plead**

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To: **Borough of Claysville**  
c/o  
Susan P. Moser, Esquire  
P.O. Box 371  
Claysville, PA 15323

You are hereby notified to file a written response to the enclosed **Preliminary Objections** within **ten (10) days** from service hereof or a judgment may be entered against you. 52 Pa. Code §§ 5.61(a)(2), 5.101(f)(1). Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy to the undersigned counsel for the Respondent.

Dated: August 29, 2007

Susan Simms Marsh, Esquire  
Associate Regional Counsel  
American Water Southeast Region  
800 West Hersheypark Drive  
Hershey, Pennsylvania 17033  
(717) 531-3208  
Fax: (717) 531-3252

Respectfully Submitted,

By: 

Michael D. Klein, Esquire  
Carl R. Shultz, Esquire  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
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P.O. Box 12105  
Harrisburg, PA 17108-2105  
(717) 232-8199  
Fax: (717) 232-8720

**Attorneys for Respondent,  
Pennsylvania-American Water Company**

**Before the  
Pennsylvania Public Utility Commission**

Application of Pennsylvania-American Water Company for approval of:  
(1) the transfer, by sale, of substantially all of Claysville-Donnegal Joint Municipal Authority's assets, properties and rights related to its wastewater system to Pennsylvania-American Water Company; and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in all of Claysville Borough and portions of Donegal Township, Washington County, PA

No. A-230073F0012

**DOCUMENT  
FOLDER**

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**Preliminary Objection of  
Pennsylvania-American Water Company  
to the Petition to Intervene by the  
Borough of Claysville**

---

**DOCKETED**  
AUG 30 2007

Pennsylvania-American Water Company ("Applicant," "Respondent" or "PAWC"), by and through its undersigned Counsel, hereby files this Preliminary Objection ("Preliminary Objection") to the Petition for Intervention ("Petition") of Borough of Claysville ("Borough" or "Petitioner"). In support whereof, PAWC avers as follows:

**Preliminary Objection**

1. The averments in Paragraphs 1 through 37 of PAWC's Answer and New Matter to the Petition are incorporated by reference.

2. "Petitions to intervene must set out clearly and concisely the ... facts from which the alleged intervention right or interests of the petitioner can be determined." 52 Pa. Code § 5.73(a)(1).

3. The Commission's Regulations provide that a Respondent may file preliminary objections to a Petition. See 52 Pa. Code §§ 5.1(a)(4) ("The pleadings in an action before the Commission include the following ... Petition and answer."), 5.101(a)(1) (Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections).

4. The Commission's regulations further provide that a party may file preliminary objections based on a lack of standing. See 52 Pa. Code §§ 5.101(a)(1), (3), (5); Joint Application of Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc., PUC Docket Nos. A-210104F0066; A-210620F2000, 2006 Pa. PUC LEXIS 30 (Entered, April 7, 2006).

5. Generally, the Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 296 (1975). Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. See Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp., 73 Pa. P.U.C. 552 (1990).

6. The Borough's expressed concerns are not the kind of direct, immediate and substantial interest that would confer standing in this proceeding. See William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 296 (1975); Joint Application of Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc., PUC Docket Nos. A-210104F0066; A-210620F2000, 2006 Pa. PUC LEXIS 30 (Entered, April 7, 2006).

7. The Borough seeks to represent the interests of ratepayers. See Paragraph 7 of the Borough's Petition ("... residents tapped in the CDJMA system ...").

8. The Borough's Petition fails to allege any direct, immediate or substantial harm to the Borough or the ratepayers. The Borough's concerns for ratepayers following the completion of the completion of the acquisition are speculative and conjectural, not direct, immediate and substantial. See Paragraph 7 of the Borough's Petition.

9. Such conjecture does not confer a direct, immediate and substantial interest in this proceeding. See, e.g., Joint Application of Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc., PUC Docket Nos. A-210104F0066; A-210620F2000, 2006 Pa. PUC LEXIS 30 (Entered, April 7, 2006).

10. Accordingly, the Borough does not have standing to raise speculative and conjectural issues in this proceeding.

[Signature Appears on Next Page]