

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 8, 2016

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Application of Pennsylvania-American Water Company for Approval of (1) the transfer, by sale, of substantially all of the Borough of New Cumberland's assets, properties and rights related to its wastewater collection and treatment 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 the Borough of New Cumberland, Cumberland County, Pennsylvania and (3) the right of Pennsylvania-American Water Company to begin to offer of furnish wastewater service to three customers in Lower Allen Township, Cumberland County, Pennsylvania
Docket No. A-2016-2544151

Dear Secretary Chiavetta:

Attached for electronic filing is the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon

Senior Assistant Consumer Advocate

PA Attorney I.D. # 83487

E-Mail: EGannon@paoca.org

Attachment

cc: Honorable Steven K. Haas
Honorable Elizabeth H. Barnes
Certificate of Service

223528

CERTIFICATE OF SERVICE

In re: Application of Pennsylvania-American	:	
Water Company for Approval of (1) the	:	
transfer, by sale, of substantially all of the	:	
Borough of New Cumberland's assets,	:	
properties and rights related to its wastewater	:	
collection and treatment system to	:	
Pennsylvania-American Water Company, and	:	Docket No. A-2016-2544151
(2) the rights of Pennsylvania-American	:	
Water Company to begin to offer or furnish	:	
wastewater service to the public in the	:	
Borough of New Cumberland, Cumberland	:	
County, Pennsylvania and (3) the right of	:	
Pennsylvania-American Water Company to	:	
begin to offer or furnish wastewater service to	:	
three customers in Lower Allen Township,	:	
Cumberland County, Pennsylvania	:	

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 8th day of July 2016.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

Richard A. Kanaskie, Director
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

John Evans
Office of Small Business Advocate
Suite 202, Commerce Building
300 N. Second Street
Harrisburg, PA 17101

David P. Zambito, Esquire
D. Troy Sellars, Esquire
17 North Street
Suite 1410
Harrisburg, PA 17101

Melanie J. El Atieh, Esquire
Susan Simms Marsh, Esquire
Pennsylvania American Water
800 West Hersheypark Drive
Hershey, Pennsylvania 17033

R. Timothy Weston, Esquire
K&L Gates, LLP
Market Square Plaza, 18th Floor
17 North Second Street
Harrisburg, PA 17101

/s/ Erin L. Gannon
Erin L. Gannon
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223529

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American :
Water Company for Approval of (1) the :
transfer, by sale, of substantially all of the :
Borough of New Cumberland’s assets, :
properties and rights related to its :
wastewater collection and treatment system :
to Pennsylvania-American Water Company, : Docket No. A-2016-2544151
and (2) the rights of Pennsylvania-American :
Water Company to begin to offer or furnish :
wastewater service to the public in the :
Borough of New Cumberland, Cumberland :
County, Pennsylvania and (3) the right of :
Pennsylvania-American Water Company to :
begin to offer or furnish wastewater service :
to three customers in Lower Allen :
Township, Cumberland County, :
Pennsylvania :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333 and the Prehearing Order issued by Administrative Law Judges Steven K. Haas and Elizabeth H. Barnes on June 30, 2016, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On May 6, 2016, Pennsylvania-American Water Company (PAWC) filed an Application at the above-referenced docket to transfer substantially all of the Borough of New Cumberland’s sewer system and treatment works assets to PAWC. On June 6, 2016, the Office of Consumer Advocate (OCA) filed a protest. On June 29, 2016, the parties received notice that a Prehearing

Conference would be held on July 12, 2016. On June 30, 2016, the presiding Administrative Law Judges issued a Prehearing Order directing the parties to provide prehearing memoranda by July 8, 2016.

II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Christine Maloni Hoover and Erin L. Gannon. Two copies of all documents should be served in the OCA as follows:

Erin L. Gannon	Telephone: (717) 783-5048
Senior Assistant Consumer Advocate	Fax: (717) 783-7152
Office of Consumer Advocate	Email: EGannon@paoca.org
555 Walnut Street, Forum Place 5th Floor	
Harrisburg, PA 17101-1923	

The OCA requests that CHoover@paoca.org and VHironimus@paoca.org be included on the e-mail distribution list. The OCA will extend the same courtesy to any other parties requesting that additional persons be included on the e-mail distribution list.

III. DISCOVERY

The OCA has served one set of informal discovery to date. In order to effectively investigate and adequately develop a record in this proceeding, the OCA requests a modification to the Commission's procedural rules on a going-forward basis, as set forth below. These modifications assume a procedural schedule with a Commission Order anticipated near the end of 2016. If a shorter schedule is adopted, shorter timeframes will be necessary:

(1) Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday

will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

(2) Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

(3) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

(4) Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(5) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

(6) Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

(7) Any discovery-related pleading such as objections, motions, or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

IV. WITNESSES

The OCA intends to present the testimony Ashley E. Everette, Regulatory Analyst with the Office of Consumer Advocate and Terry L. Fought, P.E.. Their contact information is as follows:

Ashley E. Everette, Regulatory Analyst
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
Harrisburg PA 17101-1923
(717) 783-5048
(717) 783-7152
aeverette@paoca.org

Terry L. Fought, P.E.
780 Cardinal Drive
Harrisburg, PA 17111
(717) 580-4265
TLFengr@comcast.net

To the extent necessary, Ms. Everette and Mr. Fought will present testimony regarding the impact of the proposed transaction on PAWC's existing customers and other financial, technical and ratemaking issues presented in this proceeding.

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

V. ISSUES

The OCA is participating in this proceeding to ensure the interests of PAWC's existing customers are protected. Based upon a preliminary analysis of the Application, the OCA has compiled a list of issues which it anticipates will be included in its investigation. It is anticipated that other issues may arise and may be pursued once the answers to the OCA's interrogatories have been received and analyzed.

The issues set forth below will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses:

(1) Substantial, Affirmative Benefits to Existing PAWC Customers: PAWC proposes to pay a \$23 million purchase price to the Borough, in addition to a commitment to spend \$2

million for capital improvements to the water and wastewater infrastructure located within the Borough over the five year-period immediately following the closing date. According to the notice provided by the Borough to its residents, the Borough's Valuation Report determined that the system has a fair market value of \$17.5 million. PAWC also agrees to offer employment to each of the current four (4) employees of the Borough's wastewater department at comparable wages and benefits. The OCA submits that additional information is necessary to determine if the proposed purchase price, investment and offers of employment are reasonable and how the transaction will substantially and affirmatively benefit PAWC's existing customers.

(2) Proposed Rates: PAWC has requested, as part of the application for a certificate of public convenience, approval to charge customers the base rates charged by the Borough at the time of closing, except that the quarterly customer charge for residential customers will be converted to a monthly charge. Based on the Borough's current rates, PAWC would charge \$25.54 which includes an allowance of 3,200 gallons per month, plus \$1.201 per 100 gallons per month for the next 900 gallons and \$1.022 per 100 gallons per month for the next 3,000 gallons for metered residential customers. Rev. Exh. I. PAWC's current residential wastewater Zone 1 rates are a \$7.50 per month customer charge and \$1.2880 per 100 gallon volumetric charge. An acquired Borough residential customer using 3,000 gallons per month would continue to pay \$36.35 per month once they become PAWC customers, rather than the \$46.14 per month that PAWC's Zone 1 customers pay for the same usage. Further, PAWC proposes that the acquired customer rates would not increase before January 1, 2018 and would not increase by more than 2.5% in 2018 and 2.5% in 2019. The OCA submits that additional information is necessary to determine if the proposed rates and rate increase limitations are reasonable.

(3) Conditions: Whether any conditions should be imposed upon the proposed transfer to ensure that PAWC's existing customers are treated in a fair and just manner in accord with Pennsylvania law and Commission rules and regulations.

The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from PAWC.

VI. PUBLIC INPUT HEARINGS

PAWC's existing wastewater customers are located outside of New Cumberland and across Pennsylvania in Adams, Beaver, Chester, Clarion, Monroe, Northumberland, Pike, Washington and York Counties. They have not received direct notice – and likely no newspaper notice – of the proposed transaction and the impact on those customers has not been determined. The OCA is unaware of any specific consumer requests for public input hearings in this matter to date. However, if the OCA becomes aware of substantial consumer interest, the OCA will promptly notify the Administrative Law Judge and parties to request a public input hearing.

VII. SCHEDULE

The OCA has attached a proposed schedule. The OCA will work with PAWC to reach a schedule that is acceptable to both parties and the Presiding Officers.

VIII. SETTLEMENT

The OCA is willing to engage in settlement discussions with all parties.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon

Senior Assistant Consumer Advocate

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Counsel for:

Tanya J. McCloskey

Acting Consumer Advocate

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(717) 783-7152 (fax)

DATED: July 8, 2016
223440

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American Water Company for Approval of (1) the transfer, by sale, of substantially all of the Borough of New Cumberland's assets, properties and rights related to its wastewater collection and treatment 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 the Borough of New Cumberland, Cumberland County, Pennsylvania and (3) the right of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to three customers in Lower Allen Township, Cumberland County, Pennsylvania :

Docket No. A-2016-2544151

OFFICE OF CONSUMER ADVOCATE
PROPOSED LITIGATION SCHEDULE

Company Direct Testimony	July 20, 2016
Other Party Direct Testimony	August 18, 2016
Rebuttal Testimony	September 8, 2016
Surrebuttal Testimony	September 22, 2016
Written Rejoinder	September 29, 2016
Hearings in Harrisburg	October 5-6, 2016
Main Briefs	November 2, 2016
Reply Briefs	November 22, 2016