**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2017-2595853

:

Pennsylvania-American Water Company :

:

:

The Pennsylvania Office of Consumer :

Advocate :

v. : C-2017-2603058

:

Pennsylvania-American Water Company :

:

:

The Pennsylvania Office of Small :

Business Advocate :

:

v. : C-2017-2603512

:

Pennsylvania-American Water Company :

**ORDER GRANTING THE PETITION TO INTERVENE OF**

**THE COMMISSION ON ECONOMIC OPPORTUNITY**

In accordance with the provisions of 52 Pa. Code § 5.483, the purpose of this Order is to address the Petition to Intervene filed by the Commission on Economic Opportunity (CEO) at this docket on July 14, 2017. The relevant case history to this point may be summarized as follows.

On April 28, 2017, the Pennsylvania-American Water Company (PAWC or Company) filed Original Tariff Water – Pa. P.U.C. No. 5 (Tariff No. 5) and Original Tariff Wastewater – Pa. P.U.C. No. 16 (Tariff No. 16), requesting an increase in its total annual operating revenues to become effective June 27, 2017. The amount of the requested increase equals $107.9 million, or approximately 16.4%, above the level of *pro forma* revenues for the fully projected future test year ending December 31, 2018. By Order entered May 18, 2017, the Pennsylvania Public Utility Commission instituted a formal investigation at Docket No. R-2017-2595853 to determine the lawfulness, justness and reasonableness of the Company’s existing and proposed rates, rules and regulations. Accordingly, PAWC’s requests were suspended until January 27, 2018, unless permitted by Commission order to become effective at an earlier date.

The Commission directed the Office of Administrative Law Judge to hold hearings and to render a Recommended Decision.

On May 25, 2017, a prehearing conference was held at the Commission’s office in Harrisburg, Pennsylvania. As a result of that prehearing conference, an Order was issued on June 14, 2017, memorializing the agreements of the parties with respect to various administrative matters and setting a litigation schedule.

On July 14, 2017, CEO filed a Petition to Intervene in this proceeding. In an e-mail to the presiding officers received on July 20, 2017, CEO stated that none of the active parties to the case oppose its intervention. This was followed in short order by a somewhat equivocal Answer filed by PAWC.

On July 21, 2017, an Order was issued setting August 1, 2017, as the last date for any Answers to the Petition. No objection to CEO’s Petition to Intervene has been filed.

DISCUSSION

The Commission's Rules of Practice and Procedure permit petitions to intervene. 52 Pa. Code §§ 5.71-5.76 The provision at 52 Pa. Code § 5.72 governs what entities are eligible to intervene in a proceeding and states as follows:

**§ 5.72. Eligibility to intervene.**

(a) Persons. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

(b) Commonwealth. The Commonwealth or an officer or agency thereof may intervene as of right in a proceeding subject to paragraphs (1)-(3).

Allowance of intervention is a matter within the discretion of the Commission. *City of Pittsburgh v. Pennsylvania Pub. Util. Comm'n*, 33 A.2d 641 (Pa. Super. 1943); *N.A.A.C.P., Inc. v. Pennsylvania Pub. Util. Comm'n*, 290 A.2d 704 (Pa. Cmwlth. 1972).

CEO’s eligibility to intervene in this proceeding is governed by 52 Pa. Code

§ 5.72(a)(2) since CEO is not a Commonwealth agency pursuant to 52 Pa. Code § 5.72(b), and neither a statute of the United States nor the Commonwealth confers on CEO a right to intervene pursuant to 52 Pa. Code § 5.72(a)(1).

CEO states that it is a not-for-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania. CEO maintains that its purpose is to advocate for the low-income population of Wilkes-Barre, Pennsylvania. CEO is a customer of PAWC as are its clients. CEO has agreed to comply with the litigation schedule established and requests that the presiding officers order all parties to provide CEO with copies of all papers filed. Petition at 3; ¶ 4.

CEO’s interests in this proceeding are of such a nature that intervention is appropriate to the administration of the Public Utility Code and the regulations of the Commission. By this Order, CEO is bound by the established litigation schedule and the conditions set forth in all prior Prehearing Orders issued at this docket to date. We decline to “order” the other active parties in this case to provide CEO with, “copies of all papers filed,” as such a broad request is likely to cause an unreasonable burden and expense for the parties. See 52 Pa. Code § 5.361. We trust that the parties will promptly comply with any request for identified, relevant documents.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to these proceedings. 66 Pa. C.S. §§ 1102, 1103.

2. Allowance of intervention is a matter within the discretion of the Commission. *City of Pittsburgh v. Pennsylvania Pub. Util. Comm'n*, 33 A.2d 641 (Pa. Super. 1943); *N.A.A.C.P., Inc. v. Pennsylvania Pub. Util. Comm'n*, 290 A.2d 704 (Pa. Cmwlth. 1972).

3. The Petition to Intervene of Commission on Economic Opportunity at Docket No. R-2017-2595853 sets forth sufficient grounds for intervention in this proceeding. 52 Pa. Code § 5.72(a)(2).

4. No party has filed an objection to the Petition to Intervene.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to Intervene filed by Commission on Economic Opportunity on July 14, 2017 at Docket No. R-2017-2595853 is granted.

2. That the e-service list in this proceeding is amended to include counsel for Commission on Economic Opportunity:

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3. That Commission on Economic Opportunity is bound by the procedural schedule and the conditions set forth in all prior Prehearing Orders issued at this docket to date.

Date: August 2, 2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dennis J. Buckley

Administrative Law Judge

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Benjamin J. Myers

Administrative Law Judge

**R-2017-2595853 – Pennsylvania Public Utiltiy Commission v Pennsylvania American Water Company**

***Revised 6/30/17***

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