



July 24, 2018

VIA E-FILING

Jonathan P. Nase

Direct Phone 717-773-4191

Direct Fax 215-372-2340

jnase@cozen.com

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

Re: In re: Application and related filings of Pennsylvania-American Water Company under Sections 507, 1102(a), and 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 507, 1102(a), 1329, for approval of its acquisition of wastewater system assets of Sadsbury Township, related wastewater service rights, fair market valuation ratemaking treatment, deferral of the post-acquisition improvement costs, and certain contracts with municipal corporations; Docket No. A-2018-3002437

PENNSYLVANIA-AMERICAN WATER COMPANY PREHEARING MEMORANDUM

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the Prehearing Memorandum of Pennsylvania-American Water Company. A copy of this document has been served in accordance with the attached Certificate of Service.

Please contact me if you have any questions regarding this filing. Thank you.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase

Counsel for *Pennsylvania-American Water Company*

JPN:kmg
Enclosure

cc: Honorable Darlene D. Heep
Per Certificate of Service
Susan Simms Marsh, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application and related filings of Pennsylvania- :
American Water Company under Sections 507, 1102(a), :
and 1329 of the Pennsylvania Public Utility Code, 66 Pa. :
C.S. §§ 507, 1102(a), 1329, for approval of its acquisition : Docket No. A-2018-3002437
of wastewater system assets of Sadsbury Township, :
related wastewater service rights, fair market valuation :
ratemaking treatment, deferral of the post-acquisition :
improvement costs, and certain contracts with municipal :
corporations :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Memorandum of Pennsylvania-American Water Company**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL:

Gina L. Miller, Esq.
Erika L. McLain, Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265
E-mail: ginmiller@pa.gov
E-mail: ermclain@pa.gov
Counsel for *Bureau of Investigation and Enforcement*

Christine Maloni Hoover, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
E-mail: CHoover@paoca.org
Counsel for *Office of Consumer Advocate*


Office of Small Business Advocate
Commerce Building, Suite 202
300 North Second Street
Harrisburg, PA 17101-1303

Ashley E. Everette
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
E-mail: AEverette@paoca.org
Consultant for *Office of Consumer Advocate*

Glenn Watkins
Technical Associates, Inc.
1503 Santa Rosa Road
Suite 130
Richmond, VA 23229
E-mail: watkinsg@tai-econ.com
Consultant for *Office of Consumer Advocate*

Thomas M. O'Keefe, Esq.
Lamb McErlane PC
24 East Market Street
PO Box 565
West Chester, PA 19381-0565
E-mail: mokeefe@lambmcerlane.com
Counsel for *Sadsbury Township*

DATED: July 24, 2018


Jonathan P. Nase, Esq.
Counsel for
Pennsylvania-American Water Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP

In re: Application and related filings of Pennsylvania- :
American Water Company under Sections 507, 1102(a), :
and 1329 of the Pennsylvania Public Utility Code, 66 Pa. :
C.S. §§ 507, 1102(a), 1329, for approval of its acquisition : Docket No. A-2018-3002437
of wastewater system assets of Sadsbury Township, :
related wastewater service rights, fair market valuation :
ratemaking treatment, deferral of the post-acquisition :
improvement costs, and certain contracts with municipal :
corporations :

**PREHEARING CONFERENCE MEMORANDUM
OF PENNSYLVANIA-AMERICAN WATER COMPANY**

AND NOW COMES Pennsylvania-American Water Company (“PAWC”), by and through its counsel, Cozen O’Connor, pursuant to 52 Pa. Code § 5.222(d) and in compliance with the Prehearing Conference Order of the Honorable Administrative Law Judge Darlene D. Heep (the “Administrative Law Judge” or “ALJ”), dated June 27, 2018, to file this Prehearing Conference Memorandum in the above-captioned matter. In support thereof, PAWC states as follows:

I. INTRODUCTION AND PROCEDURAL HISTORY

On June 19, 2018, the Pennsylvania Public Utility Commission (“Commission”) acknowledged receipt of the instant application requesting, *inter alia*, Commission approval of PAWC’s acquisition of the wastewater system (“System”) of the Township of Sadsbury (“Sadsbury”), Chester County, Pennsylvania pursuant to the provisions of 66 Pa. C.S. §§ 1102

("Enumeration of acts requiring certificate") and 1329 ("Valuation of acquired water and wastewater systems"). The Office of Consumer Advocate ("OCA") filed a Protest and Public Statement on June 20, 2018. Also on June 20, 2018, counsel for the Commission's Bureau of Investigation and Enforcement ("I&E") filed their Notice of Appearance. On June 29, 2018, Sadsbury filed a Petition to Intervene in this proceeding.

The Commission notified the parties that a telephonic prehearing conference was scheduled for July 25, 2018. On June 27, 2018, the ALJ issued a Prehearing Conference Order.

On July 10, 2018, PAWC filed a Petition for Protective Order. The ALJ granted the Petition and issued the requested Protective Order on July 12, 2018.

On July 10, 2018, counsel for PAWC filed the Stipulation of the Parties Regarding Objections and Preservation of Issues. On July 11, 2018, counsel for PAWC filed the parties' Stipulation Regarding Discovery Rule Modifications.

II. COUNSEL

Counsel for PAWC are:

David P. Zambito, Esq. (PA ID 80017)
Jonathan P. Nase, Esq. (PA ID 44003)
George A. Bibikos, Esq. (PA ID 91249)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
E-mail: dzambito@cozen.com
jnase@cozen.com
gbibikos@cozen.com

Susan Simms Marsh, Esq. (PA ID 044689)
Pennsylvania-American Water Company
800 West Hershey Park Drive
Hershey, PA 17033
Phone: (717) 531-3208
E-mail: susan.marsh@amwater.com

III. SERVICE OF DOCUMENTS

PAWC's attorneys are authorized to accept service on behalf of PAWC in this proceeding. PAWC requests that hard copies of documents be served on Attorney Zambito at the address listed above. PAWC agrees to receive service of documents electronically in this proceeding and requests that all listed counsel for PAWC receive electronic service.

IV. ISSUES

This case involves 66 Pa. C.S. §§ 507, 1102 and 1329. As the Commission has interpreted those sections in several recent decisions, including but not limited to *Application of Pennsylvania-American Water Company Wastewater for the Acquisition of the Wastewater Assets of The Municipal Authority of the City of McKeesport*, Docket No. A-2017-2606103 (Final Order entered October 26, 2017), the legal issues are well defined.

A. Satisfaction of Section 1102 Standards

PAWC submits that the proposed transaction is necessary or proper for the service, accommodation, convenience or safety of the public. PAWC submits that the transaction provides substantial affirmative public benefits and that PAWC, as an existing public utility, is presumed to possess the legal, financial, and technical fitness to own and operate the Sadsbury system. Indeed, PAWC is the largest investor-owned water and wastewater service provider in the Commonwealth and has existing operations in the proximity of the System. The transaction will promote the Commission's goal of regionalization and consolidation, and the purchase price is reasonable in light of the appraisals that have been performed by the Utility Valuation Experts (singularly, "UVE" or, collectively, "UVEs"). Commission approval of the transaction will open the possibility of further consolidation and regionalization of wastewater services in Southeastern Pennsylvania.

B. Scope of Section 1329 Proceedings

The parties have competing views regarding the proper scope of Section 1329 proceedings, including the proper scope of discovery and the Commission's scope and standard of review. However, in order to streamline the litigation of this matter, PAWC, OCA, and I&E have entered into a Stipulation of the Parties Regarding Objections and Preservation of Issues.

C. Satisfaction of Section 1329 Standards

PAWC submits that it has complied with all of the requirements of Section 1329. The negotiated purchase price for the acquired assets is \$9,250,000 and the average of the appraisals of the buyer's UVE and the seller's UVE is \$9,250,000 ($\$8,910,000 \text{ AUS} + \$9,590,000 \text{ HRG} = \$18,500,000/2 = \$9,250,000$). Accordingly, the negotiated purchase price of \$9,250,000 is the fair market value for ratemaking purposes under Section 1329 (*i.e.* the lower of the negotiated purchase price and the average of the UVEs' appraisals).

The Asset Purchase Agreement between PAWC and Sadsbury ("APA") does not contain a "rate stabilization plan" as defined by Section 1329. Moreover, the APA expressly recognizes the Commission's ratemaking authority and PAWC's right to seek rate relief from the Commission.

As permitted by Section 1329, PAWC has petitioned -- as part of the instant filing-- for approval to implement a Distribution System Improvement Charge with respect to customers in the applied-for service territory. PAWC has also, in accordance with Section 1329, petitioned for approval to accrue and defer certain post-acquisition improvement costs associated with the provision of service in the applied-for territory.

D. Certificates of Filing or Approvals for Section 507 Agreements

Section 507 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 507, requires PAWC to file an agreement between itself and a municipal corporation with the Commission. PAWC seeks

either Certificates of Filing or approvals of the APA and the agreements with municipal corporations that it will be assuming as a result of the transaction.

V. WITNESSES

PAWC expects to call the following witnesses and provide their testimony in written question and answer form:

Mr. Keith Gabage

Mr. Gabage is Senior Manager, Business Development for PAWC. Mr. Gabage's business address is 100 Cheshire Court, Suite 104, Coatesville, PA 19320 and his business phone number is (610) 384-1776, extension 2101. Mr. Gabage will provide an overview of the transaction and explain why the transaction is in the public interest and will provide affirmative public benefits of a substantial nature. He will also explain why the application should be promptly approved by the Commission. In addition, he will discuss why PAWC is legally, financially, and technically fit to acquire and operate the System.

Mr. Michael J. Guntrum

Mr. Guntrum is Senior Project Engineer in the Engineering Department for PAWC. Mr. Guntrum's business address is 800 West Hersheypark Drive, Hershey, PA 17033 and his business phone number is (717) 531-3328. He will describe the wastewater collection system currently owned by Sadsbury. He will also testify to PAWC's record of environmental compliance, PAWC's overall technical fitness to acquire and operate the system, and PAWC's plans for operating the system following closing.

Mr. John R. Cox

Mr. Cox is the Director of Rates and Regulations – Pennsylvania for American Water Works Service Company. Mr. Cox’s business address is 800 West Hersheypark Drive, Hershey, PA 17033. His business phone number is (717) 531-3258. He will testify to PAWC’s financial fitness to acquire and operate the System. He will also identify the ratemaking rate base, estimate the transaction and closing costs incurred by PAWC, summarize the rate provisions in the APA, and describe the benefits of the transaction. In addition, he will explain PAWC’s intentions with respect to the accrual of certain post-acquisition improvement costs and deferral of related depreciation.

Mr. Jerome Weinert, ASA, PE, DCP

Mr. Weinert is a Principal and Director in the consulting operation of Associated Utility Services, Inc. Mr. Weinert has a business address of 8555 West Forest Home Avenue, Suite 201, Greenfield, WI 53228. He will describe the fair market value appraisal of the System that he and his staff performed on behalf of PAWC.

PAWC reserves the right to call additional witnesses and present testimony on additional issues that may arise during the course of the proceeding.

V. DISCOVERY

On July 11, 2018, PAWC filed a Stipulation Regarding Discovery Rule Modifications, in which PAWC, I&E, OCA and Sadsbury agreed to the following modifications of the discovery rules:

a. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service.

b. Objections to interrogatories shall be communicated orally within two (2) calendar days and in writing within three (3) calendar days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of such motions.

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

f. Requests for admissions will be deemed admitted unless answered or denied within three (3) calendar days of service.

g. Discovery and all discovery-related pleadings, such as objections, motions, or answers, served after 12:00 noon on a Friday or after 12:00 noon 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.

h. The parties are directed to make every reasonable effort to comply with the discovery response times set forth in this agreement. In those instances when compliance is not possible, despite a party's best efforts, the responding party shall so advise and the parties shall work together to address the requests and responses on a timely basis.

i. These discovery rule modifications are for the limited purpose of this proceeding and should not be viewed as binding, or otherwise limiting, upon positions taken by the parties in any other proceeding.

In addition, in order to expedite discovery, on July 10, 2018, counsel for PAWC filed a stipulation signed on behalf of PAWC, OCA and I&E, regarding objections and the preservation of issues, so that the parties will preserve the arguments raised in prior Section 1329 cases, without unduly delaying discovery in this proceeding.

PAWC has already responded to several rounds of discovery from OCA and I&E, has provided discovery responses on an informal basis, and has offered to conduct informal discovery

sessions with the parties. In addition, PAWC responded to extensive data requests from the Commission's Bureau of Technical Utility Services that were issued prior to referral of the case to the Office of Administrative Law Judge.

VI. PROTECTIVE ORDER

On July 10, 2018, PAWC filed a Petition for Protective Order, which was unopposed. The ALJ granted the Petition and signed the Protective Order on July 12, 2018.

VII. PROCEDURAL SCHEDULE

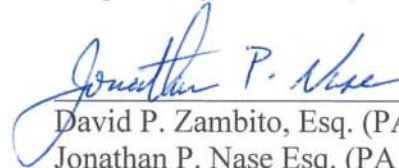
The parties have agreed to the following procedural schedule:

Non-Company Direct Testimony	July 27, 2018
Rebuttal Testimony	August 8, 2018
Surrebuttal Testimony	August 17, 2018
Rejoinder Testimony Outline	August 20, 2018
Hearings (With Oral Rejoinder Testimony)	August 22-23, 2018
Main Briefs	September 6, 2018
Reply Briefs	September 14, 2018

VIII. SETTLEMENT DISCUSSIONS

PAWC believes that there is a reasonable possibility of settlement. PAWC is open to and available for settlement discussions with the other parties, and will take the initiative to schedule settlement conferences as soon as reasonably possible.

Respectfully submitted,



David P. Zambito, Esq. (PA ID 80017)
Jonathan P. Nase Esq. (PA ID 44003)
George A. Bibikos, Esq. (PA ID 91249)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
Fax: (215) 989-4216
E-mail: dzambito@cozen.com
jnase@cozen.com
gbibikos@cozen.com

Susan Simms Marsh, Esq. (PA ID 044689)
Pennsylvania-American Water Company
800 West Hershey Park Drive
Hershey, PA 17033
Phone: (717) 531-3208
E-mail: susan.marsh@amwater.com

Date: July 24, 2018

Counsel for *Pennsylvania-American Water Company*