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August 17, 2018

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company  
Wastewater Division – R-2018-3002504

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pennsylvania Builders Association's Petition to Intervene with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Kristine E. Marsilio

KEM/lww  
Enclosure

cc: Hon. Marta Guhl, w/enc.  
Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of Pennsylvania Builders Association's Petition to Intervene (Water) upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**Via Email and/or First Class Mail**

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Dated: August 17, 2018

  
\_\_\_\_\_  
Kristine E. Marsilio, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2018-3002504
	:	
Pennsylvania-American Water Company	:	
Wastewater Division	:	

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**PETITION TO INTERVENE OF THE PENNSYLVANIA  
BUILDERS ASSOCIATION**

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Pursuant to 52 Pa. Code §§ 5.72-5.75, the Pennsylvania Builders Association (the “PBA”) petitions to intervene in the above-captioned proceeding filed by Pennsylvania-American Water Company, Wastewater Division (“PAWC” or the “Company”) at the Pennsylvania Public Utility Commission (the “Commission”). In support of its Petition to Intervene, PBA states as follows:

1. On June 5, 2018, PAWC filed Supplement No. 6 to its Tariff Wastewater-Pa P.U.C. No. 16 (“Supplement No. 6”) to become effective August 4, 2018, proposing the addition of Rule and Regulation W – Taxes on Deposits for Construction, Customer Advances and Contributions in Aid of Construction (“CIAC”).

2. Supplement No. 6 addresses the impact of the Federal Tax Cuts and Jobs Act (the “TCJA”) on the requirement for water and sewer authorities to recognize Customer Advances for Construction (“CAC”), CIAC, and certain customer deposits (collectively, “Contributions and Advancements”) as taxable income. The TCJA recently eliminated the exemption for water and sewer utilities from recognizing Contributions and Advancements as taxable income. The

Company filed Supplement No. 6 to affirm and memorialize how these Contributions and Advances will be calculated and recovered in rates in light of these changes in Federal law.

3. Through Supplement No. 6, PAWC has proposed to adopt the “no gross-up” method of billing and accounting for CIAC and CAC. Under this method, the Company will pay the necessary taxes on Contributions and Advancements. Such income taxes will be segregated in a deferred account for inclusion in rate base in a future rate case proceeding. Under the Company’s proposal, income tax associated with Contributions and Advancements will not be charged to the specific depositor/contributor of the capital.

4. The Commission’s Bureau of Investigation and Enforcement filed a Formal Complaint on July 24, 2018, and the Office of Consumer Advocate filed a Notice of Intervention on July 25, 2018.

5. By Order dated August 2, 2018, Supplement No. 6 was suspended by operation of law until February 4, 2019, unless otherwise directed by Order of the Commission.

6. PBA is a Pennsylvania non-profit corporation with offices at 2509 N. Front St., Harrisburg, PA 17110.

7. The PBA is a professional trade organization representing approximately 5,000 members, all located in Pennsylvania, including in the service territory of Suez, that are involved in the building industry, primarily as builders, developers, remodelers, material suppliers, subcontractors, and consultants. Chartered in 1952, the PBA represents its members on state regulatory and legislative issues. The PBA is the primary organization representing individuals and businesses in the building industry. Through its intervention in this proceeding, the PBA seeks to represent its members who may be affected by the outcome of this proceeding, relating to the treatment of the tax on CIAC.

8. The PBA's attorneys in this matter are:

Kristine Marsilio, Esquire  
Dan Clearfield, Esquire  
Carl Shultz, Esquire  
Loudon L. Campbell  
Eckert Seamans Cherin &  
Mellott, LLC  
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9. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A "person" includes a corporation and an association. 52 Pa. Code § 1.8.

10. The PBA meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As a trade organization representing individuals and companies in the building industry, within the Company's service territory and in the Commonwealth, the PBA satisfies the standard for intervention because the PBA possesses 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." 52 Pa. Code § 5.72(a)(1).

11. The PBA has a substantial and direct interest in the outcome of this proceeding. Specifically, the PBA has a substantial and direct interest in the treatment on the tax on CIAC. The PBA strongly supports PAWC's proposal. Importantly, under the Company's proposal, the

income tax consequences of CIAC will be included in the overall calculation of income tax expense and, consequently, developers and other homebuilders will not have to assume a new financial obligation in paying for the construction of main extensions.

12. The PBA also has an interest in ensuring that the proposals of other parties that are advanced through testimony, legal arguments, or settlement discussions related to this issue do not adversely impact the interests of the PBA.

13. The PBA's interests in this proceeding are unique from and not adequately represented by other parties that have or may seek to intervene, including any individual development companies that may have unique business models, interests and perspectives. As noted, the PBA is the primary organization representing individuals and businesses in a variety of aspects of the building industry. As such, the PBA's interests cannot be adequately represented by any other parties in this proceeding.

14. The PBA's members will be bound by the action of the Commission in this proceeding, as the PBA's members may have to bear the burden of the impact on taxable CIACs.

WHEREFORE, the PBA respectfully requests that the Commission grant its Petition to Intervene and that the PBA be granted full party status in this matter.

Respectfully submitted,

*Kristine E Marsilio*

Kristine Marsilio, Esquire

Attorney ID 316479

Daniel Clearfield, Esquire

Attorney ID 26183

Carl Shultz

Attorney ID 70328

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Attorney ID 19250

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717.237.6000

Date: August 17, 2018

Attorneys for  
Pennsylvania Builders Association

## Verification

I, Daniel E. Durden, am the Chief Executive Officer, of the Pennsylvania Builders Association (the "PBA"), and I hereby state that the facts set forth in the foregoing **Petition to Intervene** are true and correct to the best of my knowledge, information and belief and that I expect the PBA 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 sworn falsification to authorities).



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Daniel E. Durden  
Chief Executive Officer  
Pennsylvania Builders Association