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August 20, 2018

VIA eFILING

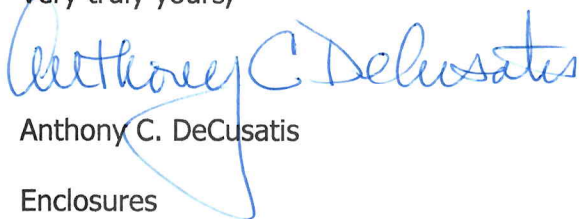
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Pennsylvania-
American Water Company – Wastewater Division
Docket No. R-2018-3002504**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter is the **Prehearing Memorandum on behalf of Pennsylvania-American Water Company**. Copies have been served on presiding Administrative Law Judge Marta Guhl and all parties of record as indicated on the attached Certificate of Service.

Very truly yours,



Anthony C. DeCusatis

Enclosures

c: Per Certificate of Service (w/encls.)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

**PENNSYLVANIA-AMERICAN WATER
COMPANY – WASTEWATER DIVISION**

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DOCKET NO. R-2018-3002504

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Prehearing Memorandum on behalf of Pennsylvania-American Water Company** on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Marta Guhl
Administrative Law Judge
Office of Administrative Law Judge
801 Market Street
Suite 4063
Philadelphia, PA 19107
mguhl@pa.gov

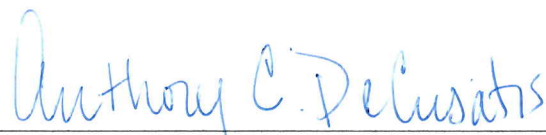
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Respectfully submitted,



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*Counsel for
Pennsylvania-American Water Company*

Dated: August 20, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION :
: **DOCKET NO. R-2018-3002504**
V. :
: **PENNSYLVANIA-AMERICAN WATER COMPANY - WASTEWATER DIVISION** :

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

TO ADMINISTRATIVE LAW JUDGE MARTA GUHL

Pursuant to the August 13, 2018 Prehearing Conference Order issued by Administrative Law Judge Marta Guhl (the “ALJ”) and the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code § 5.222(d), Pennsylvania-American Water Company (“PAWC” or the “Company”) hereby submits its Prehearing Conference Memorandum in the above-captioned proceeding.

I. BACKGROUND AND HISTORY OF THE PROCEEDING

Pursuant to the Tax Cuts and Jobs Act (“TCJA”), from and after December 22, 2017, customer contributions, customer advances and certain customer deposits (“Contributions and Advances”) are deemed to be federal taxable income to water utilities and, therefore, under Pennsylvania’s Corporate Net Income Tax, are state taxable income as well. In its Comments filed in response to the Commission’s February 12, 2018 Secretarial Letter at Docket No. M-2018-2641242, PAWC stated its intent to adopt the “no gross-up” method of billing and

accounting to calculate Contributions and Advances and to state its rate base claims in future base rate proceedings.

On June 5, 2018, PAWC filed Tariff Supplement No. 6 to Tariff Wastewater–PA P.U.C. No. 16 (“Supplement No. 6”) with the Commission, bearing an effective date of August 4, 2018. Supplement No. 6 incorporates and implements the “no gross-up” method. PAWC served a copy of Supplement No. 6 on the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”).

I&E filed a Formal Complaint on July 24, 2018. OCA filed a Notice of Intervention and Public Statement on July 25, 2018. On August 14, 2018, OSBA filed a Notice of Appearance and Public Statement. The Pennsylvania Builders Association filed a Petition to Intervene on August 17, 2018.

Pursuant to 66 Pa. C.S. § 1308(b), by Opinion and Order dated August 2, 2018, the Commission suspended the proceedings until February 4, 2019 and referred the matter to the Office of Administrative Law Judge for evidentiary hearings and a Recommended Decision. On August 8, 2018, PAWC filed Supplement No. 8 to Tariff Wastewater–PA P.U.C. No. 16, which suspends Supplement No. 6 until February 4, 2019.

II. STATEMENT OF ISSUES

The primary issue in this case is the reasonableness of PAWC’s proposal to utilize the “no gross-up” method for Contributions and Advances. The Company notes that the Commission has already approved the use of this method by gas utilities and York Water Company.

III. NOTICE OF THIS PROCEEDING

The outcome of this case will directly impact the amounts due to PAWC for Contributions and Advances. In order to ensure that potentially-affected parties receive notice of this proceeding, the Company recommends that, at a minimum, a notice be published in the *Pennsylvania Bulletin*.

IV. DISCOVERY

PAWC proposes that a Protective Order be adopted in this case to protect sensitive information from public disclosure. Therefore, PAWC respectfully requests that the ALJ approve the proposed Protective Order attached hereto as Appendix "A," which is similar to the Protective Order that was entered in PAWC's most recent base rate proceeding at Docket No. R-2017-2595853.

V. SERVICE LIST

Pursuant to 52 Pa. Code § 1.55, PAWC hereby designates the following individual for the service list in this proceeding:

Susan Simms Marsh
Deputy General Counsel
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033
717.531.3208 (bus)
susan.marsh@amwater.com

Parties are requested to also serve documents on the following attorneys as a courtesy:

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catherine.vasudevan@morganlewis.com

VI. WITNESSES

The Company has identified John R. Cox, who is employed by American Water Works Service Company as Director of Rates and Regulations – Pennsylvania, as a witness for this proceeding. PAWC reserves the right to identify additional witnesses.

VII. PROPOSED SCHEDULE AND AMOUNT OF HEARING TIME

PAWC accepts the schedule proposed by the ALJ in the August 13, 2018 Prehearing Conference Order. The Company believes that designating one day for hearings will be sufficient. The Company further proposes that dates for the submission of briefs be for “in-hand” delivery, which may be satisfied by an e-mail of the relevant documents.

VII. POSSIBILITY OF SETTLEMENT

PAWC intends to engage in settlement discussions with the other parties in this proceeding with the goal of facilitating an effective resolution of this matter.

VIII. CONCLUSION

WHEREFORE, Pennsylvania-American Water Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



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Dated: August 20, 2018

*Counsel for Pennsylvania-American Water
Company*

APPENDIX A

PROPOSED PROTECTIVE ORDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	
V.	:	DOCKET NO. R-2018-3002504
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PENNSYLVANIA-AMERICAN WATER COMPANY - WASTEWATER DIVISION	:	

PROTECTIVE ORDER

This Protective Order is hereby GRANTED with respect to all documents and information, as identified below, produced or presented, or hereafter produced or presented in this proceeding. All persons now or hereafter granted access to such documents and/or information shall use and maintain the same only in strict accordance with this Protective Order.

This Protective Order is being entered to facilitate the orderly production of information and documents during discovery and the presentation of evidence at the hearings in this case and to provide adequate protection of Confidential Information without prejudicing the rights of parties to have reasonable access to information that becomes part of the evidentiary record.

THEREFORE, IT IS ORDERED THAT:

1. Any information provided to the Pennsylvania Public Utility Commission (Commission) or any parties in connection with the above-captioned proceeding that a producing party claims constitutes or contains Confidential Information shall be specifically identified and marked as Confidential Information. The producing party shall designate data or documents as constituting or containing Confidential Information by affixing a conspicuous “CONFIDENTIAL” stamp or typewritten designation on such data or documents. Where only

part of data compilations or multi-page documents constitutes or contains Confidential Information, the producing party, insofar as reasonably practicable within time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Confidential Information and shall serve such documents separately from non-confidential information.

2. Each document and the information contained therein designated as “Confidential Information” shall be used by the recipient solely for purposes relating to the prosecution, review and processing of this proceeding and for no other purpose; and such documents and information shall be maintained in secure files, separate from public information, until returned to the producing party or destroyed pursuant to the terms hereof.

3. With respect to all Confidential Information, it is further ORDERED that:

(a) Access to the documents designated as “Confidential Information,” and to the information contained therein, shall be limited to the parties and their identified attorneys, employees, and consultants whose examination of the Confidential Information is required for the conduct of this proceeding.

(b) Recipients of Confidential Information shall not disclose the contents of the documents produced pursuant to this Protective Order to any person(s) other than their identified employees and any identified witnesses/consultants whom they may retain in connection with this proceeding, irrespective of whether any such expert is retained specially and is not expected to testify, or is called to testify in this proceeding. All employees (except Bureau of Investigation & Enforcement (BI&E) witnesses who are full-time employees and shall be entitled to receive documents without individually executing a Certification), consultants or experts of any of the parties bound by this Protective Order who are to receive copies of

documents or information produced pursuant to this Protective Order shall have executed a copy of the Certification attached hereto as Appendix A, which executed Certification shall be forthwith provided to counsel for the producing party with copies to counsel for other parties. The BI&E Prosecutors who enter an appearance in this proceeding shall represent that all BI&E witnesses/employees will be bound by this Protective Order.

(c) No other disclosure of Confidential Information shall be made to any person or entity except with the express written consent of the producing party or upon further order of the Commission or of any Court of competent jurisdiction which may review these matters.

4. The acceptance by the parties of documents or information which has been identified and marked as Confidential Information shall not serve to create a presumption that the material is in fact entitled to any special status in these or any other proceedings. Accordingly, as provided in 52 Pa. Code § 5.423, a party receiving Confidential Information retains the right, either before or after receipt of such Confidential Information, to challenge the legitimacy of the claim that the information is proprietary. Any party may initiate such a challenge by notifying the Commission, with reasonable notice to all other parties, that it wishes to challenge the designation of the material as Confidential Information. In that event, the producing party, as the provider of the Confidential Information, shall have the burden of proving that the material is entitled to protected status. However, notwithstanding such challenge, all parties shall continue to treat the documents and information subject to challenge as Confidential Information in accordance with the terms of this Protective Order, pending resolution by the Commission of the dispute as to its status.

5. The producing party retains the right to seek restrictions on the production, distribution and use by other parties of the Confidential Information beyond the protection expressly afforded such Confidential Information by this Protective Order.

6. This Protective Order shall not operate as a determination, for any purpose, that any documents or information produced pursuant to this Protective Order are either admissible or inadmissible in these or any other proceedings.

7. Documents or other materials containing Confidential Information filed with the Commission in this proceeding, including but not limited to pre-filed testimony and pre-filed exhibits, shall be labeled "CONFIDENTIAL" and shall be deemed filed under seal. During evidentiary hearings, if any, in this proceeding, all persons present for such hearings shall be subject to the terms of this Protective Order and may be required to so affirm for purposes of the record. The portion of the record containing the Confidential Information, including the portions of transcripts of oral testimony discussing Confidential Information, shall be placed under seal.

8. The Commission and any other state agency that may have access to, or receive copies of, the Confidential Information will deem and treat such information as within the exemption from disclosure provided in the Pennsylvania Right-to-Know Act set forth in 65 P.S. § 67.708(b) until such time as the information may be found to be non-proprietary by the Commission or by a court of competent jurisdiction.

9. Confidential Information which is placed on the record of this proceeding under seal shall remain with the Commission under seal after the conclusion of the proceeding. If such Confidential Information is provided to appellate courts for the purposes of appeal(s) from this proceeding, such information shall be provided, and shall remain, under seal.

10. Upon the final resolution of proceedings in which Confidential Information has been provided, which includes the exhaustion of appeals, if any, all documents and other materials containing Confidential Information shall, within 30 days of the producing party's request, be either: (1) returned to counsel for the producing party; or (2) destroyed. If a receiving party chooses to destroy the Confidential Information, then it shall, in the case of the BI&E, notify the producing party, and in the case of all other parties, certify to the producing party, that the Confidential Information has been destroyed by it and its employees, consultants, and other representatives, and that the terms of this Protective Order have been satisfied. Provided, however, that the BI&E, the OCA, and the Office of Small Business Advocate may maintain in their official files copies of all pleadings, briefs, statements, exhibits and transcripts in this proceeding and, further provided, that all such pleadings, briefs, statements, exhibits and transcripts containing Confidential Information shall remain subject to the terms of this Protective Order.

11. A single copy of documents returned to the producing party or certified as destroyed upon resolution of this proceeding, as provided in this Protective Order, shall be kept on file at the producing party's offices for two years after the final resolution of this proceeding, as defined previously, for review by the parties under the terms of this Protective Order upon at least twenty days' notice to counsel for the producing party.

12. The issuance of this Protective Order shall not prejudice the producing party's right to challenge the production of any documents or information sought in discovery by any party on the grounds that such documents or information are not properly discoverable.

IT IS HEREBY ORDERED:

Dated: _____, 2018

Administrative Law Judge Marta Guhl

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

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:
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V.

DOCKET NO. R-2018-3002504

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**PENNSYLVANIA-AMERICAN WATER
COMPANY - WASTEWATER DIVISION**

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TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party).

The undersigned has read, and understands that, the Protective Order deals with the treatment of Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____