

**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 :

**JOINT PETITION FOR APPROVAL OF
SETTLEMENT OF ALL ISSUES**

I. INTRODUCTION

Pennsylvania-American Water Company (“PAWC”), the Office of Consumer Advocate (“OCA”), the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission (“I&E”), and Sadsbury Township, Chester County, Pennsylvania (“Sadsbury”) (singularly, a “Joint Petitioner” and collectively, the “Joint Petitioners”) hereby join in this “Joint Petition for Approval of Settlement of All Issues” (“Settlement”) and respectfully request that the Honorable Administrative Law Judge Darlene D. Heep (the “ALJ”) recommend approval of, and the Pennsylvania Public Utility Commission (“Commission”) approve, this Settlement without modification.

In support of the Settlement, the Joint Petitioners state the following:

II. BACKGROUND

1. The Settlement pertains to the application (“Application”) filed by PAWC on June 19, 2018, pursuant to Section 1102(a) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102(a), and Section 1329 of the Code, 66 Pa. C.S. §1329, requesting (among other things) that the Commission issue Certificates of Public Convenience to PAWC for the transfer to PAWC, by sale, of substantially all of the assets, properties and rights of Sadsbury (the “Transaction”), related to Sadsbury’s wastewater collection system (the “System”), and to set the fair market value of the acquisition for rate-base ratemaking purposes.

2. Notice of the Application was published in the *Pennsylvania Bulletin* on June 30, 2018. *48 Pa. Bull.* 3929. That Notice established the deadline for filing protests and petitions to intervene as July 16, 2018.

3. OCA filed a Protest and Public Statement on June 20, 2018.

4. Counsel for I&E filed their Notice of Appearance on June 20, 2018.

5. Sadsbury filed a Petition to Intervene on June 29, 2018. The ALJ granted the unopposed petition by Prehearing Order dated August 1, 2018.

6. PAWC filed a Petition for Protective Order on July 10, 2018. There were no objections and the Protective Order was issued on July 12, 2018.

7. On July 10, 2018, PAWC filed the Stipulation of the Parties Regarding Objections and Preservation of Issues.

8. On July 11, 2018, PAWC filed the Joint Petitioners’ Stipulation Regarding Discovery Rule Modifications.

9. A telephonic prehearing conference was held on July 25, 2018. Among other things, the Prehearing Order established an expedited procedural schedule in recognition of the December 19, 2018 statutory deadline for Commission action. 66 Pa. C.S. § 1329(d)(2).

10. Evidentiary hearings were scheduled for August 22 and 23, 2018. At the request of the Joint Petitioners, the ALJ cancelled the hearing scheduled for August 22, 2018. On August 22, 2018, the Joint Petitioners advised the ALJ that they had reached an agreement in principle to resolve this proceeding. Consequently, the ALJ cancelled the hearing scheduled for August 23, 2018. The ALJ directed the Joint Petitioners to file a Petition for Settlement and Statements in Support on or before September 14, 2018.

III. SETTLEMENT TERMS

The Joint Petitioners agree as follows:

A. Approval of Application

11. The Application shall, subject to the other terms and conditions contained in the Settlement, be approved as being in the public interest and the Commission shall issue such Certificates of Public Convenience as may be necessary to evidence its approval pursuant to 66 Pa. C.S. § 1102(a) of (i) the transfer, by sale, of Sadsbury's assets, properties and rights related to its wastewater collection to PAWC as provided in the Application, and (ii) PAWC's right to begin to offer, render, furnish and supply wastewater service in the areas served by Sadsbury as indicated in the Application.

B. Tariff

12. The *pro forma* tariff supplement attached to the Application as **Appendix A-13**, including all rates, rules and regulations regarding conditions of PAWC's wastewater service as revised therein, shall be permitted to become effective immediately upon closing of the Transaction.

C. Fair Market Value for Ratemaking Rate Base Purposes

13. Pursuant to 66 Pa. C.S. § 1329, PAWC shall be permitted to use \$8,300,000 for ratemaking rate base purposes for the acquired assets.¹

14. The Joint Petitioners agree that the adjustments to the appraisals reflect a compromise of the various positions of the Joint Petitioners. All Joint Petitioners reserve the right to present adjustments and oppose adjustments to appraisals in future cases. The Joint Petitioners further agree, however, for the purposes of this proceeding, that the following adjustments are explicitly accepted by the Joint Petitioners:

(a) Market Approach:

(i) If "comparable acquisitions" are used as a factor in determining market value, the purchase price for each "comparable acquisition" for non-Section 1329 acquisitions shall be based on the actual amount paid for the assets at the time of purchase and future capital improvements shall not be included.

(ii) Comparable sales used to establish the valuation may not be limited to those that the UVE previously appraised.

¹ PAWC and Sadsbury have agreed to a purchase price of \$8,600,000. No amendment to the Asset Purchase Agreement is required for this agreed-upon purchase price.

(iii) The “net book financials” multiplier shall not be used in the market approach.

(b) Income Approach: The rate base/rate of return methodology is not an appropriate analysis for the appraisal.

(c) The “Going Value” and “Provision for Erosion on Return” add-ons will not be adopted or included in the appraisals.

(d) Cost Approach:

(i) The overhead cost add-on will not be adopted or included in the appraisals.

(ii) If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

D. Rates

15. Except as explicitly stated herein, nothing contained in the Settlement or in the Commission’s approval of the Application shall preclude any Joint Petitioner from asserting any position or raising any issue in a future PAWC base rate proceeding.

16. At the time of filing its next base rate case, PAWC shall submit a cost of service study that removes all costs and revenues associated with the operations of the Sadsbury system. PAWC also agrees to provide a separate cost of service study for the Sadsbury system at the time of the filing of PAWC’s next base rate case.

E. Low Income Program Outreach

17. Within the first 90 days of PAWC's ownership of the Sadsbury system, PAWC shall include a bill insert to Sadsbury-area customers regarding its low income programs or alternatively shall include such information in a welcome letter to Sadsbury-area customers. The bill insert or welcome letter shall include, at a minimum, a description of the available low income programs, the eligibility requirements for participation in the programs, and PAWC's contact information.

F. Distribution System Improvement Charge

18. Pursuant to 66 Pa. C.S. § 1329, PAWC shall be permitted to collect a distribution system improvement charge ("DSIC") prior to the first base rate case in which the Sadsbury service area plant-in-service is incorporated into rate base; provided, however, that such permission shall be conditioned upon (i) PAWC's filing of an amended wastewater Long-Term Infrastructure Improvement Plan ("Amended LTIIP") which does not re-prioritize other existing commitments in other service areas, (ii) the Commission's approval of the Amended LTIIP, as may be modified in the discretion of the Commission, and (iii) PAWC's filing of a compliance tariff supplement which incorporates Sadsbury into its existing DSIC tariff, including all customer safeguards applicable thereto, after Commission approval of the Amended LTIIP.

G. Accrual of Allowance for Funds Used During Construction

19. The Application includes a request that PAWC be permitted to accrue Allowance for Funds Used During Construction ("AFUDC") for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Joint Petitioners agree that they will not

contest this request in this proceeding, but the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases.

H. Deferral of Depreciation for Post-Acquisition Improvements

20. The Application includes a request that PAWC be permitted to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Joint Petitioners agree that they will not contest this request in this proceeding, but the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases.

I. Approval of Section 507 Agreements

21. Pursuant to 66 Pa. C.S. § 507, the Commission shall issue Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:²

(a) Asset Purchase Agreement By and Among the Township of Sadsbury, as Seller, and Pennsylvania-American Water Company, as Buyer, Dated as of May 1, 2018;

(b) Settlement Agreement, dated as of May 15, 2000, by and between Sadsbury Township and Pennsylvania-American Water Company;

(c) Wastewater Conveyance Agreement, dated as of September 16, 2003, by and between Sadsbury Township, Pennsylvania-American Water Company, All County Partnership and Calnshire Estates, LLC;

(d) Memorandum dated as of September 16, 2003, Wastewater Conveyance Agreement, recorded September 17, 2003, in the Office of Recorder of Deeds for Chester County;

² OCA does not join in this paragraph but does not oppose PAWC's request.

(e) Second Agreement for the Conveyance of Wastewater from West Caln Township through Sadsbury Township, dated as of August 9, 2013, between Sadsbury Township, Pennsylvania American Water Company, West Caln Township and Lawrence Developers, LP; and,

(f) Intergovernmental Agreement, dated as of November 15, 2011, between Sadsbury Township and Valley Township regarding sanitary sewer service for 2800 West Lincoln Highway.

J. Other Necessary Approvals

22. The Commission shall issue any other approvals or certificates appropriate, customary, or necessary under the Code to carry out the Transaction contemplated in the Application in a lawful manner.

K. Standard Settlement Conditions

23. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement. The Joint Petitioners acknowledge and agree that the Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding.

24. The Settlement is proposed by the Joint Petitioners to settle all issues in the instant

proceeding. If the Commission does not approve the Settlement and the proceedings continue, the Joint Petitioners reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

25. The Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any Joint Petitioner's position with respect to any issues raised in this proceeding. The Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement.

26. The Joint Petitioners shall jointly prepare and submit Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs, respectively.

27. Each Joint Petitioner shall prepare a Statement in Support of Settlement setting forth the bases upon which the Joint Petitioner believes the Settlement to be fair, just and reasonable and, therefore, in the public interest.

28. If the ALJ recommends approval of the Settlement without modification, the Joint Petitioners will waive their rights to file Exceptions.

IV. REQUEST FOR RELIEF

WHEREFORE, Pennsylvania-American Water Company, the Office of Consumer Advocate, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, and the Township of Sadsbury, by their respective counsel, respectfully request that:

(a) The Honorable Administrative Law Judge Darlene D. Heep recommend approval of, and the Commission approve, this Settlement as submitted, including all terms and conditions thereof, without modification.

(b) The Commission's proceeding at Docket No. A-2018-3002437 be terminated and marked closed.

(c) The Application filed by PAWC on June 19, 2018 be granted, subject to the following conditions:

(1) At the time of filing its next base rate case, PAWC shall submit a cost of service study that removes all costs and revenues associated with the operation of the Sadsbury system.

(2) PAWC will also provide a separate cost of service study for the Sadsbury system at the time of filing PAWC's next base rate case.

(d) The Commission issue Certificates of Public Convenience under 66 Pa. C.S. §§ 1102(a) and 1103(a) evidencing Commission approval of: (i) the transfer, by sale, of Sadsbury's assets, properties and rights related to its wastewater collection to PAWC as provided in the Application, and (ii) PAWC's right to begin to offer, render, furnish and supply wastewater service in the areas served by Sadsbury as indicated in the Application.

(e) The Commission permit PAWC, upon closing of the Transaction, to issue a compliance tariff supplement, consistent with the *pro forma* tariff supplement attached hereto as **Appendix A**, to be effective on the date of issuance.

(f) The Commission approve, under 66 Pa. C.S. § 1329(c), a rate base addition of \$8,300,000 associated with the acquisition of the System.

(g) Although the Joint Petitioners reserve the right to present adjustments and oppose adjustments to appraisals in future cases, for purposes of this proceeding, the Joint Petitioners request that the Commission accept the following adjustments:

(1) Market Approach:

(i) If “comparable acquisitions” are used as a factor in determining market value, the purchase price for each “comparable acquisition” for non-Section 1329 acquisitions shall be based on the actual amount paid for the assets at the time of purchase and future capital improvements shall not be included.

(ii) Comparable sales used to establish the valuation may not be limited to those that the UVE previously appraised.

(iii) The “net book financials” multiplier shall not be used in the market approach.

(2) Income Approach: The rate base/rate of return methodology is not an appropriate analysis for the appraisal.

(3) The “Going Value” and “Provision for Erosion on Return” add-ons will not be adopted or included in the appraisals.

(4) Cost Approach:

(i) The overhead cost add-on will not be adopted or included in the appraisals.

(ii) If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

(h) Within the first 90 days of PAWC's ownership of the Sadsbury system, PAWC shall include a bill insert to Sadsbury-area customers regarding its low income programs or, alternatively, shall include such information in a welcome letter to Sadsbury-area customers. The bill insert or welcome letter shall include, at a minimum, a description of the available low income programs, the eligibility requirements for participation in the programs, and PAWC's contact information.

(i) The Commission approve, pursuant to 66 Pa. C.S. § 1329(d), the collection of a distribution system improvement charge related to the System prior to the first base rate case in which the System plant-in-service is incorporated into rate base, subject to the following conditions:

(1) that PAWC files an amended wastewater long term infrastructure investment plan incorporating the Sadsbury area, which does not re-prioritize other existing commitments in other service areas;

(2) that the Commission approves the amended wastewater long term infrastructure improvement plan incorporating the Sadsbury area, as may be modified in the discretion of the Commission; and

(3) PAWC's filing of a compliance tariff supplement which incorporates Sadsbury into its existing DSIC tariff, including all customer safeguards applicable thereto, after Commission approval of the amended long term infrastructure improvement plan.

(j) The Commission, pursuant to 66 Pa. C.S. § 1329(f), permit PAWC to accrue an allowance for funds used during construction for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is

ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(k) The Commission, pursuant to 66 Pa. C.S. § 1329(f), permit PAWC to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(l) The Commission, pursuant to 66 Pa. C.S. § 1329(d)(iv), permit PAWC to include, in its next base rate case, a claim for transaction and closing costs related to the acquisition of the Sadsbury system. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(m) The Commission issue Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:

(1) Asset Purchase Agreement By and Among the Township of Sadsbury, as Seller, and Pennsylvania-American Water Company, as Buyer, Dated as of May 1, 2018;

(2) Settlement Agreement, dated as of May 15, 2000, by and between Sadsbury Township and Pennsylvania-American Water Company;

(3) Wastewater Conveyance Agreement, dated as of September 16, 2003, by and between Sadsbury Township, Pennsylvania-American Water Company, All County Partnership and Calnshire Estates, LLC;

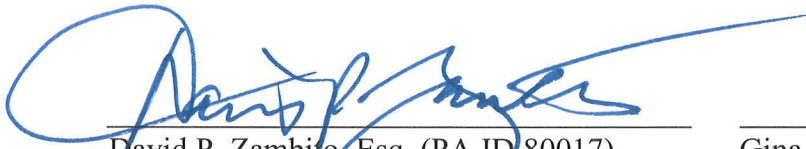
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(6) Intergovernmental Agreement, dated as of November 15, 2011, between Sadsbury Township and Valley Township regarding sanitary sewer service for 2800 West Lincoln Highway.

(n) The Commission issue any other approvals or certificates appropriate, customary or necessary under the Code to carry out the Transaction contemplated in the Application in a lawful manner.

Respectfully submitted,



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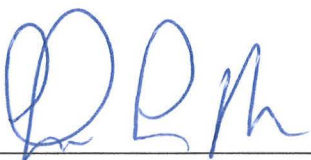
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APPENDIX A

PENNSYLVANIA-AMERICAN WATER COMPANY
Wastewater Division
(hereinafter referred to as the "Company")
D/B/A
Pennsylvania American Water

RATES, RULES AND REGULATIONS

GOVERNING THE FURNISHINGS OF

WASTEWATER COLLECTION AND DISPOSAL SERVICE

IN CERTAIN MUNICIPALITIES AND TERRITORIES LOCATED IN:

ADAMS COUNTY, ALLEGHENY COUNTY, BEAVER COUNTY, CHESTER COUNTY,
CLARION COUNTY, CUMBERLAND COUNTY, LACKAWANNA COUNTY, MONROE COUNTY,
NORTHUMBERLAND COUNTY, PIKE COUNTY, WASHINGTON COUNTY AND YORK COUNTY

ALL IN THE COMMONWEALTH OF PENNSYLVANIA

Issued: xxxxx xx, xxxx

Issued by:
Jeffery McIntyre, President
Pennsylvania American Water
800 West Hersheypark Drive
Hershey, PA 17033

<https://www.amwater.com/paaw/>

NOTICE

This tariff authorizes Pennsylvania American Water Company to furnish wastewater services to the public in the Sadsbury Township, Chester County, Pennsylvania. (Refer to pages 2, 4, 6, 8, 11.1, 11.x, 60, 61 and 62)

PENNSYLVANIA-AMERICAN WATER COMPANY

LIST OF CHANGES

This tariff supplement authorizes Pennsylvania American Water Company – Wastewater Division, to begin to offer or furnish wastewater service to the public in Sadsbury Township as ordered by the Pennsylvania Public Utility Commission at Docket No. A-2018 - xxxxxx entered xxxxx xx, xxxx.

PENNSYLVANIA-AMERICAN WATER COMPANY

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PENNSYLVANIA-AMERICAN WATER COMPANY

TERRITORIES SERVED

(By State Region and Company Wastewater System District)
(All territories are subject to Rate Zone 1 unless otherwise noted)

Central Pennsylvania

Fairview District

York County. Portions of Fairview Township.

Franklin District – Rate Zone 5

Adams County. Portions of the Townships of Franklin, Hamiltonban and Highland.

McEwensville District

Northumberland County. McEwensville Borough.

New Cumberland District – Rate Zone 2

Cumberland County. The Borough of New Cumberland.

Northeastern Pennsylvania

Northeast District – Lehman Pike, Blue Mountain Lakes and Clean Treatment

Monroe County. Portions of the Townships of Middle Smithfield, Smithfield and Stroud.
Pike County. Portions of Delaware and Lehman Townships.

Pocono District

Monroe County. A portion of Coolbaugh Township.

Scranton Sewer District – Rate Zone 3

Lackawanna County. The City of Scranton and the Borough of Dunmore.

Southeastern Pennsylvania

Coatesville District - Rate Zone 1 and Rate Zone XX (Sadsbury Township)

(C)

Chester County. The City of Coatesville, the Borough of Parkesburg and portions of the Borough of South Coatesville and portions of the Townships of Caln, East Fallowfield, Highland, Sadsbury, Valley, West Caln and West Sadsbury.

Western Pennsylvania

Clarion District

Clarion County. Clarion Borough and portions of the Townships of Clarion and Monroe.

Claysville District

Washington County. Claysville Borough and portions of the Townships of Donegal.

Koppel District – Rate Zone 4

Beaver County. Koppel Borough.

McKeesport District – Rate Zone 6

Allegheny County. The City of McKeesport, the City of Duquesne, Port Vue Borough, the Borough of Dravosburg, and a portion of West Mifflin Borough (and related points of bulk service interconnection).

Paint-Elk District

Clarion County. Shippenville Borough and portions of the Townships of Elk and Paint.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY**SCHEDULE OF RATES****RATE ZONE 1 – METERED AND UNMETERED****APPLICABILITY**

The rates under this schedule apply throughout the territories served under this tariff, unless otherwise noted on the territories served page, for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in the Residential, Commercial, Municipal and Industrial classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC's discretion)

All metered customers shall be subject to a monthly service per equivalent dwelling unit (EDU).

A. Residential ***

Service Charge per month:	\$10.00
Usage Charge per 100 gallons	\$1.5132

B. Commercial

Service Charge per month:	\$25.00
Usage Charge per 100 gallons	\$1.1601

C. Industrial

Service Charge per month:	\$25.00
Usage Charge per 100 gallons:	\$1.1601

D. Municipal

Service Charge per month:	\$25.00
Usage Charge per 100 gallons:	\$1.1601

E. Special Rate Charges

Bulk Metered Usage – Caln Twp., Valley Twp., V.A. Hospital and West Brandywine Twp.	(C)
Service Charge per month	\$250.00
Usage Charge per 100 gallons	\$0.9639

Mittal Steel and Victory Brewing Company

Service Charge per month:	\$250.00
Usage Charge per 100 gallons:	\$0.9300

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

SCHEDULE OF RATES

RATE ZONE x – METERED AND UNMETERED

APPLICABILITY

The rates as set forth below will apply in the Sadsbury Township service territory (former territory served by the Township of Sadsbury) served under this tariff for service rendered on and after the Effective Date shown at the bottom of this page.

AVAILABILITY

The rates under this schedule are available to customers in the Residential, Commercial, Industrial and Municipal classes.

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC's discretion)

All metered customers shall be subject to a monthly service charge per equivalent dwelling unit (EDU).

A. All Customer Classes

Service Charge per month	\$25.00
Usage Charge per 100 gallons	\$1.418

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section U– Industrial Pretreatment Program (Scranton-Area) (All Service Areas under Rate Zones 1 (Except Coatesville), 2, 3 and XX-Sadsbury) (IPP-S) (C)

This Section applies to Industrial and Commercial customers served throughout the Company's service territory under Rate Zone 1 of this tariff, except for the customers subject to Section T of this tariff pursuant to the provisions thereof, and Rate Zones 2, 3, and XX of this tariff. (C)

All such customers shall comply with the "Industrial Pretreatment Program (Scranton-Area)" ("IPP-S") as required by and submitted to the Pennsylvania Department of Environmental Protection and as may be amended from time to time. The currently effective IPP-S will be made available on the Company's website.

Such customers shall be responsible for the charges and fees scheduled below related to the implementation, administration, and enforcement of the IPP-S, and for the additional costs for treatment of wastewaters from such customers who have loadings and characteristics that are in excess of Domestic Sewage as defined by the IPP-S. Pursuant to the IPP-S, IPP-S fees are set by this tariff. IPP-S fees are separate from and in addition to all other rates chargeable by the Company under this tariff.

The fees as set forth in Schedule IPP-S-1 below will be in effect for customers subject to the IPP-S. Terms are as defined by IPP-S.

SCHEDULE IPP-S-1

1.1. General Fees

1.1.1. IWDP Application Fee: \$1,000.00

1.1.2. IWDP Transfer/Modification/Renewal Fee: \$250.00

1.1.3. Facility Inspection Fee: \$250.00 per inspection

1.1.4. Monitoring Report Review Fee: \$250.00 per monitoring report

1.1.5. Sampling and Analysis Fee: Actual cost of sampling and laboratory analysis plus 25% to cover administrative costs.

1.1.6. Accidental Discharge, Slug Control, and/or Monitoring Fee: Actual cost of response to accidental discharges or discharges of slugs loads, including but not limited to the costs incurred for any additional treatment or other actions required to manage such discharges, monitoring and response to such discharges, correction of any resulting contamination or other impacts to the Treatment Works, including the Collection System and Treatment Plant.

1.1.7. Compliance and Enforcement Fee - Administrative and Legal: Actual cost incurred by the Company for investigation and actions to address a User's non-compliance with the terms of this IPP or any IWDP.

1.1.8. Damage Repair: Actual cost for cleaning, repair, replacement and/or correction of any damage to the Treatment Works, including the Collection System and the Treatment Plant, caused or contributed to by a User's discharge.

(C) means Change

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section U – Industrial Pretreatment Program (Scranton-Area) (All Service Areas under Rate Zones 1 (Except Coatesville), 2, 3 and XX-Sadsbury) (IPP-S) (cont'd) (C)

1.2. Specific Fees

1.2.1. Industrial Loading Fee - applicable on a quarterly basis to discharges with loadings above typical Domestic Sewage loadings up to but not exceeding any applicable Local Limit or IWDP limit, based on sampling and analysis by the Company and sampling required to be reported by the User under an IWDP:

$$\text{Quarterly Fee (\$)} = Q \times \{((\text{BOD5 Actual} - \text{BOD5 Domestic}) \times \text{BOD5 Cost Factor}) + ((\text{NH3-N Actual} - \text{NH3-N Domestic}) \times \text{NH3-N Cost Factor}) + ((\text{TSS Actual} - \text{TSS Domestic}) \times \text{TSS Cost Factor})\}$$

Where:

BOD5 Actual = actual concentration of BOD5 in mg/l as measured by the Company or the Industrial User

BOD5 Cost Factor = Treatment cost for BOD5 for the system = 0.0045

BOD5 Domestic = 330 mg/l, the typical concentration in Domestic Sewage

NH3-N Actual = actual concentration of NH3-N in mg/l as measured by the Company or the Industrial User

NH3-N Cost Factor = Treatment cost for NH3-N for the system = 0.0063

NH3-N Domestic = 23 mg/l, the typical concentration in Domestic Sewage

Q = Total flow for the quarter measured in thousand gallons

TSS Actual = actual concentration of TSS in mg/l as measured by the Company or the Industrial User

TSS Cost Factor = treatment cost for TSS for the system = 0.0028

TSS Domestic = 350 mg/l, the typical concentration in Domestic Sewage

1.2.2. Excess Loading Fee - applicable to discharges with loadings that exceed a Local Limit or IWDP limit:

If in any monthly period, the loading of BOD5, NH3-N, or TSS exceeds a Local Limit or IWDP limit, then for the applicable parameter, in calculating the Industrial Loading Fee under §1.2.1, the BOD5 Cost Factor, , NH3-N Cost Factor and/or TSS Cost Factor, applicable to the total loading of that parameter will be 125% of the value set forth in §1.2.1 to compensate for the additional administrative, oversight and management costs associated with managing such excessive loadings.

PENNSYLVANIA-AMERICAN WATER COMPANY

RULES AND REGULATIONS

Section U – Industrial Pretreatment Program (Scranton-Area) (All Service Areas under Rate Zones 1 (Except Coatesville), 2, 3 and XX-Sadsbury) (IPP-S) (cont'd) (C)

1.2 Specific Fees (cont'd)

- 1.2.3. **Special Discharge Fee** - applicable to discharges with loadings or concentrations that exceed a Local Limit or IWDP limit and that impact sludge handling or disposal methods and costs, necessitate acquisition of nutrient credits, result in damages to the facility, or require extraordinary measures:

Fee = Actual cost incurred by the Company, including but not limited to: (1) additional costs of managing impacted sludge (including costs related to use of alternative disposal facilities, additional monitoring, etc.), (2) costs of acquiring nutrient credits to meet NPDES Permit cap limits; (3) costs of repairs to and restoration of the Treatment Works, including the Collection System and Treatment Plant; or (4) costs of implementing any other measures required to control, manage and address such excessive loadings or concentrations.

(C) means Change

APPENDIX B

APPENDIX B. PROPOSED FINDINGS OF FACT

A. Parties

1. PAWC, a subsidiary of American Water Works Company Inc. (“American Water”), is the largest regulated water and wastewater public utility duly organized and existing under the laws of the Commonwealth of Pennsylvania. It furnishes water and wastewater service to the public in a service territory encompassing more than 400 communities in 36 counties. Overall, PAWC serves a combined population of over 2,300,000 across the Commonwealth. PAWC St. No. 1 p. 11.

2. As of December 31, 2017, PAWC furnished wastewater services to 64,917 customers in Pennsylvania, inclusive of 59,821 residential customers, 4,875 commercial customers, 182 municipal customers, 35 industrial customers, and 4 bulk customers. PAWC furnishes water services to 657,710 customers, inclusive of 605,770 residential customers, 45,022 commercial customers, 525 industrial customers, 2,225 municipal, 4,290 fire protection customers and 22 sales for resale customers. PAWC St. No. 1 p. 13.

3. Sadsbury is a Township of the Second Class under the Constitution and laws of the Commonwealth of Pennsylvania. APA p. 1.

4. Sadsbury is located in Chester County, Pennsylvania. APA p. 1.

5. I&E serves as the Commission’s prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Pennsylvania Public Utility Code and Commission Regulations and Orders. *See Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

6. I&E's analysis in this proceeding is based on its responsibility to represent the public interest. This responsibility requires balancing the interest of ratepayers, the utility company, and the regulated community as a whole. I&E St. No. 1 p. 2.

7. The OCA is a Commonwealth agency created by Act 161 of 1976 to represent the interests of consumers before the Commission. 71 P.S. §309-2.

B. The System

8. The System consists of a sewer collection system with one pump station. It has approximately 90,000 ft. of 8-inch plastic sewer pipe, approximately 450 manholes, and a small portion of force main. It is a sanitary-only collection system. PAWC St. No. 2 p. 3.

9. As of December 31, 2016, the System provided service to 998 customers. This includes 950 residential and 48 commercial customer connections. Of these, approximately 240 residential and 11 commercial accounts are not connected to public water, but instead obtain water from individual groundwater sources. PAWC St. No. 1 p. 12-13.

10. The System is interconnected with PAWC's existing Coatesville wastewater system, and all sewage collected by the System ultimately flows into PAWC's Coatesville system for treatment and disposal. PAWC St. No. 2 pp. 3-4.

11. Sadsbury presently accepts sewage from communities within West Caln Township that are served by PAWC. The areas served within West Caln Township are already included in PAWC's current certificated service areas and are not a subject of this filing. PAWC St. No. 1 p. 17.

C. The Transaction and the Asset Purchase Agreement

12. On November 21, 2016, following a meeting between PAWC representatives and representatives of Sadsbury, PAWC sent a “Letter of Interest” to Sadsbury confirming PAWC’s interest in discussing the potential acquisition of Sadsbury’s wastewater system pursuant to Section 1329 of the Public Utility Code. PAWC St. No. 1 pp. 7-8.

13. The “Letter of Interest” was extended on March 9, 2017, May 2, 2017, June 6, 2017 and July 5, 2017, to allow the parties additional time to enter into a definitive agreement. PAWC St. No. 1 p. 8.

14. An Asset Purchase Agreement, which provides for the sale of the System by Sadsbury to PAWC, was executed on May 1, 2018. APA p. 1.

15. The APA provided for a purchase price of \$9,250,000, but the signatories agreed to use the fair market valuation process of 66 Pa. C.S. § 1329. The signatories further agreed to certain adjustments in the purchase price, based on the results of the fair market valuation process. APA pp. 1 and 3.

D. The Application and the Utility Valuation Expert (“UVE”) Appraisals

16. The Application was filed June 1, 2018. Application (Correspondence dated June 1, 2018).

17. On June 7, 2018, TUS notified PAWC that it believed the Application did not contain certain information. PAWC Response to Bureau of Technical Utility Service’s Deficiency Letter (Correspondence dated June 13, 2018).

18. On June 13, 2018, PAWC responded to TUS's "Deficiency Letter." PAWC Response to Bureau of Technical Utility Service's Deficiency Letter (Correspondence dated June 13, 2018).

19. The Commission acknowledged receipt of the complete Application on June 19, 2018. Secretarial Letter dated June 19, 2018.

20. Notice of the Application was published in the *Pennsylvania Bulletin* on June 30, 2018. *48 Pa. Bull.* 3929.

21. PAWC's Application is seeking to utilize the process set forth in 66 Pa. C.S. § 1329, to determine the fair market value of the System assets and the ratemaking rate base of those assets. PAWC St. No. 1 p. 4.

22. As required by Section 1329, PAWC and Sadsbury jointly retained the services of Herbert E. MacCombie, Jr., P.E., to complete the Engineer's Assessment of Tangible Assets pursuant to Section 1329. PAWC St. No. 1 p. 8.

23. As required by Section 1329, the Application included the appraisals of PAWC's UVE and Sadsbury's UVE. Application, Attachment A-5.

24. PAWC retained the services of AUS to complete an appraisal of the System. PAWC St. No. 1 p. 8.

25. AUS is registered as a utility valuation expert with the PUC. PAWC St. No. 4 p. 7.

26. AUS issued a fair market valuation report dated November 20, 2017. PAWC St. No. 4 p. 6.

27. AUS's fair market value report utilized the cost approach, the income approach, and the market approach. AUS filed a verification that states the fair market report was prepared

in compliance with the Uniform Standards of Professional Appraisal Practice (“USPAP”). PAWC St. No. 4 pp. 14 and 19; Application Attachment A-7. The Joint Petitioners agree that any issues of non-compliance have been remediated through the as-settled ratemaking rate base value of \$8.3 million.

28. AUS’s fair market value report concluded that the value of the Sadsbury System was \$8,910,000. PAWC St. No. 4 p. 19.

29. Sadsbury retained the services of HRG to complete an appraisal of the System. PAWC St. No. 1 p. 8.

30. HRG is registered as a utility valuation expert with the PUC. Sadsbury St. No. 1 p. 3.

31. HRG issued a fair market valuation of the System as of December 31, 2017. Sadsbury St. No. 1 p. 2.

32. HRG’s fair market value report utilized the cost approach, the income approach, and the market approach. HRG filed a verification that states the report was prepared in compliance with USPAP. Sadsbury St. No. 1 pp. 7 and 11; Application Attachment A-7. The Joint Petitioners agree that any issues of non-compliance have been remediated through the as-settled ratemaking rate base value of \$8.3 million.

33. HRG’s fair market value report concluded that the value of the Sadsbury System was \$9,590,000. Sadsbury St. No. 1 p. 11.

E. PAWC’s Financial Fitness

34. No party to this proceeding challenged PAWC’s financial fitness to own and operate the System.

35. PAWC had total assets of approximately \$4.62 billion as of December 31, 2017. PAWC St. No. 1 p. 15; PAWC St. No. 3 p. 4.

36. PAWC had annual revenues of \$661 million for 2017. For 2017, PAWC had operating income of approximately \$346 million and net income of approximately \$161 million. PAWC St. No. 3 p. 4.

37. In addition to generating positive operating cash flows, PAWC may also obtain financing through: (i) equity financing, (ii) a \$400 million line of credit through American Water Capital Corp. (“AWCC”); and (iii) long term debt financing at favorable rates from AWCC, the Pennsylvania Infrastructure Investment Authority and the Pennsylvania Economic Development Financing Authority. PAWC St. No. 3 p. 4.

38. PAWC is a financially-sound business that can financially support the acquisition of the System as well as the ongoing operating and investment commitments that will be required to operate, maintain and improve those assets in serving the public. PAWC St. No. 3 p. 5.

39. Given its size, access to capital and its recognized strengths in system planning, capital budgeting and construction management, PAWC is well-positioned from a financial perspective to ensure that high quality wastewater service meeting all federal and state requirements is provided to Sadsbury’s customers and maintained for PAWC’s existing customers. PAWC St. No. 3 p. 3.

40. PAWC does not anticipate that the acquisition of the Sadsbury System will have a negative impact on PAWC’s cash flows, credit ratings or access to capital. Therefore, the Transaction will not deteriorate in any manner PAWC’s ability to continue to provide safe, adequate, and reasonable service to its existing customers at just and reasonable rates. PAWC St. No. 3 p. 3.

41. PAWC will initially fund the Transaction with short-term debt and will later replace it with a combination of long-term debt and equity capital. PAWC St. No. 3 p. 5.

F. PAWC's Technical Fitness

42. No party to this proceeding challenged PAWC's technical fitness to own and operate the System.

43. PAWC currently employs approximately 1,000 professionals with expertise in all areas of water and wastewater utility operations, including engineering, regulatory compliance, water and wastewater treatment plant operation and maintenance, distribution and collection system operation and maintenance, material management, risk management, human resources, legal, accounting and customer service. PAWC St. No. 1 p. 11.

44. As a subsidiary of American Water, PAWC has available to it additional resources of highly trained professionals who have expertise in various specialized areas. These operations and process experts have deep experience in the operation and maintenance of every possible type of wastewater treatment technology, as well as the experience available to support PAWC's operations staff and facilities. PAWC St. No. 2 p. 7.

45. PAWC is currently the water provider within Sadsbury and is the operator of the System's pump station. PAWC St. No. 1 p. 12.

46. Sadsbury has been a bulk wastewater customer of PAWC since PAWC's acquisition of the City of Coatesville Authority's water and wastewater system assets in March 2001. PAWC. St. No. 1 p. 12.

47. As the Sadsbury System is already interconnected with PAWC's Coatesville wastewater system, the Sadsbury System will be operated and managed by PAWC's Coatesville operations utilizing existing PAWC employees. PAWC St. No. 2 p. 8.

G. PAWC's Legal Fitness

48. No party to this proceeding challenged PAWC's legal fitness to own and operate the System.

49. PAWC is a Commission-regulated public utility with a good compliance history. PAWC St. No. 1 p. 15.

50. There are no pending legal proceedings that would suggest that PAWC is not legally fit to provide service to Sadsbury customers. PAWC St. No. 1 p. 15.

51. PAWC has the expertise, the record of environmental compliance, the commitment to invest in necessary capital improvements and resources, and experienced managerial and operating personnel necessary to provide safe and reliable sewer services to the residents of Sadsbury and surrounding areas. PAWC St. No. 1 pp. 11-12.

H. Benefits of the Transaction

52. Given its size, access to capital, and strengths in planning, capital budgeting and construction management, PAWC is well-positioned to ensure that high quality wastewater service meeting all applicable state and federal regulatory requirements continues to be provided to Sadsbury's customers. PAWC St. No. 1 p. 13.

53. PAWC is subject to the jurisdiction of the Commission and must comply with the Code, the Commission's Regulations and Orders. Sadsbury is not regulated by the Commission

and does not need to comply with the Code, the Commission's Regulations or Orders. PAWC St. No. 1 p. 14.

54. Sadsbury's current customers will benefit from PAWC's enhanced and proven customer service. This includes additional bill payment options, extended customer service and call center hours, enhanced customer information and education programs, and access to PAWC's customer assistance program. PAWC St. No. 1. p. 14; PAWC St. No. 2 pp. 8-10.

55. Customers can reach PAWC via e-mail and can manage their account on-line. In addition, PAWC offers emergency support 24 hours a day, seven days a week. PAWC St. No. 2 p. 8.

56. PAWC's customers can pay bills by mail, on-line, by e-check or electronic funds transfer, in person at multiple authorized payment locations across the state, and over the phone with a debit or credit card. PAWC St. No. 2 p. 8.

57. As customers of PAWC, Sadsbury's existing customers will have access to PAWC's customer assistance program, "H2O Help to Others Program." For wastewater customers, this program offers grants of up to \$500 per year and a 15% discount on total wastewater charges, in addition to a water saving kit. PAWC St. No. 2 p. 8.

58. The Transaction will have no immediate impact on PAWC's existing customers . PAWC St. No. 1 p. 14.

59. PAWC plans to implement pump station SCADA and security improvements and collection system improvements consisting of a sewer system survey and Infiltration and Inflow assessment along with routine collection system replacement. PAWC St. No. 2 p. 6.

60. PAWC can draw upon a much broader range of engineering and operational experience, as well as deeper financial resources, than can Sadsbury to address any environmental compliance challenges of the System. PAWC St. No. 2 p. 6.

61. PAWC has an ongoing program of capital investment focused on systematically replacing and adding new pipes, treatment and pumping facilities, and other water and wastewater infrastructure. PAWC has funded more than \$1 billion in capital construction over the past five years with expenditures expected to total \$275 million to \$300 million per year for the next five years. PAWC St. No. 2 p. 8.

I. Ratemaking Rate Base

62. The OCA and I&E challenged and proposed adjustments to the appraisals of AUS and HRG in this proceeding. OCA St. No. 1, OCA St. No. 2, I&E St. No. 1, OCA St. No. 1SR, OCA St. No. 2SR, I&E St. No. 1-SR.

63. The rate base agreed-to by the parties in the Settlement is \$8,300,000. Joint Petition for Approval of Settlement of All Issues ¶ 13.

J. Rate Stabilization Plan

64. The APA between PAWC and Sadsbury does not contain a “rate stabilization plan” as defined by 66 Pa. C.S. § 1329(g). PAWC St. No. 3 p. 8.

K. DSIC, AFUDC, Deferred Depreciation and Transaction and Closing Costs

65. PAWC is requesting authority to approve the collection of a DSIC related to the Sadsbury System in the future, prior to the first base rate case in which the System plant-in-service is incorporated into rate base. PAWC St. No. 3 p. 8.

66. PAWC would not begin charging a DSIC until the eligible System plant is approved by the Commission in PAWC's Long-Term Infrastructure Improvement Plan for wastewater. Settlement ¶ 18.

67. PAWC will be making post-acquisition improvements in the Sadsbury system. As such, PAWC will likely accrue an allowance for funds used during construction. PAWC St. No. 3 p. 11.

68. PAWC also intends to defer depreciation on non-DSIC-eligible post-acquisition improvements for book and ratemaking purposes. PAWC St. No. 3. Pp. 11-12.

69. Transaction and closing costs that PAWC may seek to recover include the UVE's appraisal fee, the buyer's share of the costs related to the engineer's assessment, and the buyer's closing costs, including reasonable attorney fees. PAWC is unable to determine the exact extent of transaction and closing costs at this time. In its Application, PAWC estimated the anticipated range of transaction and closing costs as \$275,000 to \$450,000. PAWC St. No. 3 p. 7; Application, Attachment A-12.

70. Any transaction and closing costs that PAWC seeks to claim in a future rate proceeding are not properly reviewed, and cannot be approved, in this Section 1329 proceeding.

71. PAWC's transaction and closing costs are properly reviewed in its next base rate case that follows the acquisition, and they will be subject to the preponderance of evidence standard in that review.

L. Rates

72. As required by Section 1329, PAWC included a *pro forma* tariff supplement in its Application. Application, Appendix A-13.

73. Upon closing of the Transaction, PAWC will adopt Sadsbury's current customer charge and consumption charge then in effect. The current consumption charge utilized by Sadsbury is a rate per thousand gallons. Under PAWC ownership, the usage rate will be converted to a usage rate per hundred gallons, thereby corresponding to how all other PAWC customers are billed. PAWC St. No. 3 p. 7.

74. After PAWC closes on the Transaction, System customers will be subject to PAWC's prevailing wastewater tariff on file with the Commission with respect to all rates other than the customer charge and consumption charge, including capacity reservation fees, reconnection fees and the like, as well as non-rate related terms and conditions of service. PAWC St. No. 3 p. 7.

75. Sadsbury's customers are currently billed either monthly or quarterly. As PAWC customers, all Sadsbury customers will be billed monthly. PAWC St. No. 3 p. 8.

76. PAWC is unaware of any industrial customers within Sadsbury's service area that require pretreatment of certain types of industrial wastes pursuant to an Industrial Pretreatment Program ("IPP"). Nonetheless, PAWC is proposing to modify its tariff to include the Sadsbury Service Area within its IPP. PAWC St. No. 2 pp. 4-5.

M. Municipal Agreements

77. As part of the Transaction, certain agreements will be assigned to PAWC. Application, Appendix A-24-f.

78. The assignment of these contracts to PAWC is reasonable and necessary in order to provide continued service in Sadsbury and to continue providing service to customers within the respective Developments in PAWC's existing Service Areas. PAWC St. No. 1 pp. 17-18 and 20.

APPENDIX C

APPENDIX C. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, this application proceeding. 66 Pa. C.S. §§ 1102, 1103, 1329.

2. Commission policy promotes settlement. *See* 52 Pa. Code § 5.231.

3. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401.

4. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

5. The Settlement and its proposed terms and conditions are in the public interest and, therefore, should be approved without modification.

6. The Commission may issue a certificate of public convenience upon a finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa. C.S. § 1103(a) (“Procedure to obtain certificates of public convenience”).

7. A certificate of public convenience is required for “any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized” 66 Pa. C.S. § 1102(a)(1).

8. A certificate of public convenience is required for “any public utility . . . to acquire from . . . any person or corporation, including a municipal corporation, by any method or device whatsoever . . . the title to, or possession or use of, any tangible or intangible property used or useful in the public service.” 66 Pa. C.S. § 1102(a)(3).

9. An applicant for a certificate of public convenience must demonstrate that it is technically, financially, and legally fit to own and operate the acquired public utility assets. *Seaboard Tank Lines v. Pa. Pub. Util. Comm’n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. v. Pa. Pub. Util. Comm’n*, 138 A.2d 240, 243 (Pa. Super. 1958).

10. The fitness of a currently certificated public utility is presumed. *See e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm’n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992).

11. Financial fitness means that the applicant should possess the financial resources to provide the proposed service. *Re Perry Hassman*, 55 Pa. P.U.C. 661 (1982).

12. Technical fitness means that the applicant should have sufficient staff, facilities and operating skills to provide the proposed service. *Re Perry Hassman*, 55 Pa. P.U.C. 661 (1982); *Merz White Ways Tours v. Pa. Pub. Util. Comm’n*, 201 A.2d 446 (Pa. Super. 1964).

13. Legal fitness means that the applicant has a propensity to obey the Code and the Commission’s regulations. *Re Perry Hassman*, 55 Pa. P.U.C. 661 (1982).

14. An applicant for a certificate of public convenience must demonstrate that the transaction will “affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm’n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972).

15. In granting a certificate of public convenience, the Commission may impose such conditions as it may deem to be just and reasonable. 66 Pa. C.S. § 1103(a).

16. The parties have agreed to a fair market value for ratemaking purposes of \$8,300,000 for the acquired assets. Settlement ¶ 13.

17. For an acquisition in which a municipal authority and the acquiring public utility agree to use the valuation procedure delineated in 66 Pa. C.S. § 1329, the application is to contain a tariff equal to the existing rates of the selling utility at the time of the acquisition and a rate stabilization plan, if applicable to the acquisition. 66 Pa. C.S. § 1329(d)(1)(v).

18. A rate stabilization plan is defined as “A plan that will hold rates constant or phase rates in over a period of time after the next base rate case.” 66 Pa. C.S. § 1329(g).

19. PAWC may collect a distribution system improvement charge prior to the first base rate case in which the Sadsbury system is included in its rate base, but this permission is conditioned on (i) PAWC’s filing of an amended LTIP that does not reprioritize existing commitments in other service areas, (ii) the Commission’s approval of the Amended LTIP, as may be modified in the discretion of the Commission, and (iii) PAWC’s filing of a compliance tariff supplement that incorporates Sadsbury into its existing DSIC tariff, including all customer safeguards applicable thereto, after Commission approval of the Amended LTIP. Settlement ¶ 18. Section 1329 permits an acquiring public utility’s post-acquisition improvements, which are not included in a DSIC, to accrue allowance for funds used during construction after the date the cost was incurred until the asset has been in service for a period of four years or until the asset is included in the acquiring public utility’s next base rate case, whichever is earlier. 66 Pa. C.S. § 1329(f)(1).

20. Section 1329 permits an acquiring public utility to defer depreciation on post-acquisition improvements, which are not included in a DSIC. 66 Pa. C.S. § 1329(f)(2).

21. Section 1329 permits an acquiring public utility to include transaction and closing costs in its rate base, during its next base rate proceeding. 66 Pa. C.S. § 1329(d)(2). Transaction and closing costs include the UVE's appraisal fee, the buyer's share of the costs related to the engineer's assessment, and the buyer's closing costs, including reasonable attorney fees. These costs are properly reviewed in PACW's next base rate case that follows the acquisition, and they will be subject to the preponderance of evidence standard in that review. The Commission will not approve these costs during the 1329 proceeding. *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Final Implementation Order entered October 27, 2016).

27. A contract between a municipality and a public utility (other than a contract to furnish service at regular tariff rates) must be filed with the Commission at least 30 days before the effective date of the contract. The Commission may approve it by issuing a certificate of filing or institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract. 66 Pa. C.S. § 507.

APPENDIX D

APPENDIX D. PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED:

(a) That the Joint Petition for Approval of Settlement of All Issues, filed by Pennsylvania-American Water Company, the Office of Consumer Advocate, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, and Sadsbury Township, on September 24, 2018 at Docket No. A-2018-3002437, including all terms and conditions thereof, is approved, without modification.

(b) That the Commission's proceeding at Docket No. A-2018-3002437 is terminated and marked closed.

(c) That the Application filed by PAWC on June 19, 2018 is granted, subject to the following conditions:

(1) That PAWC, at the time of filing its next base rate case, shall submit a cost of service study that removes all costs and revenues associated with the operation of the Sadsbury system.

(2) That PAWC, at the time of filing its next base rate case, shall also provide a separate cost of service study for the Sadsbury System.

(d) That the Commission's Secretary's Bureau shall issue Certificates of Public Convenience under 66 Pa. C.S. §§ 1102(a) and 1103(a) evidencing Commission approval of: (i) the transfer, by sale, of Sadsbury's assets, properties and rights related to its wastewater collection System to PAWC as provided in the Application, and (ii) PAWC's right to begin to offer, render, furnish and supply wastewater service in the areas served by Sadsbury as indicated in the Application.

(e) That PAWC, upon closing of the Transaction, shall issue a compliance tariff supplement, consistent with the *pro forma* tariff supplement attached to the Joint Petition for Approval of Settlement of All Issues, to be effective on the date of issuance.

(f) That the Commission approves, under 66 Pa. C.S. § 1329(c), a rate base addition of \$8,300,000 associated with PAWC's acquisition of the Sadsbury System.

(g) That, although the Commission acknowledges that the Joint Petitioners reserve the right to present adjustments and oppose adjustments to appraisals in future cases, for purposes of this proceeding, the Commission accepts the following adjustments:

(1) Market Approach:

(i) If "comparable acquisitions" are used as a factor in determining market value, the purchase price for each "comparable acquisition" for non-Section 1329 acquisitions shall be based on the actual amount paid for the assets at the time of purchase and future capital improvements shall not be included.

(ii) Comparable sales used to establish the valuation may not be limited to those that the UVE previously appraised.

(iii) The "net book financials" multiplier shall not be used in the market approach.

(2) Income Approach: The rate base/rate of return methodology is not an appropriate analysis for the appraisal.

(3) The "Going Value" and "Provision for Erosion on Return" add-ons will not be adopted or included in the appraisals.

(4) Cost Approach:

(i) The overhead cost add-on will not be adopted or included in the appraisals.

(ii) If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

(h) That, within the first 90 days of PAWC's ownership of the Sadsbury system, PAWC shall include a bill insert to Sadsbury-area customers regarding its low income programs or, alternatively, shall include such information in a welcome letter to Sadsbury-area customers. The bill insert or welcome letter shall include, at a minimum, a description of the available low income programs, the eligibility requirements for participation in the programs, and PAWC's contact information.

(i) That PAWC, pursuant to 66 Pa. C.S. § 1329(d), may collect a distribution system improvement charge related to the Sadsbury System prior to the first base rate case in which the System plant-in-service is incorporated into rate base, subject to the following conditions:

(1) PAWC files an amended wastewater long term infrastructure investment plan incorporating the Sadsbury area, which does not re-prioritize other existing commitments in other service areas;

(2) the Commission approves the amended wastewater long term infrastructure improvement plan incorporating the Sadsbury area, as may be modified in the discretion of the Commission; and

(3) PAWC files a compliance tariff supplement which incorporates Sadsbury into its existing DSIC tariff, including all customer safeguards applicable thereto, after Commission approval of the amended long term infrastructure improvement plan.

(j) That PAWC, pursuant to 66 Pa. C.S. § 1329(f), may accrue an allowance for funds used during construction for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(k) That PAWC, pursuant to 66 Pa. C.S. § 1329(f), may defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(l) That PAWC, pursuant to 66 Pa. C.S. § 1329(d)(iv), may include, in its next base rate case, a claim for transaction and closing costs related to the acquisition of the Sadsbury system. The Commission recognizes that the Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review and does not construe the Joint Petitioners' assent to this term to operate as their preapproval of PAWC's request.

(m) That the Commission's Secretary's Bureau shall issue Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:

(1) Asset Purchase Agreement By and Among the Township of Sadsbury, as Seller, and Pennsylvania-American Water Company, as Buyer, Dated as of May 1, 2018;

(2) Settlement Agreement, dated as of May 15, 2000, by and between Sadsbury Township and Pennsylvania-American Water Company;

(3) Wastewater Conveyance Agreement, dated as of September 16, 2003, by and between Sadsbury Township, Pennsylvania-American Water Company, All County Partnership and Calnshire Estates, LLC;

(4) Memorandum dated as of September 16, 2003, Wastewater Conveyance Agreement, recorded September 17, 2003, in the Office of Recorder of Deeds for Chester County;

(5) Second Agreement for the Conveyance of Wastewater from West Caln Township through Sadsbury Township, dated as of August 9, 2013, between Sadsbury Township, Pennsylvania-American Water Company, West Caln Township and Lawrence Developers, LP; and,

(6) Intergovernmental Agreement, dated as of November 15, 2011, between Sadsbury Township and Valley Township regarding sanitary sewer service for 2800 West Lincoln Highway.

(n) That all other approvals or certificates appropriate, customary or necessary under the Code to carry out the Transaction contemplated in the Application in a lawful manner, are granted.

APPENDIX E

**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
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

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: Docket No. A-2018-3002437
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**STATEMENT OF PENNSYLVANIA-AMERICAN WATER
COMPANY IN SUPPORT OF JOINT PETITION FOR
APPROVAL OF SETTLEMENT OF ALL ISSUES**

Pennsylvania-American Water Company (“PAWC”) files this Statement in Support of the Joint Petition for Approval of Settlement of All Issues (“Settlement”), entered into by PAWC, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and Sadsbury Township (“Sadsbury”) (hereinafter, collectively, the “Joint Petitioners”) in the above-captioned proceeding. PAWC respectfully requests that the Honorable Administrative Law Judge Darlene D. Heep (“ALJ”) recommend approval of, and that the Pennsylvania Public Utility Commission (“Commission”) approve, the Settlement, including all terms and conditions thereof, without modification.

I. INTRODUCTION

The Settlement pertains to the application (“Application”) filed by PAWC pursuant to Section 1102(a) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102(a), and Section 1329 of the Code, 66 Pa. C.S. § 1329, requesting (among other things) that the Commission issue Certificates of Public Convenience to PAWC for the transfer to PAWC, by sale, of substantially all of the assets, properties and rights of Sadsbury (the “Transaction”), related to Sadsbury’s wastewater collection system (the “System”), and to set the fair market value of the acquisition for rate-base ratemaking purposes.

The Settlement, if approved, will resolve all of the issues raised in this proceeding. The Settlement is in the best interest of Sadsbury and its existing customers, PAWC and its existing customers, and the public-at-large. It is in the public interest and, accordingly, should be approved.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

As an initial matter, the fact that the Settlement resolves all issues is, in and of itself, strong evidence that the Settlement is reasonable and in the public interest – particularly given the diverse interests of the Joint Petitioners and the active role that they have taken in this proceeding. The Settlement was achieved through the hard work and perseverance of the Joint Petitioners. They

have repeatedly demonstrated their good faith and willingness to cooperate to resolve this complex case within the six-month deadline mandated by the General Assembly in Section 1329 of the Code, 66 Pa. C.S. § 1329. For example, the Joint Petitioners agreed to modify the Commission's discovery procedures; they worked together to resolve discovery disputes; they engaged in informal discovery sessions; they voluntarily exchanged information; they entered into a Stipulation of the Parties Regarding Objections and Preservation of Issues; and no party objected to PAWC's Petition for Protective Order. Through these collaborative efforts of the Joint Petitioners and effective case management by the ALJ, the Application is in a position to be decided by the Commission in less than six months -- demonstrating that the timeline set forth by the General Assembly in Section 1329 can indeed work effectively.

It should be noted that the Joint Petitioners, and their counsel and experts, have considerable experience in acquisition proceedings. Their knowledge, experience and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on all the issues. The Joint Petitioners, their counsel and experts fully explored all the issues in this case.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners and satisfies the various requirements of the Code. For these reasons, and the reasons set forth below, the Settlement is in the public interest and should be approved without modification.

II. THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Joint Petitioners have agreed to a settlement of all issues in this proceeding. This includes issues arising under Sections 1103(a), 1329 and 507 of the Code. 66 Pa. C.S. §§ 1103(a), 1329, and 507.

A. Section 1103 Approvals

1. Fitness

PAWC must demonstrate that it is technically, financially, and legally fit to own and operate the System. *Seaboard Tank Lines, Inc. v. Pa. Pub. Util. Comm'n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. v. Pa. Pub. Util. Comm'n*, 138 A.2d 240, 243 (Pa. Super. 1958). As a certificated public utility, PAWC enjoys a rebuttable presumption that it possesses the requisite fitness.¹ *South Hills Movers, Inc. v. Pa. Pub. Util. Comm'n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992). Although no party challenged PAWC's fitness, PAWC introduced extensive evidence demonstrating its technical, financial, and legal fitness.

With respect to technical fitness, PAWC is the Commonwealth's largest water and wastewater provider. It furnishes service to more than 400 communities in 36 counties, serving a combined population in excess of 2,300,000. PAWC St. No. 1 p. 11. PAWC employs approximately 1,000 professionals with expertise in all areas of water and wastewater utility operations. PAWC St. No. 1 p. 11. In addition, as a subsidiary of American Water Works Company, Inc. ("American Water"), PAWC has available to it additional highly-trained

¹ Similarly, PAWC enjoys a presumption of a continuing public need for service because public utility service is already being provided in the service territory. *Re Glenn Yeager et al.*, 49 Pa. P.U.C. 138 (1975). No party has contested the need for wastewater collection and conveyance service in Sadsbury.

professionals with expertise in specialized areas. These operations and process experts have deep experience in the operation and maintenance of different types of wastewater technologies. PAWC St. No. 2 p. 7. PAWC has an ongoing program of capital investment focused on systematically replacing and adding new pipes and infrastructure. PAWC has funded more than \$1 billion in infrastructure investment in the past five years. PAWC St. No. 2 p. 8.

With respect to legal fitness, PAWC has a record of environmental compliance, a commitment to invest in necessary capital improvements and resources, and the experienced managerial and operating personnel necessary to provide safe and reliable sewer service to the residents of Sadsbury. PAWC has a good compliance history with the Commission and there are currently no legal proceedings that would suggest that PAWC is not legally fit to provide service in Sadsbury. PAWC St. No. 1 p. 15.

With respect to financial fitness, PAWC had total assets of approximately \$4.62 billion as of December 31, 2017. It had a net income of approximately \$161 million for the 12 months ending December 31, 2017. PAWC St. No. 3 p. 4. In addition to positive operating cash flows, PAWC may obtain financing through a \$400 million line of credit, long term debt financing, and/or equity investments. PAWC St. No. 3 p. 4.

2. Public Benefit

PAWC must demonstrate that the Transaction and PAWC's ownership/operation of the System will "affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way." *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972). An acquisition provides an affirmative benefit if the benefits of the transaction outweigh the adverse impacts of the transaction. *Application of CMV Sewage Co., Inc.*, 2008 Pa. PUC LEXIS 950. When looking at the benefits and detriments of a transaction, the

focus of the analysis must be on all affected parties, not merely a particular group or a particular geographic area. *Middletown Township v. Pa. Pub. Util. Comm'n*, 85 Pa. Cmwlth. 191, 482 A.2d 674 (1984).

The Transaction, with the conditions described in the Settlement, benefits all of the stakeholder groups impacted by the Transaction. The Transaction benefits members of the public-at-large in that the Transaction promotes the Commission's policy favoring regionalization and consolidation of water and wastewater systems. PAWC St. No. 1 p. 13.

The Transaction benefits Sadsbury in the same way that it benefits all other members of the public-at-large. In addition, the Transaction has specific benefits for Sadsbury:

- Sadsbury voluntarily entered into the Asset Purchase Agreement ("APA") in order to get out of the utility business and receive the purchase price, which it will use to promote public purposes.
- The System will become taxable property.

The Transaction benefits Sadsbury's existing customers in the same way that it benefits all other members of the public-at-large. In addition, the Transaction has specific benefits for Sadsbury's existing customers:

- The System will become a Commission-regulated utility, and its customers will gain the protection of the Code, the Commission, I&E, OCA, and the Office of Small Business Advocate. PAWC St. No. 1 p. 14.
- Customers will have access to PAWC's proven and enhanced customer service, including its customer assistance program (H2O Help to Others) and customer dispute resolution process. PAWC St. No. 1. p. 14; PAWC St. No. 2 pp. 8-10.
- PAWC plans to implement improvements to the sewer system, including security improvements. PAWC St. No. 2 p. 6.
- PAWC can draw upon a broader range of engineering and professional experience, and has deeper financial resources than Sadsbury, to address any environmental compliance challenges of the System. PAWC St. No. 2 p. 6.

The Settlement contains an additional public benefit for Sadsbury's existing customers, in that it requires PAWC to provide information to Sadsbury's customers regarding its low-income programs within 90 days of PAWC's ownership of the System.

The Transaction benefits PAWC's existing wastewater customers in the same way that it benefits all other members of the public-at-large. In addition, the Transaction has specific benefits for PAWC's existing wastewater customers:

- The Transaction will have no immediate impact on the rates paid by PAWC's existing customers. PAWC St. No. 1 p. 14.
- In the long term, the Transaction will benefit PAWC's existing wastewater customers because it will add new customers to PAWC's wastewater customer base, who can share the cost of operating the entire PAWC wastewater system. PAWC St. No. 1 p. 14; PAWC St. No. 1-R p. 2.
- The Transaction will promote the public policy goals embodied in Section 1329.
- The Transaction will promote the public policy goal of improving and maintaining public infrastructure.

Finally, the Transaction benefits PAWC's existing *water* customers in the same way that it benefits all other members of the public-at-large. It will not result in an increase in rates for these customers pursuant to 66 Pa. C.S. § 1311(c) unless, in a future rate case, the Commission determines that an allocation of PAWC's wastewater requirement to water customers is "in the public interest."

In short, as modified by the terms and conditions in the Settlement, the Transaction has affirmative public benefits of a substantial nature for every impacted group. These benefits clearly outweigh any alleged detriments. Accordingly, the ALJ and the Commission should find that the Settlement is in the public interest.

3. Cost of Service Studies

In the interest of resolving this case and based on the unique circumstances of this case, PAWC will submit two cost of service studies in its next base rate case: (a) a cost of service study that removes all costs and revenues associated with the operation of the Sadsbury System; and (b) a cost of service study for the Sadsbury System. Under the Settlement, PAWC's obligation to prepare cost of service studies extends only to its next base rate case. In this way, unnecessary cost of service studies can be avoided in subsequent rate cases. Accordingly, the ALJ and the Commission should find that the Settlement is in the public interest.

B. Section 1329 Approvals

1. Ratemaking Rate Base

PAWC and Sadsbury agreed to use the procedure set forth in Section 1329 for the Transaction. Section 1329 created a voluntary procedure for valuing a water or wastewater system being sold by a municipality or municipal authority to a public utility or other entity. In that procedure, the buyer and the seller each obtain an appraisal of the system by a Commission-approved utility valuation expert ("UVE"). The ratemaking rate base of the selling utility is the lesser of: (1) the purchase price agreed-to by the parties, or (2) the fair market value of the selling utility (defined as the average of the two UVEs' appraisals). The ratemaking rate base of the selling utility is then incorporated into the rate base of the acquiring public utility during the acquiring public utility's next base rate case.

In the Settlement, the Joint Petitioners compromised on certain adjustments in the UVEs' appraisals. The Joint Petitioners also agreed that \$8,300,000 will go into PAWC's rate base in its next rate case due to the acquisition of the System. The proposed Settlement should be adopted

because it produces a result that is preferable, in the eyes of each of the Joint Petitioners, to what could have resulted from litigation -- including the possibility of appeals. Moreover, the agreed-upon ratemaking rate base of \$8,300,000 is well within the range of litigation positions of the Joint Petitioners and, accordingly, supported by substantial record evidence.²

Furthermore, this result is in the public interest because it furthers the legislative intent behind Section 1329. First, the Settlement allows a municipality *who wishes to do so* to monetize an asset for maximum value. Second, by establishing a rate base for the System that is greater than what would have been allowed using traditional ratemaking principles, PAWC is willing to enter into the Transaction. Section 1329 would be ineffective if a willing seller would be unable to find a willing buyer. Finally, the Settlement allows the parties to the Transaction to obtain the necessary Commission approval in a timely manner -- while protecting the existing customers of the acquiring public utility. The Joint Petitioners' negotiated result is in the public interest and should be approved by the ALJs and the Commission.

2. Rates

Section 1329(d)(1)(iv) of the Code requires an application to contain a tariff containing a rate equal to the existing rates of the selling utility at the time of the acquisition, together with a rate stabilization plan, if applicable to the acquisition. None of the Joint Petitioners have argued that the Asset Purchase Agreement includes a rate stabilization plan. Consequently, the Settlement does not address this requirement.

² PAWC and Sadsbury introduced evidence supporting a ratemaking rate base of \$9,250,000, *i.e.*, the lower of the purchase price (\$9,250,000) and the average of the UVE appraisals (\$9,250,000). PAWC St. No. 3 p. 6. OCA introduced evidence supporting a ratemaking rate base of \$7,116,395, *i.e.*, the lower of the purchase price of \$9,250,000 and the average of the UVE appraisals as adjusted by the OCA witnesses (\$7,116,395). OCA St. No. 1 p. 36.

In terms of rates, the Settlement is in the public interest because it would ensure that PAWC will charge rates after closing that are equal to Sadsbury's existing rates. Consequently, the Settlement should be approved.

3. Distribution System Improvement Charge

Section 1329(d) of the Code permits an acquiring public utility to collect a distribution system improvement charge ("DSIC") from the date of closing on the Transaction until new rates are approved in the utility's next base rate case. In order to qualify for DSIC recovery, a utility must submit a long term infrastructure investment plan ("LTIP") to, and receive approval from, the Commission.

PAWC has previously received Commission approval of a wastewater LTIP plan, and received Commission approval of a DSIC tariff, for other portions of its wastewater system. In its Application, PAWC requested conditional approval to implement a DSIC for the Sadsbury service territory. PAWC proposed to file an amended LTIP for the Sadsbury service territory. Following Commission approval of that amended LTIP, PAWC would make a tariff supplement compliance filing, which would include the Sadsbury service territory in PAWC's existing DSIC tariff.

The Settlement includes conditions to ensure that PAWC's amended LTIP will not re-prioritize existing commitments in other service areas. In addition, the Settlement recognizes the Commission's authority to modify PAWC's LTIP submission. Finally, the Settlement is consistent with the Code and *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012). For these reasons, the Settlement is in the public interest and should be approved.

4. Accrual of Allowance for Funds Used During Construction

Section 1329(f)(1) of the Code permits an acquiring public utility to accrue an allowance for funds used during construction (“AFUDC”) on post-acquisition improvements that are not included in a DSIC, from the date the cost was incurred until the earlier of the following events: the asset has been in service for a period of four years, or the asset is included in the acquiring utility’s next base rate case. In the Application, PAWC simply requested permission to accrue AFUDC on post-acquisition improvements that are not included in a DSIC. The Settlement is in the public interest because it makes clear that the other Joint Petitioners do not oppose this request and they reserve their rights to litigate their positions fully in future rate cases.

5. Deferred Depreciation

Similarly, Section 1329(f)(2) of the Code permits an acquiring public utility to defer depreciation on its post-acquisition improvements that are not included in a DSIC. In the Application, PAWC simply requested permission to defer depreciation on post-acquisition improvements that are not included in a DSIC. The Settlement is in the public interest because it makes clear that the other Joint Petitioners do not oppose this request and they reserve their rights to litigate their positions fully in future rate cases.

6. Transaction and Closing Costs

Section 1329(d)(1)(iv) permits an acquiring public utility to include, in its next base rate case, a claim for the transaction and closing costs incurred for the acquisition. In *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Order entered October 27, 2016) p. 14, the Commission stated that there will be no Commission preapproval of the reasonableness of recovery of these costs in a Section 1329 proceeding. Out of an abundance of caution, the Application requested permission to include, in PAWC’s next base rate case, the

transaction and closing costs incurred in this proceeding. The Commission will adjudicate the ratemaking treatment of PAWC's claimed transaction and closing costs at that time. The Settlement is in the public interest because it makes clear that the other Joint Petitioners do not oppose this request and they reserve their rights to litigate their positions fully in future rate cases.

C. Section 507 Approvals

Section 507 of the Code requires that contracts between a public utility and a municipal corporation (except for contracts to furnish service at regular tariff rates) be filed with the Commission at least 30 days before the effective date of the contract. The Commission approves the contract by issuing a certificate of filing, unless it decides to institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract.

In the Application, PAWC sought Commission approval of the APA, as amended, as well as five agreements between Sadsbury and area municipalities, which PAWC will assume at closing. Approval of these six agreements is necessary for PAWC to continue to provide service to all customers presently served by the System.

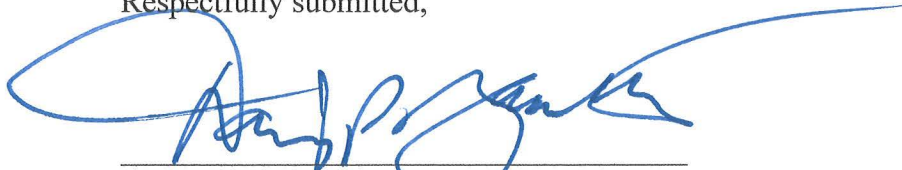
The Settlement is in the public interest because it establishes that none of the other Joint Petitioners objects to the Commission's approval of these agreements pursuant to Section 507. The Commission should accordingly issue Certificates of Filing for, or otherwise approve, the identified agreements with municipal corporations.

III. CONCLUSION

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair and equitable manner. The Settlement is the result of detailed examination of the Transaction, formal and informal discovery responses, evidence that was entered into the record, and extensive settlement negotiations. A fair and reasonable compromise has been achieved in this case, as is evidenced by the fact that all active parties to the proceeding have agreed to the resolution of the issues. PAWC fully supports the Settlement and urges the ALJ and the Commission to approve it without modification.

WHEREFORE, Pennsylvania-American Water Company respectfully requests that the Honorable Administrative Law Judge Darlene D. Heep recommend approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, without modification, and enter an order consistent with the Settlement.

Respectfully submitted,



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Dated: September 14, 2018

APPENDIX F

**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

**STATEMENT OF THE TOWNSHIP OF SADBURY IN SUPPORT OF JOINT
PETITION FOR APPROVAL OF SETTLEMENT OF ALL ISSUES**

I. INTRODUCTION

The Township of Sadsbury (the “Township”) hereby files this Statement of Support of the Joint Petition for Approval of Settlement of All Issues (“Settlement”) entered into by the Township, Pennsylvania-American Water Company (“PAWC”), the Office of Consumer Advocate (“OCA”), and the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (“I&E”) (hereinafter, collectively the “Joint Petitioners”) in the above-captioned proceeding. The Township respectfully requests that the Honorable Administrative Law Judge Darlene D. Heep recommend approval of, and that the Pennsylvania Utility Commission (the “Commission”) approve, the Settlement, including all terms and conditions thereof, without modification.

The Settlement, if approved will resolve all of the issues raised in this proceeding. The Settlement is in the best interest of the Township and its existing customers and is otherwise in the public interest. It should, accordingly, be approved.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

As an initial matter, the fact that the Settlement is supported by all active parties in this acquisition proceeding is, in and of itself, strong evidence that the Settlement is reasonable and in the public interest -- particularly given the diverse interests of the Joint Petitioners and the active role that they have taken in this proceeding. Moreover, the Settlement was achieved only after the Joint Petitioners timely filed direct, rebuttal and surrebuttal testimony. In addition, the Joint Petitioners participated in numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

The democratically-elected officials of the Township believe that the sale of the Township's wastewater system is in the best interest of the residents of Township. They therefore agreed to the sale to Pennsylvania-American pursuant to a heavily negotiated APA and agree to and support the Settlement. These are assets owned by the public, and the Township is compelled to promote the best interests of its constituents. The officials of the Township believe the Settlement is in the public interest.

Finally, it should be noted that the Joint Petitioners, and their counsel and experts, have considerable experience in acquisition proceedings. Their knowledge, experience, and ability to

evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on the settled issues.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners. For these reasons and the reasons set forth below, the Settlement is in the public interest and should be approved without modification.

II. THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Joint Petitioners have agreed to a settlement of all issues in the above captioned proceeding. Subject to certain terms and conditions, the Settlement requests approval of: (a) the transfer, by sale, of substantially all of the assets, properties and rights of the Township related to its wastewater collection system (the "System") to PAWC; (b) PAWC's right to begin to offer, render, furnish and supply wastewater service in the Township; (c) PAWC's filing of a tariff supplement, consistent with the *pro forma* tariff supplement attached to the Settlement as Appendix A-13, to be issued and effective on the date of closing of the sale of the Township's assets, properties, and rights to PAWC (the "Transaction"); (d) the issuance of Certificates of Filings for the agreements enumerated in the Settlement between PAWC and municipal corporations as required under Section 507 of the Pennsylvania Public Utility Code ("Code"), 66 Pa. C.S. § 507; (e) PAWC's right to use \$8,300,000 for ratemaking rate base purposes for the acquired assets; and, (f) issuance of any other approval or certificate appropriate, customary, or necessary under the Code to carry out the Transaction in a lawful manner.

An applicant for a certificate of public convenience must demonstrate that the transaction will "affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way." *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828

(1972). The applicant must demonstrate that it is technically, financially, and legally fit to own and operate the acquired public utility assets. *Seaboard Tank Lines v. Pa. Pub. Util. Comm'n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. V. Pa. Pub. Util. Comm'n*, 138 A.2d. 240, 243 (Pa. Super. 1958). The fitness of a currently certificated public utility is presumed. *See e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm'n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992). PAWC's Application utilized the process set forth in Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329, to determine the fair market value of the Township's system assets and the ratemaking rate base of those assets.

As demonstrated by the evidence stipulated by the Joint Petitioners into the record, PAWC's ownership and operation of the System, consistent with the terms and conditions of the Settlement, will affirmatively promote the service, accommodation convenience, or safety of the public in a substantial way. PAWC is technically, financially, and legally fit and the Transaction will produce affirmative public benefits of a substantial nature.

A. PAWC is Technically, Financial, and Legally Fit

PAWC, a subsidiary of American Water Works Company, Inc. ("American Water"), is the largest regulated public utility corporation in Pennsylvania. PAWC St. No. 1 p. 11. As of December 31, 2017, PAWC furnished wastewater services to 64,917 customers in Pennsylvania. PAWC St. No. 1 p. 13. Since 2001, PAWC has been the regional wastewater (and water) provider in the City of Coatesville and nearby surrounding communities. PAWC treats the wastewater from the communities of Sadsbury Township, the City of Coatesville, East Fallowfield Township, Caln Township, West Caln Township, Valley Township, West Sadsbury Township, Highland Township, West Brandywine Township, and Parkesburg Borough. PAWC St. No. 1 p. 12.

As a certificated public utility PAWC enjoys a rebuttable presumption that it possesses the requisite fitness.¹ *South Hills Movers, Inc., supra*. In this proceeding, no party has challenged PAWC's fitness. Nevertheless, PAWC introduced extensive evidence demonstrating its technical, financial, and legal fitness.

With respect to technical fitness, PAWC must demonstrate that it has sufficient staff, facilities and operating skills to provide the proposed service. *Re Perry Hassman*, 55 Pa. PUC 661 (1982); *Merz White Ways Tours v. Pa. Pub. Util. Comm'n*, 201 A.2d 446 (Pa. Super. 1964). PAWC is the Commonwealth's largest water and wastewater provider. As of December 31, 2017, PAWC furnished wastewater services to 64,917 customers in Pennsylvania, inclusive of 59,821 residential customers, 4,875 commercial customers, 182 municipal customers, 35 industrial customers, and 4 bulk customers. PAWC St. No. 1 p. 13. PAWC employs approximately 1,000 professionals with expertise in all areas of water and wastewater utility operations. PAWC St. No. 1 p. 11. PAWC has the expertise, the record of environmental compliance, the commitment to invest in necessary capital improvements and resources, and experienced managerial and operating personnel necessary to provide safe and reliable sewer services to the residents of the Township and surrounding areas. PAWC St. No. 1 p. 11-12.

PAWC has an ongoing program of capital investment focused on systematically replacing and adding new pipes and infrastructure. PAWC St. No. 2 p. 8. PAWC has funded more than \$1 billion in capital construction over the past five years. PAWC St. No. 2 p. 8.

With respect to legal fitness, PAWC must demonstrate that it obeys the Code and the Commission's regulations. *Re Perry Hassman, supra*. PAWC is a Commission regulated public utility

¹ Similarly, PAWC enjoys a presumption of a continuing public need for service because public utility service is already being provided in the service territory. *Re Glenn Yeager et al.*, 49 Pa. P.U.C. 138 (1975). No party has contested the need for service in the Sadsbury area.

with a good compliance history. PAWC St. No. 1 p. 11-12. PAWC has a record of environmental compliance, a commitment to invest in necessary capital improvements and resources, and the experienced managerial and operating personnel necessary to provide safe and reliable sewer service to the residents of the Township. PAWC St.No.1 pp. 11-12

With respect to financial fitness, PAWC must demonstrate that it has sufficient financial resources to provide the proposed service. *Re Perry Hassman, supra.* PAWC has total assets of approximately \$4.62 billion as of December 31, 2017. It had a net income of approximately \$161 million for the 12 months ending December 31, 2017. PAWC St. No. 1 p. 15. In addition to positive operating cash flows, PAWC has a \$400 million line of credit, long term debt financing, and equity investments. PAWC St. No.3 p. 4.

For the foregoing reasons, there is substantial record evidence to support the Settlement and approval of the Transaction. It is clear that PAWC is technically, financially and legally fit to own and operate the System in the public interest

B. The Transaction Will Produce Substantial Public Benefits

The Transaction will produce affirmative public benefits of a substantial nature. These benefits include, but are not limited to: further regionalization of wastewater operations in Pennsylvania; greater access to technical resources for operation of the System; greater access to capital for necessary investments to the System; improved customer service for System customers; and, certain measures aimed at helping Township customers who are facing economic hardship and maintaining the existing local Township workforce and operational expertise.

As previously noted, PAWC is the largest investor owned public utility in Pennsylvania. It provides water and wastewater service to the public in a service territory encompassing more than 400 communities in 36 counties. It serves a combined population of over 2,300 000. PAWC St.

No.1 p. 11. As of December 31, 2017, PAWC furnished wastewater services to 64,917 customers in Pennsylvania. PAWC St. No. 1 p. 13.

The Transaction would add 998 direct or indirect customers to PAWC's existing wastewater customer base of 64,917. PAWC St. No. 1 p. 12. The Transaction fosters the Commission goal of regionalizing wastewater systems to provide greater environmental and economic benefits to customers. PAWC St. No. 1 p. 13. Approval of the Transaction would enable PAWC to continue to regionalize its operations. Regionalization permits PAWC to pursue economies of scale and spread costs over a larger customer base for the benefit of all of its ratepayers.

Under PAWC ownership, Township customers will benefit from PAWC's additional bill payment options, extended customer service and call center hours, enhanced customer information and education programs, and access to customer assistance programs. PAWC St. No.1 p. 14. These benefits are possible because of PAWC's larger customer base, expertise, and financial capabilities.

For the foregoing reason, there is substantial record evidence to support the Settlement and approval of the Transaction. It is clear that the Transaction will produce a public benefit of a substantial nature.

C. Ratemaking Rate Base

PAWC's Application sought to utilize the process set forth in Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329, to determine the fair market value of the Township system assets and the ratemaking rate base of those assets. PAWC St. No. 1 p. 4. As required by Section 1329, the parties to the APA engaged an engineer (MacCombie Consulting Engineers, Inc.) to conduct an assessment of the tangible assets of the System. PAWC St. No.1 p 8. Application, Attachment A-5. PAWC selected Associated Utility Services, Inc. ("AUS") to perform an appraisal of the

System. PAWC St. No. 1 p. 8. AUS was approved by the Commission for placement on the Commission's Utility Valuation Expert ("UVE") Registry. PAWC St. No. 4 p. 7. The Township selected Herbert, Rowland & Grubic, Inc. ("HRG") as its utility valuation expert, to perform an appraisal of the Township system. PAWC St. No. 1 p.8. HRG was approved by the Commission for placement on the Commission's Utility UVE Registry. Township St. No. 1 p. 3. As required by Section 1329, the Application included the appraisals of PAWC's UVE and the Township's UVE. The Settlement provides that PAWC shall be permitted to use \$8.3 million for ratemaking rate base purposes for the acquired assets. Using \$8.3 million for ratemaking rate base purposes is within a reasonable range of the fair market value as determined pursuant to Section 1329. In addition, permitting that negotiated amount to be utilized in the Settlement allows the Transaction to close in a timely manner without the threat of a protracted and costly appeal process and is therefore in the public interest because public benefits can be achieved sooner.

D. The Settlement Promotes a Gradual Phase In of Rates.

After PAWC closes the Transaction, System customers will be subject to PAWC's prevailing wastewater tariff on file with the Commission with respect to all rates other than the customer charge and the consumption charge, including capacity reservation fees, reconnection fees and the like, as well as non-rate related terms and conditions of service. PAWC St. 3, p. 7.

E. The Settlement Preserves the Rights of Parties in Future Rate Proceedings

The Settlement makes clear that approval of the Transaction would not infringe upon the rights of OCA, I&E, and other interested parties to participate in, and advocate their positions in, future PAWC rate proceedings. *See, e.g.*, Settlement, 5 ("Except as explicitly stated herein, nothing contained in the Settlement, or in the Commission's approval of the Application, shall preclude

any Joint Petitioner from asserting any position or raising any issue in a future PAWC base rate proceeding.").

F. Distribution System Improvement Charge

Pursuant to 66 Pa. C.S. § 1329, PAWC seeks permission to collect a distribution system improvement charge ("DSIC"), PAWC St. No. 3 p. 0. The use of DSIC encourages accelerated infrastructure repair and replacement. This accelerated infrastructure repair and replacement is in the public interest because it will provide a mechanism for more quickly addressing the environmental and infrastructure issues confronting the System and the communities it serves. In order to ensure appropriate oversight for PAWC investments, as a part of the Settlement, PAWC's filing of an amended wastewater long term infrastructure improvement plan, which will require PAWC to specify its plans before and DSIC may be implemented in the Township.

G. Certificates of Filing Should be Issued for Municipal Agreements

As part of the Settlement, the Joint Petitioners have agreed that that Commission should issue Certificates of Filing under Section 507 of the Code, 66 Pa. C.S. § 507, for certain agreements between PAWC and municipal corporations. Such agreements are enumerated in the Settlement and include the Asset Purchase Agreement for the Transaction. The agreements; or forms of the agreements, have been provided to the Commission and the parties in conjunction with this proceeding. They are reasonable and necessary for the continued operation of the System, and; therefore, Certificates of Filing should be issued.

III. CONCLUSION

Through cooperative efforts focused on finding common ground, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair and equitable manner.

The Settlement is the result of detailed examination of the Transaction, thorough discovery and briefing and extensive settlement negotiations. A fair and reasonable and reasonable compromise has been achieved in this case, as is evident by the fact that all parties to this proceeding have agreed to the resolution of the issues. The Township fully supports this Settlement and respectfully requests that the Honorable Administrative Law Judge Darlene D. Heep recommend approval of, and the Commission approve, the Settlement in its entirety, without modification.

WHEREFORE, the Township respectfully requests that the Honorable Administrative Law Judge Darlene D. Heep recommend approval of, and that the Commission approve, the Settlement including all terms and conditions thereof, and that the Commission enter an order consistent with the Settlement.

Respectfully submitted,

Sadsbury Township

By: 

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610-430-8000

Counsel for Sadsbury Township

APPENDIX G

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American	:	
Water Company-Wastewater, pursuant to the	:	
Pennsylvania Public Utility Code, 66 Pa.	:	Docket No. A-2018-3002437
C.S. § 1102(a), and 66 Pa. C.S. § 1329 for	:	
approval of (1) the transfer, by sale, of	:	
substantially all of the Township of	:	
Sadsbury’s assets, properties and rights	:	
related to its wastewater collection 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 a portion	:	
of the Township of Sadsbury, Chester	:	
County, Pennsylvania	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL
OF SETTLEMENT**

TO ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutors Gina L. Miller and Erika L. McLain, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Approval of Settlement (“Joint Petition” or “Settlement”) are in the public interest and represent a fair and just balance of the interests of Pennsylvania-American Water Company (“PAWC”), the Bureau of Investigation & Enforcement of the Pennsylvania Public Utility Commission (“I&E”), the Office of Consumer Advocate (“OCA”), and the Township of Sadsbury (“Township” or

“Sadsbury”), parties to the above-captioned proceeding (collectively, the “Joint Petitioners”).

I. BACKGROUND

1. On June 1, 2018, PAWC filed its Application, inter alia, requesting approval to (a) acquire substantially all of the Township of Sadsbury’s assets, properties and rights related to the Township of Sadsbury's wastewater collection and treatment system assets pursuant to 66 Pa. C.S. § 1102 (“Section 1102”); (b) obtain the Certificates of Public Convenience necessary for it to begin to offer, render, furnish and supply offer, wastewater service to the public in the areas served by Township of Sadsbury, Chester County, Pennsylvania and (c) to use, for ratemaking purposes, the lesser of the fair market value or the negotiated purchase price of the Township of Sadsbury’s assets to establish the Township of Sadsbury’s ratemaking rate base in this proceeding pursuant to 66 Pa. C.S. § 1329 (“Section 1329”).

2. By Secretarial Letter dated June 19, 2018, the Pennsylvania Public Utility Commission (“Commission”) acknowledged receipt of PAWC’s Application.

3. On June 20, 2018, I&E entered its Notice of Appearance in this proceeding. I&E serves as the Commission’s prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Pennsylvania Public Utility Code (“Code”).¹ I&E’s participation in this proceeding is warranted because its outcome will produce a direct and immediate ratemaking

¹ 66 Pa. C.S. §§ 101 *et seq.*, and Commission regulations, 52 Pa. Code §§ 1.1 *et seq.* See *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

determination and because key components of the Code support an investigation into matters of property valuation, which are at issue in this case.

4. On the same date that I&E entered its appearance, the Office of Consumer Advocate (“OCA”) filed a Protest in this proceeding. On June 29, 2018, counsel for Sadsbury filed a Petition to Intervene in the instant proceeding.

5. A Prehearing Conference was held on July 25, 2018, with Administrative Law Judge Darlene D. Heep (“ALJ Heep”) presiding. At the hearing ALJ Heep approved the litigation schedule that was mutually agreed upon by the parties prior to the Prehearing Conference, which, provided for the filing of testimony, hearings and briefs as follows:

Other Parties’ Direct Testimony	July 27, 2018
Rebuttal Testimony	August 8, 2018
Surrebuttal Testimony	August 17, 2018
Evidentiary Hearing	August 22-23, 2018
Main Briefs	September 6, 2018
Reply Briefs	September 14, 2018

6. The Joint Petitioners conducted substantial formal and informal discovery in this proceeding. In accordance with the litigation schedule, various parties served direct, rebuttal, and surrebuttal testimony. Specifically, I&E served the following testimony:

I&E Statement No. 1 – Direct Testimony of Ethan H. Cline

I&E Exhibit No. 1

I&E Statement No. 1-SR – Surrebuttal Testimony of Ethan H. Cline

I&E Exhibit No. 1-SR

7. On August 21, 2018, to facilitate continuation of negotiations, and at the request of all other parties, PAWC's counsel contacted ALJ Heep to request that the hearings on August 22, 2018 be cancelled so that the parties could continue their discussions. Under the request, any necessary evidentiary hearings would commence on August 23, 2018. ALJ Heep granted counsels' request.

8. After continued negotiations, counsel for the parties were successful in reaching a global settlement of all issues in this proceeding. On August 22, 2018, counsel for PAWC informed ALJ Heep a unanimous settlement in-principle had been reached and requested the additional hearing scheduled for August 23, 2018 be cancelled.

II. LEGAL STANDARDS

a. Section 1102 Approval

10. The Code requires that the Commission issue a Certificate of Public Convenience as a prerequisite to offering service, abandoning service and certain property transfers by public utilities or their affiliated interests.² The standards for the issuance of a Certificate of Public Convenience are set forth in Sections 1102 and 1103³ of the Code. A Certificate of Public Convenience shall be granted "only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public."⁴ These provisions have been interpreted by the Pennsylvania Supreme Court in the *City of York v. Pennsylvania Public Utility Commission* for the proposition that to establish that a

² 66 Pa. C.S. § 1102(a).

³ 66 Pa. C.S. § 1103.

⁴ 66 Pa. C.S. § 1103(a).

proposed transaction benefits the public, it must be shown to affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way.⁵ Additionally, pursuant to Section 1103, PAWC must show that it is technically, legally, and financially fit to own and operate the assets it will acquire from Sadsbury.⁶ In addition to assessing fitness, the Commission should consider the benefits and detriments of the transaction “with respect to the impact on all affected parties”⁷ including existing customers. To ensure that a transaction is in the public interest, the Commission may impose conditions on granting a certificate of public convenience as it may deem to be just and reasonable.⁸

b. Legal Standard for Section 1329 Approval

11. Section 1329 of the Public Utility Code is a newly enacted statute which prescribes the process used to determine the fair market value of a municipal utility that is the subject of an acquisition. Section 1329 provides a framework for valuing, for ratemaking purposes, water and wastewater systems that are owned by a municipal corporation or authority that are to be acquired by an investor-owned water or wastewater utility under the Commission’s jurisdiction. It allows the rate base of the municipal system being purchased to be incorporated into the rate base of the purchasing investor-owned utility at the lesser of either the purchase price or the fair market value as

⁵ *City of York v. Pa. PUC*, 449 Pa. 136, 295 A.2d 825, 828 (1972).

⁶ *Seaboard Tank Lines v. Pa. PUC*, 502 A. 2d 762, 764 (Pa. Cmmw. 1985); *Warminster Twp. Mun. Auth. v. Pa. PUC*, 138 A.2d 240, 243 (Pa. Super. 1958).

⁷ *Middletown Twp. v. Pa. P.U.C.*, 482 A.2d 674, 682 (Pa. Commw. 1984).

⁸ 66 Pa. C.S. § 1103(a).

established by the two independent appraisals conducted by two utility valuation experts. Notably, a Commission Order approving a transaction under Section 1329 is permitted to include “[a]dditional conditions of approval.”⁹

c. Legal Standard for Section 507 Approval

12. PAWC’s request to assume enumerated municipal contracts currently held by Sadsbury is subject to review under Section 507 of the Code. Under Section 507, other than contracts to furnish service at tariffed rates, any contract between a public utility and a municipal corporation must be filed with the Commission at least 30 days prior to its effective date to be valid. Upon receipt of the filing, and prior to the effective date of the contracts, the Commission may institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract. If this Commission decides to institute such proceedings, the contracts at issue will not become effective until the Commission grants its approval.

III. TERMS AND CONDITIONS OF SETTLEMENT

13. It is the policy of the Commission to encourage settlements.¹⁰

14. For the reasons discussed herein, I&E maintains that the Settlement meets all the standards necessary to warrant the requisite approvals under Sections 507, 1102, 1103, and 1329 of the Code.

15. The signatories to the Joint Petition actively participated in and vigorously represented their respective positions during the settlement process. As such, the issues

⁹ 66 Pa. C.S. § 1329 (d)(3)(ii); Aqua/New Garden Section 1329 Case, Docket No. A-2016-2580061, p. 69 (Order entered June 29, 2017).

¹⁰ 52 Pa. Code § 5.231.

raised by the Joint Applicants have been satisfactorily resolved through discovery and discussions with the parties and are incorporated in the Joint Petition. I&E represents that the Settlement satisfies all applicable legal standards and results in terms that are preferable to those that may have been achieved at the end of a fully litigated proceeding. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and requests that the following terms be approved by the ALJ and the Commission without modification:

A. APPROVAL OF THE APPLICATION UNDER SECTION 1102 (Joint Petition ¶11)

Subject to all of terms of the Settlement, I&E opines that the Application should be approved and recommends that the Commission should issue PAWC a Certificate of Public Convenience pursuant to 66 Pa. C.S. §1102(a). PAWC's Application requests permission for it to acquire substantially all Sadsbury's assets, properties and rights related to Sadsbury's wastewater collection and treatment system and to obtain the Certificates of Public Convenience necessary for it to begin to offer wastewater service to the public in the Service Area. The Sadsbury assets consist of a sewer collection system with one pump station.¹¹ In total, through this acquisition, PAWC is seeking to provide service to Sadsbury's approximately 998 wastewater customers.¹² The record supports the findings that PAWC is technically, legally, and financially fit to acquire the Township of Sadsbury's wastewater services.

¹¹ PAWC Application, Appendix A-14, St. No. 2, p. 3

¹² PAWC Application, Appendix A-14, St. No. 1, p. 12.

Additionally, pursuant to the terms of this Settlement, PAWC's Application will provide affirmative public benefits. At the outset of this case, I&E recommended that PAWC's Application be approved only upon the conditions that it be required to 1) reconcile all identified errors in the UVE appraisals and provide a revised ratemaking rate base value taking those corrections into account and 2) undertake a cost of service study.¹³ I&E submits that the errors that it identified have been reconciled through the resulting ratemaking rate base reduction resulting in the as-settled ratemaking rate base value of \$8.3 million. Additionally, PAWC has agreed to the cost of service study recommended by I&E, which I&E avers will provide an important tool for parties and the Commission in PAWC's next base rate case, and which will also provide an important protection to PAWC's ratepayers in the future. Accordingly, through this Settlement, I&E's identified concerns have been addressed and I&E opines that PAWC's Application, as modified by the Joint Petition, now meets the requisite standards for approval.

B. TARIFF (Joint Petition ¶ 12)

Pursuant to the Settlement, the Joint Petitioners have agreed that the *pro forma* tariff supplement, which is attached to the Joint Petition as **Appendix A**, shall be permitted to become effective immediately upon closing of the transaction. The Joint Petitioners support the *pro forma* tariff supplement, under which Sadsbury's current rates would be initially adopted. Accordingly, the *pro forma* tariff will accurately include all

¹³ I&E St. No. 1, p. 6.

rates, rules, and regulations regarding the conditions of PAWC’s wastewater service, and this full and accurate disclosure of rates is in the public interest.

C. FAIR MARKET VALUE FOR RATEMAKING RATE BASE PURPOSES (Joint Petition ¶¶ 13-14)

1. Rate Base Value

At the outset of this case, PAWC requested that the ratemaking rate base value of Sadsbury’s assets be established at \$9.25 million.¹⁴ The \$9.25 figure represented the negotiated purchase price between PAWC and Sadsbury.¹⁵ However, the \$9.25 million figure also coincidentally represented the average of the UVEs’ appraisals of the Sadsbury system.¹⁶ Specifically, the appraisals were presented as follows: (1) an appraisal performed on behalf of PAWC 12 by Jerome C. Weinert, P.E., Principal and Director for AUS Consultants, Inc. (“AUS appraisal”) valuing the Sadsbury assets at \$8.91 million as of January 1, 2017¹⁷ and (2) an appraisal performed on behalf of Sadsbury by Adrienne M. Vicari, P.E., Practice Area Leader, Financial Services, for Herbert, Rowland, and Grubic, Inc. (“HRG appraisal”) valued the Sadsbury assets at \$9,590,000 as of December 31, 2016.¹⁸

As discussed earlier, for ratemaking purposes, Section 1329 establishes that the ratemaking rate base of the acquired property will be the *lesser* of the fair market value or the negotiated purchase price. Therefore, as I&E witness Cline pointed out, any errors

¹⁴ PAWC St. No. 1, p. 10; PAWC Application Ex. A-11.

¹⁵ Id.

¹⁶ Id.

¹⁷ PAWC St. No. 4, p.19.

¹⁸ PAWC Application, Ex. 5, HRG Appraisal, p. 1

and inconsistencies contained in the UVEs' appraisals would have an important impact in this proceeding.¹⁹ Specifically, if the correction of any errors by either or both of the UVEs' appraisals of the Sadsbury system resulted in a decreased valuation, by any amount, the ratemaking rate base value of the Sadsbury system must also decrease.²⁰ In this case, as addressed more specifically below, I&E witness Cline identified errors in each UVEs appraisals that warranted an adjustment downward and would therefore decrease the ratemaking rate base value of the Sadsbury assets.

More specifically, witness Cline noted that while each UVE's market approach analysis relied upon PAWC's 2017 purchase of the Municipal Authority of McKeesport's ("MACM") wastewater assets as a comparable transaction,²¹ each UVE listed an incorrect purchase price for the MACM transaction. The MACM purchase price memorialized in the Commission's Final Order was \$159 million;²² however, PAWC's UVE incorrectly listed the MACM purchase price as \$162 million²³ and Sadsbury's UVE incorrectly listed it as \$190.13 million.²⁴ Although PAWC's UVE, witness Weinert, did not quantify the correction of his error, Sadsbury UVE, witness Vicari determined that correction of her error would reduce HRG's market value from \$11,320,000 to

¹⁹ I&E St. No. 1, p. 10.

²⁰ Id. at 11.

²¹ *Application of Pennsylvania-American Water Company-Wastewater Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of the Municipal Authority of the City of McKeesport*, Docket No. A-2017-2606103 ("PAWC/MACM Section 1329 Proceeding").

²² PAWC/MACM Section 1329 Proceeding, Order, p. 2 (October 26, 2017).

²³ PAWC Application, A-5, AUS Appraisal, p. 29.

²⁴ PAWC Application, A-5, HRG Appraisal, Sch. D.

\$10,860,000 and would reduce the overall average of fair value approaches in this case from \$9,590,000 to \$9,440,000.²⁵

Although Ms. Vicari did not deem the correction of her error consequential enough to warrant a correction, by her own admission, correction of the error directly resulted in a decrease to the ratemaking rate base in this case.²⁶ Similarly, although PAWC's appraiser did not respond to I&E testimony regarding his error, and although his error is likely to have only a fraction of the impact that Ms. Vicari's error imposed, it is nonetheless imperative that it be addressed.²⁷ I&E submits that recognition and correction of these errors are important when PAWC's ratepayers must shoulder the burden of this acquisition and they should not be forced to pay inflated costs resulting from an artificially inflated ratemaking rate base value. On the contrary, ratepayers are entitled to depend upon the parties and the Commission to ensure that Section 1329 valuations are conducted accurately and in accordance with applicable law and standards.

Additionally, I&E witness Cline identified an issue whereby PAWC's appraisal completed by witness Weinert assigned a value of \$638,756 for three undedicated wastewater collection systems that Sadsbury is seeking to transfer to PAWC.²⁸ The amounts and corresponding properties at issue include \$255,638 for a wastewater collection system with the Bellaire Business Center Phases 1A and 1B, \$104,074 for a

²⁵ I&E Ex. No. 1, Sch. No. 1.

²⁶ Id.

²⁷ As explained above, the purchase price value that Mr. Weinert used for the MACM assets, \$162 million, was far closer to the actual purchase price of \$159 million than the \$190 million that Ms. Vicari relied upon; thus, a correction of his error would result in a smaller adjustment than the \$150,000 resulting from the correction of Ms. Vicari's error.

²⁸ I&E St. No. 1, p.12.

wastewater collection system within the Meetinghouse Properties, LLC Development, and \$279,044 for a wastewater collection system within the Sadsbury Park Development.²⁹ In his direct testimony, I&E witness Cline explained that because the three wastewater systems identified have not yet been dedicated to Sadsbury, the Township cannot officially claim ownership of them or transfer them to PAWC.³⁰ Additionally, at the outset of this case, there was no indication or guarantee of when these systems will be dedicated and available for transfer. For these reasons, I&E objected to PAWC's inclusion of \$638,756 in its total \$9,250,000 purchase price/ratemaking rate base for Sadsbury's wastewater system.³¹

Importantly, the concerns that I&E has identified regarding UVE errors and valuation of undedicated assets have been addressed through the instant Settlement. Specifically, the Settlement adopts a ratemaking rate base value of \$8.3 million for the Sadsbury assets, which represents a \$950,000 decrease from the value identified in PAWC's Application. Accordingly, I&E avers that the Settlement is in the public interest because the ratemaking rate base value has decreased to an extent that remediates the impact of identified errors in both PAWC and Sadsbury's fair market valuations. Attempting to account for and correct any errors in the fair market valuations in this case is in the public interest because once established in this case, the ratemaking rate base determination will have real and measurable consequences for ratepayers.

²⁹ I&E Ex. No. 1, Sch. 4.

³⁰ I&E St. No. 1, p. 13.

³¹ Id.

Pursuant to the Settlement, PAWC will be permitted to use \$8.3 million for ratemaking rate base purposes for the acquired assets. The \$8.3 million figure represents the lower of PAWC and Sadsbury's negotiated purchase price, and the average of two fair market value appraisals completed by each of these parties' UVEs.

2. Adjustments

While the Settlement provides that the Joint Petitioners reserve their right to present adjustments and oppose adjustments to appraisals in future cases, the Settlement also reflects the Joint Petitioners' recommendation that the Commission accept certain adjustments relative the appraisals in this proceeding. I&E supports these recommendations as they protect the public interest by ensuring that fair market value appraisal results are not artificially increased.

The Settlement also provides for certain adjustments that are explicitly accepted by the Parties including adjustments for the market, income, and cost approaches. Although not specifically addressed in I&E's case, I&E nonetheless supports these adjustments for several reasons. First, parties have agreed to the following terms regarding UVEs' use of the Market Approach:

(a) Market Approach:

(i) If "comparable acquisitions" are used as a factor in determining market value, the purchase price for each "comparable acquisition" for non-Section 1329 acquisitions shall be based on the actual amount paid for the assets at the time of purchase and future capital improvements shall not be included.

(ii) Comparable sales used to establish the valuation may not be limited to those that the UVE previously appraised.

- (iii) The “net book financials” multiplier shall not be used in the market approach.

I&E’s assent to these terms is predicated upon its review of the Uniform Standards of Professional Standard Appraisal Practice (“USPAP”) and its determination that the terms are consistent with USPAP’s guidance regarding the use of comparable values in fair market appraisals.

Additionally, I&E agrees with the following terms referenced below, as these comport with the outcome of prior Section 1329 proceedings before the Commission and therefore provide a degree of consistency and guidance for UVE appraisals:

- (b) Income Approach: The rate base/rate of return methodology is not an appropriate analysis for the appraisal.
- (c) The “Going Value” and “Provision for Erosion on Return” add-ons will not be adopted or included in the appraisals.
- (d) Cost Approach:
 - (i) The overhead cost add-on will not be adopted or included in the appraisals.
 - (ii) If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

D. RATES (Joint Petition ¶¶ 15-16)

1. Cost of Service Studies

Pursuant to the Settlement, at the time of its next base rate case, PAWC has agreed to submit a cost of service study that removes all costs and revenues associated with the

operations of the Sadsbury system. PAWC also agrees to provide a separate cost of service study for the Sadsbury system at the time of the filing of PAWC's next base rate case. I&E fully supports this term which is consistent with its recommendation in this proceeding.

At the outset of this case, although PAWC indicated its intent to adopt Sadsbury's rates until its next base rate case, PAWC had no knowledge of the basis for Sadsbury's rates other than that they were memorialized in a Township ordinance.³² As I&E witness Cline explained, the fact that Sadsbury's rates could not be tied to the actual cost of serving its customers implicated a need for PAWC to perform a cost of service study.³³ A cost of service study for the Sadsbury system separates costs, capital, and operating expenses of providing wastewater service to the Sadsbury customers as a standalone rate group. As witness Cline explained, the cost of service study would be beneficial because it would: (1) determine the true cost of operating the Sadsbury system separately; (2) allow for separation of the costs between the utility's different customer classes; (3) determine if present rates in total and by class are sufficient; (4) attribute costs to the utility's different customer classes; (5) serve as a guide for how costs should be recovered from the utility's different classes; and (6) determine the amount of any subsidy from water customers.³⁴

I&E avers that PAWC's commitment to providing the requested cost of service study is in the public interest. Aside from the enumerated benefits of the study that are

³² I&E St. No. 1, p. 14; I&E Ex. No. 1, Sch. 3.

³³ I&E St. No. 1, pp. 13-14.

³⁴ I&E at pp. 14-15.

listed above, the cost of service study will protect PAWC, its customers, the parties to this proceeding and the Commission. Specifically, because PAWC acknowledges that it is unsure of the basis for Sadsbury's existing rates, the results of the cost of service study it has committed to perform will provide it with information necessary to determine an appropriate level of rates in the future. The cost of service study will benefit PAWC's ratepayers as well, because if PAWC's Application is approved, PAWC's existing customers will bear the rate impact. However, without a cost of service study, the Commission's ability to evaluate the rate impact of the acquisition upon existing PAWC customers and its options of addressing that impact to provide any appropriate relief to existing customers, could be compromised.³⁵ In this case, the cost of service study for the Sadsbury system would help the Commission determine Sadsbury's revenue requirement to provide service to its different customer classes, and extend rate making options that may not exist without such a study.

As witness Cline explained, requiring PAWC to provide this cost of service study would ensure that in a future rate case, the Commission is provided with a tool to determine the cost to operate the Sadsbury system separately and to calculate the costs of the Sadsbury's services. Finally, as witness Cline pointed out, the cost of service study becomes essential when rate subsidization is at issue:

A cost of service study can establish the existence and extent of subsidization (inter and intra-class) and assist in determining the appropriate amount of revenue requirement that is reasonable to be shifted from the wastewater customers to the water customers, which PAWC has utilized in past base

³⁵ I&E St. No. 1, p. 15.

rate cases. Therefore, without the cost of service study that identifies Sadsbury's costs, the appropriate ratemaking recommendations for those costs cannot be proposed or implemented.³⁶

Absent the cost of service study, the Commission's ability to evaluate any cost spreading from the perspective of cost causation would be compromised, but pursuant to the settlement, the study will be available to preserve future ratemaking options.

E. LOW INCOME PROGRAM OUTREACH (Joint Petition ¶ 17)

Pursuant to the Settlement, PAWC has agreed that within the first 90 days of its ownership of the System, it will either include a bill insert to Sadsbury-area customers regarding its low-income programs or include this information in a welcome letter to Sadsbury-area customers. In either case, these materials will include a description of the available low-income programs, the eligibility requirements for participation in the programs, and PAWC's contact information.

Although I&E did not take a position on this issue during this proceeding, I&E nonetheless supports this term. Ensuring that low-income customers are aware of available opportunities for financial assistance is in the public interest because will better facilitate these customers' access to wastewater service. Increasing access to wastewater service is consistent with the Code's policy of ensure that service remains available to all customers on reasonable terms and conditions.³⁷

³⁶ I&E St. No. 1, p. 15.

³⁷ 66 Pa. C.S. § 1402(3).

F. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (Joint Petition ¶ 18)

The Joint Petitioners have agreed that consistent with Section 1329, PAWC shall be permitted to collect a distribution system improvement charge (“DSIC”) prior to the first base rate case in which the Sadsbury service area plant-in-service is incorporated into rate base, subject to certain conditions. These conditions are as follows: (1) PAWC’s filing of an amended wastewater long term infrastructure improvement plan (“Amended LTIIIP”) may not re-prioritize other existing commitments in other services areas, (2) the Commission must approve the Amended LTIIIP, which may be modified at its discretion, and (3) after Commission’s approval of the Amended LTIIIP, PAWC must file a compliance tariff supplement which incorporates the Sadsbury area rate zone into its existing DSIC tariff, including all customer safeguards applicable thereto.

I&E took no position regarding PAWC’s request for approval to collect a DSIC as permitted under Section 1329, as this request appeared to simply memorialize PAWC’s intention to employ certain provisions of Section 1329. However, I&E reserves the right to address these issues in future proceedings, including base rate, LTIIIP, and distribution system improvement charge proceedings, when additional information and facts are available and when these issues are ripe for review. While I&E still reserves its rights, I&E nevertheless opines that this term serves the public interest because PAWC has agreed that existing commitments will not be re-prioritized as a result of this term. With this in mind, the System customers will benefit from improved wastewater infrastructure, promoting safer and more reliable service. At the same time, the improvements already

identified and planned for existing PAWC ratepayers will not be jeopardized by PAWC's commitment to Sadsbury. Therefore, I&E opines that this term is in the public interest.

G. ACCRUAL OF ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION (Joint Petition ¶ 19)

Through the Settlement, the Joint Petitioners acknowledge that PAWC's Application includes a request to accrue allowance for funds used during construction ("AFUDC") for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. Although the Joint Petitioners agree that they will not contest this request in this proceeding, they reserve their rights to litigate their positions fully in future rate cases. I&E endorses this term because while it enables PAWC to memorialize its intent to employ certain provisions of Section 1329, it also empowers parties to review PAWC's proposal in a future base rate case. Preserving the ability to litigate the proposed AFUDC treatment protects the public interest by ensuring that interested parties are not hindered in developing a full and complete record for the Commission on this issue when additional information is available and ratemaking issues are ripe for determination

H. DEFERRAL OF DEPRECIATION FOR POST-ACQUISITION IMPROVMENTS (Joint Petition ¶ 20)

Like the above term, the Joint Petitioners acknowledge that PAWC's Application requests permission to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. Although the Joint Petitioners agree that they will not contest this request in this proceeding, they reserve their rights to litigate their positions fully in future rate cases. I&E endorses this term

because while it enables PAWC to memorialize its intent to employ certain provisions of Section 1329, it also empowers parties to review PAWC's proposal in a future base rate case. Preserving the ability to litigate the proposal to defer depreciation for post-acquisition improvements protects the public interest by ensuring that interested parties are not hindered in developing a full and complete record for the Commission on this issue when additional information is available and ratemaking issues are ripe for determination

I. APPROVAL OF SECTION 507 AGREEMENTS (Joint Petition ¶ 21)

Pursuant to the Settlement, the Joint Petitioners agree that the Commission should issue Certificates of filing or approvals, for the underlying Asset Purchase Agreement and for the enumerated municipal agreements appearing in Paragraph 21 of the Settlement. I&E recommends that the Commission approve all the enumerated contracts under Section 507 of the Code.

IV. CONCLUSION

16. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

17. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation if the

Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the instant proceeding.

18. If the ALJ recommends that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E has not waived its right to file Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the ALJ in her Recommended Decision. I&E also reserves the right to file Reply Exceptions to any Exceptions that may be filed.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge Darlene D. Heep and that the Commission approve the terms and conditions contained in the foregoing Joint Petition for Approval of Settlement of All Issues without modification.

Respectfully submitted,



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Dated: September 14, 2018

APPENDIX H

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania- :
American Water Company Pursuant to :
Sections 1102 and 1329 of the Public Utility :
Code for Approval of its Acquisition of the : Docket No. A-2018-3002437
Wastewater System Assets of The Township :
of Sadsbury :

OCA STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL
OF SETTLEMENT OF ALL ISSUES

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Approval of Settlement of All Issues (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission).

I. INTRODUCTION

On June 1 2018, Pennsylvania American Water Company - Wastewater (PAWC or Company) filed an Application pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Sadsbury Township, Chester County. The Commission acknowledged receipt of the Application by Secretarial Letter dated June 19, 2018. On June 20, 2018, the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance. On June 20, 2018 the Office of Consumer Advocate (OCA) filed a Protest and Public Statement. On June 27, 2018, the presiding Administrative Law Judge issued a Prehearing Order directing the parties to provide prehearing memoranda by July 24, 2018. Also on June 27, 2018, Sadsbury Township filed a Petition to Intervene. On July 10, 2018,

PAWC, OCA, I&E, and Sadsbury Township executed a Stipulation regarding discovery rule modifications and a Stipulation regarding objections and preserving issues.

A prehearing conference was held on July 25, 2018 at which time a litigation schedule was adopted and the Township's Petition to Intervene was granted. On July 27, 2018, the OCA filed the Direct Testimony of Ashley E. Everette (OCA Statement 1) and Glenn Watkins (OCA Statement 2). PAWC and Sadsbury filed rebuttal testimony of witnesses Weinert and Vicari on August 8, 2018. OCA filed Surrebuttal testimony of Ms. Everette and Mr. Watkins on August 17, 2018.

On August 22, 2018, the parties informed the ALJs that they had reached an agreement in principle on all issues.

II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The terms of the proposed Settlement address matters raised by the OCA in its testimony: transaction and closing costs, the application of the Distribution System Improvement Charge (DSIC), the rate impact for existing PAWC wastewater customers, existing PAWC water customers and the acquired customers, and the agreed upon adjustments to the appraisals, as follows:

1. Ratemaking Rate Base, Settlement ¶13. As part of this proceeding, PAWC sought to establish the ratemaking rate base for this acquisition pursuant to Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329. Based on appraisals presented by PAWC and Sadsbury Township, PAWC sought a ratemaking rate base of \$9,250,000, which was the price PAWC agreed to pay for the Sadsbury wastewater system. The OCA's recommended adjustments to the appraisals resulted in an average appraisal amount of \$7,116,395 St. 1SR at 15. The parties have agreed in the Settlement that the ratemaking

rate base should be \$8,300,000. Settlement ¶ 13. This number represents a compromise of the parties' positions and, in the OCA's judgement, represents a result that is within the range of likely outcomes if the case were fully litigated. This provides some mitigation of the rate impact of the transaction for existing PAWC customers and the acquired Sadsbury Township customers by reducing overall costs.

2. Appraisal Adjustments ¶14. The OCA witnesses challenged the Utility Valuation Expert (UVE) appraisals presented by PAWC and Sadsbury Township, identifying numerous errors and the use of assumptions and adjustments that were inconsistent with financial and utility ratemaking practices. OCA St. 1 at 5-35; OCA St. 1SR at 3-14; OCA St. 2 at 5-25; OCA St. 2SR at 1-15. The OCA's witnesses recommended corrective adjustments. The proposed Settlement reflects the Parties' explicit acceptance of the following adjustments. These adjustments are:

(a) Market Approach:

- i. If "comparable acquisitions" are used as a factor in determining market value, the purchase price for each "comparable acquisition" for non-Section 1329 acquisitions shall be based on the actual amount paid for the assets at the time of purchase and future capital improvements shall not be included.
- ii. Comparable sales used to establish the valuation should not be limited to those that the UVE previously appraised.
- iii. The "net book financials" multiplier shall not be used in the market approach.

(b) Income Approach: The rate base/rate of return methodology is not an appropriate analysis for the appraisal.

(c) The "Going Value" and "Provision for Erosion on Return" add-ons will not be adopted or included in the appraisals.

(d) Cost Approach:

(i) The overhead cost add-on will not be adopted or included in the appraisals.

(ii) If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

These adjustments reflect accepted financial and ratemaking principles and help to improve the reliability of data used in appraisals and the integrity of the result. PAWC and the OCA reserve the right to present adjustments and oppose other methodologies, inputs and assumptions in appraisals in future cases and proceedings, including methodologies, inputs and assumptions that were present in this case but not challenged by the OCA or that were accepted by the Commission. Settlement ¶ 14.

3. Cost of Service Study and Rate Case Submission, Settlement ¶¶16. In this proceeding, the OCA identified the need for a separate cost of service study for the Sadsbury Township system in the first base rate case in which PAWC includes the Township assets in rate base. OCA St. 1 at 14-15. A separate cost of service study will provide information to establish rates that reflect the costs for that system. Id.

The settlement addresses these issues. Paragraph 16 provides that, in its first base rate case following closing in which PAWC includes the Sadsbury Township assets in rate base, PAWC will provide a separate cost of service study for the Sadsbury Township system, which will provide a means for the parties to use the cost of service data to set rates for those customers that differ, as appropriate, from rates established for other wastewater customers. These provisions help to mitigate any cross-subsidization.

4. Distribution System Improvement Charge (DSIC), ¶18. The parties to the proposed Settlement agreed that PAWC may apply the DSIC to customers in the Sadsbury Township service area prior to the first base rate case in which the system's plant in service is incorporated into rate base pursuant to Section 1329(d)(4) if certain conditions are met. In particular, Paragraph 18 states that PAWC will revise its Long Term Infrastructure Improvement Plan (LTIIIP) to include Sadsbury Township and related projects before it begins charging the DSIC to those customers. PAWC agrees that the projects for Sadsbury Township customers are in addition to the projects already included in its approved LTIIIP. This settlement term allows for Sadsbury Township customers to begin contributing, up to 5% of their total wastewater bill, toward DSIC-eligible capital projects and helps to ensure that DSIC investment is not shifted away from PAWC's existing wastewater service areas during the amended LTIIIP period.
5. Allowance for Funds Used During Construction (AFUDC), Deferral of Depreciation and Transaction Costs, Settlement ¶19. Joint Petitioners reserve their rights to litigate future claims for AFUDC, deferral of depreciation on post-acquisition projects pursuant to Section 1329(f), and transaction costs in future rate cases. OCA's assent to this agreement should not be construed to operate as preapproval of PAWC's future requests. This provision preserves all parties' positions in future rate cases.
6. Deferral of Depreciation for Post-Acquisition Improvements, Settlement ¶20. Joint Petitioners reserve their rights to litigate claims in future rate cases that PAWC may make for deferred depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes. This provision preserves all parties' positions in future rate cases.

7. Low Income Program Outreach, Settlement ¶ 17. PAWC has agreed to provide information about PAWC's low-income programs through a bill insert, or as part of its welcome letter to the Sadsbury-area customers within 90 days of the closing of the transaction. The information will describe the available programs, eligibility requirements and contact information for PAWC. The OCA submits that this provision is reasonable and will provide timely information that may be helpful to some of the Sadsbury-area customers.

III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement should be approved.

Respectfully Submitted,



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Dated: September 14, 2018

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