



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

November 5, 2018

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania-American Water Company Supplement No. 6 to Tariff  
Water- Pa. P.U.C. No 5  
Docket No. R-2018-3002502

Pennsylvania-American Water Company- Wastewater Division  
Supplement No. 6 to Tariff Wastewater- Pa. P.U.C. No 16  
Docket No. R-2018-3002504

Dear Secretary Chiavetta:

Enclosed for filing please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Main Brief** in the above-captioned proceeding.

Copies have been served per the attached Certificate of Service. If you have any questions, please contact me at 717-783-7998.

Sincerely,

Allison C. Kaster  
Deputy Chief Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 93176

ACK/smw  
Enclosure

cc: Certificate of Service  
ALJ Marta Guhl

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2018-3002502
	:	
Pennsylvania-American Water	:	
Company- Water Division	:	
Supplement No. 6 to Tariff Water- Pa.	:	
P.U.C. No. 5	:	
	:	
Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2018-3002504
	:	
Pennsylvania-American Water	:	
Company- Wastewater Division	:	
Supplement No. 6 to Tariff Wastewater-	:	
Pa. P.U.C. No. 16	:	

---

**MAIN BRIEF  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

---

Allison C. Kaster  
Deputy Chief Prosecutor  
PA Attorney ID No. 93176

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-7998

Dated: November 5, 2018

TABLE OF CONTENTS

I.	STATEMENT OF THE CASE .....	1
A.	Introduction .....	1
B.	History of the Proceeding .....	2
II.	BURDEN OF PROOF.....	3
III.	SUMMARY OF THE ARGUMENT .....	4
IV.	ARGUMENT .....	6
A.	The Commission has Adopted the Gross-Up Method for Contributions and Advances in the Water and Wastewater Industry .....	6
B.	The Use of the No Gross-Up Method by The York Water Company, the Gas Industry and the New York Public Service Commission Does Not Support Approval of Supplement No. 6. ....	9
1.	The York Water Company’s Use of the No Gross-Up Method is Overstated and is an Anomaly in the Water and Wastewater Industry.....	10
2.	The Use of the No Gross-Up Method in the Gas Industry Fails to Support its use by Water and Wastewater Utilities .....	12
3.	The New York Public Service Commission’s Adoption of the No Gross-Up Method Fails to Support Approval of Supplement No. 6 .....	16
C.	The No Gross-Up Method Results in Unjust and Unreasonable Rates .....	17
D.	The Alleged Benefits to Existing PAWC Ratepayers are Unsupported.....	21
1.	PAWC Fails to Demonstrate that New Customers Will Be Added if Supplement No. 6 is Approved .....	21
2.	PBA’s Vague Claims About Economic Development Fail to Justify Approval of Supplement No. 6 .....	23
E.	Capacity Reservation Fees are CIAC and Must Also Follow the Gross-up Method .....	25
V.	CONCLUSION .....	28

**TABLE OF CITATIONS**

**Cases**

*Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, Docket No. I-880083 (Order entered June 14, 1989); *see*, I&E Exh. No. 1, Sch. 1 ..... 7

*Pa. PUC v. Pennsylvania-American Water Company*, Docket No. P-890376 (Order entered November 3, 1989) ..... 3

*Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990) ..... 3

*Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950) ..... 3

*Tax Cuts and Jobs Act of 2017 Temporary Rates Order*, Docket No. M-2018-2641242, p. 15 (Order entered May 17, 2018) ..... 26

**Statutes**

66 Pa. C.S. § 332(a) ..... 3

66 Pa. C.S. § 1301 ..... 3

## **I. STATEMENT OF THE CASE**

### **A. Introduction**

Pennsylvania American Water Company (“PAWC” or “Company”) filed Supplement No. 6 to Tariff Water- Pa. P.U.C. No. 5 and Supplement No. 6. to Tariff Wastewater– Pa. P.U.C. No. 16 (collectively, “Supplement No. 6”) to memorialize how customer contributions, customer advances and certain customer deposits (collectively, “Contributions and Advances”) will be calculated as they are now taxable due to the recent Tax Cuts and Jobs Act (“TCJA”). Supplement No. 6 contains the “no gross-up” method to calculate Contributions and Advances, which allows it to segregate income taxes paid on Contributions and Advances into a deferred account and include those taxes in rate base in a future base rate proceeding. Under PAWC’s proposed method, the contributor of the capital is not charged the income tax; instead, those costs will be recovered from existing PAWC customers. I&E opposes Supplement No. 6 because it does not comply with the longstanding, industry standard that water and wastewater utilities utilize the gross-up method, which requires the contributor to bear the total cost including the income tax associated with the deposit, advance or contribution. The cost shifting to existing customers under PAWC’s no gross-up method proposed in Supplement No. 6 results in unjust and unreasonable rates; therefore, Supplement No. 6 should be rejected and PAWC should file a tariff supplement utilizing the gross-up methodology for Contributions and Advances.

## **B. History of the Proceeding**

PAWC filed Supplement No. 6 on June 5, 2018, to become effective August 4, 2018. Supplement No. 6 proposed the addition of Rule and Regulation Section W – Taxes on Deposits for Construction, Customer Advances and Contributions in Aid of Construction, which would allow it to segregate income taxes paid on Contributions and Advances into a deferred account and include those taxes in rate base in a future base rate proceeding.

I&E filed a Formal Complaint on July 24, 2018, docketed at Docket Nos. C-2018-3003600 and C-2018-3003601, requesting that the Company's proposed methodology be rejected or, in the alternative, that Supplement No. 6 be referred to the Office of Administrative Law Judge for full evidentiary hearings to examine its reasonableness.

On July 25, 2018, the Office of Consumer Advocate filed a Notice of Intervention and Public Statement and the Office of Small Business Advocate filed a Notice of Intervention on August 14, 2018. The Pennsylvania Builders Association ("PBA") filed a Petition to Intervene on August 17, 2018.

By Order dated August 2, 2018, the Commission suspended the proceedings until February 4, 2019 and sent the matter to the Office of Administrative Law Judge for evidentiary hearings. A telephonic Prehearing Conference was held on August 29, 2018, with Administrative Law Judge Marta Guhl ("ALJ") presiding. A litigation schedule was developed and, in accordance with that schedule, I&E served the following testimony:

- I&E Statement No. 1, I&E Exhibit No. 1: Direct Testimony and Exhibit of Brenton Grab
- I&E Statement No. 1-R: Rebuttal Testimony of Brenton Grab
- I&E Statement No. 1-SR: Surrebuttal Testimony of Brenton Grab

Pursuant to the procedural schedule and in accordance with Commission regulations at Section § 5.501, I&E submits this Main Brief.

## II. BURDEN OF PROOF

The Public Utility Code (“Code”) mandates that the party seeking affirmative relief from the Commission bears the burden of proof.<sup>1</sup> To satisfy that burden, there is a duty to demonstrate by a preponderance of the evidence that the proposed transaction complies with Pennsylvania law.<sup>2</sup> A preponderance of the evidence is such evidence that is more convincing, by even the smallest amount, than that presented by another party.<sup>3</sup>

As the party seeking approval of Supplement No. 6, PAWC has the burden of proving that the proposed no gross-up method will result in just and reasonable rates for its customers as required by Section 1301 of the Code.<sup>4</sup> I&E submits that PAWC has failed to satisfy this burden because shifting the financial burden from contributors and new customers to existing PAWC customers will result in unjust and unreasonable rates.

---

<sup>1</sup> 66 Pa. C.S. § 332(a).

<sup>2</sup> *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

<sup>3</sup> *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

<sup>4</sup> 66 Pa. C.S. § 1301.

### III. SUMMARY OF THE ARGUMENT

The fundamental issue is whether PAWC's rates will comport with the just and reasonable requirement if its current customers are required to pay the tax for contributions in aid of construction ("CIAC") and customer advances for construction ("CAC") to subsidize new customers. The Commission thoroughly analyzed this issue when CIAC and CAC became taxable approximately thirty years ago and made it clear that the financial burden should remain on new customers, not shifted to existing water and wastewater ratepayers. This is the exact opposite of what is proposed in Supplement No. 6 as PAWC's proposed no gross-up method shifts the CIAC and CAC tax responsibility into rate base to be paid by existing customers.

In the late 1980s, the Commission articulated the general rule that such costs should be assigned to the developers or new customers through the gross-up method. The Commission correctly recognized that the increased tax cost related to water and wastewater plant that will be used solely to provide utility services to developers and future potential clients should generally rest with the developer and eventually the new lot owners. The Commission determined that existing water and wastewater customers have no vested interest in such a contribution and would not benefit from it; therefore, they should not be responsible for the related income taxes.

Thirty years later PAWC and PBA argue that the no gross-up method proposed in Supplement No. 6 should be approved by making vague allegations that existing customers benefit from adding new customers to the system and that main extensions provide general economic benefits to all customers. However, those parties failed to

provide persuasive evidence that requiring developers and new customers to pay the CIAC and CAC income tax is a deterrent to growing PAWC's customer base or the economy in PAWC's service territory. PBA's threat that developers will simply drill wells and septic systems rather than connect to public water and wastewater utilities if required to pay the tax is not realistic or supported by the record. Similarly, PBA's contention that approving Supplement No. 6 will support general economic development is not a reason to abandon the Public Utility Code's mandate that rates must be just and reasonable.

While I&E does not agree that the Commission's longstanding reliance on the gross-up method in the water and wastewater industry should be abandoned as proposed in Supplement No. 6, I&E acknowledges that the Commission retained flexibility to use the no gross-up method when warranted. Specifically, in its order addressing this issue thirty years ago, the Commission recognized that the no gross-up method may be appropriate in "special circumstances," such as demonstrating that the new project will upgrade facilities that benefit current customers or where extensions provide a "public good" that benefits the existing community at large. Therefore, under the Commission's existing policy, PAWC and the PBA can already seek Commission approval to use the no gross-up method if they can demonstrate that a "special circumstance" exists. General allegations of customer benefits through growth of PAWC's system and economic development are not a "special circumstance" that justifies wholesale abandonment of the gross-up method. Absent a showing of "special circumstances," the Commission's general rule that such costs should not be passed to existing ratepayers remains sound.

The fact is simply that developers do not want to pay the tax associated with their water and wastewater projects and want this cost to be subsidized by existing PAWC customers. Doing so will disrupt the industry-wide standard that currently insulates water and wastewater customers from these costs and will result in unjust and unreasonable rates. Accordingly, the cost shifting proposed in Supplement No. 6 should be rejected and PAWC should be required to continue to use the gross-up method.

#### IV. ARGUMENT

##### **A. The Commission has Adopted the Gross-Up Method for Contributions and Advances in the Water and Wastewater Industry**

The Commission undertook a comprehensive review of who should bear the added costs associated with the taxable status of CIAC and CAC in the late 1980s and determined that developers or new customers should be responsible for those costs rather be subsidized by existing water and wastewater customers. The Company has failed to demonstrate why the Commission should reverse this long-standing position and approve the no gross-up method as requested in Supplement No. 6.

Prior to the Tax Reform Act of 1986 CIAC and CAC were not taxable so cost recovery was not an issue. However, under the Tax Reform Act of 1986, CIAC and CAC became taxable and I&E's predecessor, the Office of Trial Staff ("OTS"), filed a Petition requesting that an Investigation be initiated to address the appropriate accounting and ratemaking treatment of CIAC and CAC. In response to the OTS Petition the Commission initiated an *Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, at Docket No. I-880083,

and named all jurisdictional fixed utilities as respondents.<sup>5</sup> Six different ratemaking methods for CIAC and two for CAC were investigated. OTS supported only those methods that did not change the revenue requirement because OTS argued that existing ratepayers should not be required to subsidize the construction of new plant for new customers and developers.

By Order entered June 1, 1989 (“Investigation Order” or “TRA-86 Order”),<sup>6</sup> the Commission addressed this issue on an industry-by-industry basis and adopted the gross-up method for water and wastewater utilities stating, “a ‘gross-up’ methodology is more appropriate. The contributor bears the total cost, including taxes of the plant because he also will reap its full benefit.”<sup>7</sup> The Commission further opined:

Logic would dictate that where a contributor is a developer who may pass costs on to lot purchasers and all of the dollars contributed are committed to plant that will be used solely to provide utility services to that developer and his future potential clients, the increased tax cost should generally rest with the developer and eventually the new lot owners. Current customers would have no vested interest in such a contribution and would not benefit from it. As such, they should not be responsible for the related income taxes.<sup>8</sup>

Accordingly, at the conclusion of the Investigation the Commission ordered all jurisdictional water and wastewater utilities to file the appropriate tariff supplements necessary to employ a gross-up method.

---

<sup>5</sup> TRA-86 Order, p. 5.

<sup>6</sup> *Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, Docket No. I-880083 (Order entered June 14, 1989); see, I&E Exh. No. 1, Sch. 1.

<sup>7</sup> TRA-86 Order, p. 25.

<sup>8</sup> TRA-86 Order, p. 22.

Soon after the Commission's Investigation Order, PAWC filed a Petition requesting permission to deviate from the gross-up methodology for construction made by political subdivisions or other governmental entities.<sup>9</sup> PAWC argued that requiring political subdivisions and governmental entities to pay the Federal Income Tax is contrary to public policy and that it is not in the public interest to require the gross-up method where the contributor is a political subdivision or other governmental entity.<sup>10</sup> The Commission agreed, stating "In the Opinion and Order [of June 14, 1989] we recognized that there are 'special circumstances' where there may be room for a sharing of additional tax costs, even though the new plant is not directly used to the benefit of existing ratepayers."<sup>11</sup>

In the decade after Contributions and Advances became taxable, water and wastewater ratepayers did not subsidize contributors because pursuant to the TRA-86 Order those utilities were required to utilize the gross-up method and, only upon demonstrating "special circumstances," were permitted to deviate from that method. However, The Small Business Job Protection Act of 1996 restored the taxable exclusion for CIAC and CAC so developers and new customers no longer had to pay the income tax. This exclusion was recently eliminated by the TCJA, which mandates that CIAC and CAC be taxable to water and wastewater utilities. While the taxable status of Contributions and Advances in the water and wastewater industries has flip-flopped, the

---

<sup>9</sup> *Pa. PUC v. Pennsylvania-American Water Company*, Docket No. P-890376 (Order entered November 3, 1989).

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 2.

issue of who pays has not changed. The Commission thoroughly analyzed this issue in the TRA-86 Order and approved the gross-up method for all jurisdictional water and wastewater utilities because it correctly determined that current customers should not be required to subsidize new customers. Now that CIAC and CAC are once again taxable under the TCJA, water and wastewater ratepayers should continue to be insulated from these costs. The taxable status of Contributions and Advances changed under the TCJA but the fundamental principle that the contributor, not current water and wastewater customers, should bear the cost remains sound.

**B. The Use of the No Gross-Up Method by The York Water Company, the Gas Industry and the New York Public Service Commission Does Not Support Approval of Supplement No. 6.**

The Company and PBA point to use of the no gross-up method by The York Water Company (“York Water”), jurisdictional gas utilities and the New York Public Service Commission (“NY PSC”) to support PAWC’s implementation of Supplement No. 6. Each will be addressed individually below, but these examples on the whole fail to support PAWC’s request to disrupt the industry-wide use of the gross-up method that currently exists. The need for consistency and uniformity was one of the reasons that OTS requested an Investigation of this issue in the 1980s because it was not appropriate for neighboring water and wastewater utilities to employ different accounting methodologies. The Commission agreed and recognized the importance of uniformity with respect to the treatment of CIAC and CAC stating, “some degree of consistency and uniformity must be established with regard to this issue in order to maintain fairness in

setting utility rates.”<sup>12</sup> Uniformity was established through the Investigation because the Commission articulated the appropriate methodology on an industry-by-industry basis, which has been in place since the Commission’s Order was entered in 1989. Since that time, water and wastewater utilities, with the exception of York Water addressed below, have employed the gross-up method. Approving PAWC’s Supplement No. 6 will disrupt that uniformity.

**1. The York Water Company’s Use of the No Gross-Up Method is Overstated and is an Anomaly in the Water and Wastewater Industry**

PAWC points to York Water in support for approval of Supplement No. 6.<sup>13</sup>

Reliance on this one outlier as support for approval of Supplement No. 6 rings hollow given that York Water, along with the rest of the water and wastewater industry, followed the gross-up method as directed by the Commission in the TRA-86 Order when CIAC and CAC were taxable.

Reliance on York Water is misplaced because York Water correctly utilized the gross-up method during the period that Contributions and Advances were taxable between the TRA-86 Order and when the taxable exclusion was restored in the Small Business Job Protection Act of 1996. In fact, York Water implemented a gross-up methodology prior to the entry of the TRA-86 Order.<sup>14</sup> This is evidenced by the fact that the TRA-86 Order addressed York Water and noted that it had already filed a tariff supplement recognizing the gross-up method to charge developers for taxes related to

---

<sup>12</sup> TRA-86 Order, p. 23.

<sup>13</sup> PAWC St. No. 1, 6.

<sup>14</sup> I&E Ex. No. 1, Sch. 1, p. 9, 14.

CIAC and CAC. I&E witness Brenton Grab testified that York Water only switched to the no gross-up method in 1996 when CIAC and CAC were no longer taxable:

York Water's no gross-up method was approved in conjunction with the 1996 waiver of the inclusion of CIAC in taxable income, pursuant to which, the Commission directed water companies to eliminate the tax gross-up charge in company tariffs. Prior to that point, all water companies utilized the gross-up method as specified in the TRA-86 Order."<sup>15</sup>

Accordingly, PAWC's reliance on York Water is overstated given that when CIAC and CAC were taxable, those costs were appropriately paid by new customers and not shifted to existing ratepayers in York Water's service territory.

However, now that CIAC and CAC are again taxable, the fact that York Water obtained Commission approval to use the no gross-up method must be addressed. York Water is currently an outlier, which highlights the importance of consistency in the water and wastewater industry now that CIAC and CAC are once again taxable under the TCJA. As stated above, the Commission recognized the importance of uniformity within each utility industry with respect to the treatment of CIAC and CAC stating, "some degree of consistency and uniformity must be established with regard to this issue in order to maintain fairness in setting utility rates."<sup>16</sup> The need for uniformity is illustrated by PBA witness Mr. Durden's testimony that developers will move outside of PAWC's territory to other areas, such as York Water's service territory, if PAWC's proposed

---

<sup>15</sup> I&E St. No. 1, p. 11.

<sup>16</sup> TRA-86 Order, p. 23.

Supplement No. 6 is not approved.<sup>17</sup> This type of territory shopping will not occur if all jurisdictional water and wastewater utilities utilize the same accounting methodology. York Water is currently an anomaly, but that is not a valid reason to further unsettle this issue for all jurisdictional water and wastewater companies. Rather, York Water should be required to follow the industry wide practice and adopt the gross-up method as it previously did when CIAC and CAC were taxable. York Water currently has a pending base rate case, at Docket No. R-2018-3000019, where this issue is being addressed as I&E believes that the Commission's goal to ensure uniformity in the water and wastewater industry through use of the gross-up method remains sound.

## **2. The Use of the No Gross-Up Method in the Gas Industry Fails to Support its use by Water and Wastewater Utilities**

In further support of Supplement No. 6, both PAWC and PBA argue that the Commission approved the no gross-up method for gas utilities in the TRA-86 Order and that water and wastewater utilities should be afforded the same treatment.<sup>18</sup> I&E disagrees as the TRA-86 Order made it clear that this issue would be decided on an industry-by-industry basis; therefore, the fact that the TRA-86 Order permitted the no gross-up method for the gas industry fails to support its adoption for PAWC.

As discussed in I&E's testimony,<sup>19</sup> the Commission's TRA-86 Order recognized the need to review this issue on an industry-by-industry basis, which resulted in the

---

<sup>17</sup> PBA St. No. 1-R, p. 4.

<sup>18</sup> PAWC St. No. 1, p. 7; PAWC St. No. 1-R, pp. 2-4; PBA St. No. 1, p. 6.

<sup>19</sup> I&E St. No. 1, p. 7.

Commission adopting the gross-up methodology for water and wastewater utilities and the no gross-up methodology for gas utilities:

Establishing a viable methodology for accounting for CIAC and CAC will be approached on an industry basis. The different utility industries and their customers have varying needs and circumstances that may necessitate methodologies that differ.<sup>20</sup>

The reason the Commission approved the no gross-up method for the gas industry was that gas utilities operate in an energy competitive environment and have the potential to provide a “public benefit” in the form of economic development.<sup>21</sup> However, for water and wastewater utilities, the Commission approved the gross-up method, since the same considerations did not apply.<sup>22</sup> The Commission stated that for the water and wastewater industry “competition within the industry is not as vital a force as it is in the energy-based industries. Economic development, while an important consideration, is not as sensitive to water utility pricing as it is to energy costs.”<sup>23</sup>

PAWC argues that competition is no longer a valid basis to use different methodologies because the competitive aspect of the natural gas industry diminished in 1999 when the jurisdictional Pennsylvania natural gas distribution companies “unbundled” natural gas and no longer sold it as part of a bundled service.<sup>24</sup> However, this fails to recognize that there are still many alternatives to natural gas such as electric, geothermal, wood, propane and oil, that simply do not exist for water and wastewater

---

<sup>20</sup> TRA-86 Order, p. 23

<sup>21</sup> TRA-86 Order, pp. 23-24.

<sup>22</sup> TRA-86 Order, p. 25.

<sup>23</sup> TRA-86 Order, p. 25.

<sup>24</sup> PAWC St. No. 1-R, p. 3.

service.<sup>25</sup> This is especially true given that electricity is standard in nearly all residences and can be used as an alternative to natural gas; therefore, there is still competition in the natural gas industry, whether the natural gas commodity is bundled with other natural gas services or not.<sup>26</sup>

PBA attempts to demonstrate similar competition in the water and wastewater industry by arguing that wells and septic systems are viable alternatives to public water and sewer service.<sup>27</sup> In support, PBA witness Durden indicates that according to the National Association of Home Builders, for new single-family homes in 2017 in the Middle Atlantic Region (PA, NY, and NJ) 15% use wells and 20% use septic systems and that based on his experience and discussions with homebuilders, these alternatives will be considered if the cost of utilizing public water increases due to mandating the gross-up method for PAWC.<sup>28</sup> This argument rings hollow given that only a small percentage of new single-family homes in the Middle Atlantic Region in 2017 were built with wells and septic systems. Connecting to public water and wastewater was overwhelmingly favored since 85% of the single-family homes built in 2017 used public water and 80% of the homes built in 2017 used public wastewater.<sup>29</sup> This reliance on public water and wastewater is for good reason because PBA's argument fails to recognize the significant cost associated with wells and septic systems. Specifically, I&E witness Grab indicated that the average cost to install both a septic system and well is \$20,000 to \$50,000 per

---

<sup>25</sup> I&E St. No. 1, p. 10.

<sup>26</sup> I&E St. No. 1, p. 10.

<sup>27</sup> PBA St. No. 1-R, pp. 2-3.

<sup>28</sup> PBA St. No. 1-R, p. 3.

<sup>29</sup> I&E St. No. 1-SR, p. 7

lot.<sup>30</sup> Additionally, Mr. Grab correctly noted that septic systems and wells potentially impact lot size that may decrease developers' profitability:

While Mr. Durden is quick to identify on lot septic systems and wells as viable economic alternatives, inclusion of both on lot septic and water could have significant impact on the planned lot size due to setback and separation requirements. If lot size doubled due to these on lot options, the developers would have half of the amount of properties to sell and over which to recoup other development costs (roads, sidewalks, electric, cable), which would remain the same due to overall development size. Recouping these other costs over fewer lots would significantly increase cost per lot and ultimately profitability due to reduced lot count.<sup>31</sup>

Although PBA threatens that approval of the gross-up method will cause developers to turn to alternatives, it wholly ignores that those alternatives have significant costs. It is not certain that on lot septic and water options will prove to be the more economic option when balanced against the cost of the public water and sewer services and should not be used to require existing ratepayers to shoulder the tax burden under the no gross-up method.

Moreover, PBA's threat to move to septic systems and wells is undermined by PBA's recognition that these private options pose more environmental and health concerns than public water and wastewater systems.<sup>32</sup> I&E witness Grab correctly argued that developers and new customers may hesitate to install wells and septic systems as these alternatives are perceived to be less safe than taking service from

---

<sup>30</sup> I&E St. No. 1-SR, p. 8.

<sup>31</sup> I&E St. No. 1-SR, p. 9.

<sup>32</sup> PBA St. No. 1-R, p. 3.

PAWC.<sup>33</sup> In short, PBA's argument that developers will construct more private wells and septic systems if it is required to pay the tax associated with CIAC may be oversimplified given these health and safety concerns, which PBA readily acknowledges exist.

### **3. The New York Public Service Commission's Adoption of the No Gross-Up Method Fails to Support Approval of Supplement No. 6**

PAWC further points to the New York Public Service Commission's recent adoption of the no gross-up method for water and wastewater utilities to support its adoption by this Commission.<sup>34</sup> As previously discussed, this Commission prioritized the importance of uniformity within each of the different utility industries stating that, "some degree of consistency and uniformity must be established with regard to this issue in order to maintain fairness in setting utility rates."<sup>35</sup> Changing the established methodology based on decisions made by the NY PSC is inconsistent with these goals, especially since the NY PSC ruling does not similarly prioritize consistency and uniformity within the water industry.

While PAWC argues that the NY PSC recent ruling permits major water utilities to use the no gross-up method, it failed to mention that the ruling also allows water and wastewater utilities to continue to use the gross-up method. Specifically, smaller water utilities were permitted to continue to use the gross-up method and larger utilities were also permitted to utilize the gross-up method if they can show adverse effects under the

---

<sup>33</sup> I&E St. No. 1-SR, p. 7.

<sup>34</sup> PAWC St. No. 1, p. 7; PAWC St. No. 1-R, pp. 4-5.

<sup>35</sup> TRA-86 Order, p. 23.

no gross-up method. The NY PSC also established a \$2.5 million revenue threshold for requiring the no gross-up method to avoid the need for smaller companies to file for a waiver. As a result, the NY PSC now allows water utilities to utilize entirely different methodologies based on their size and revenue, which is inconsistent with the goal of this Commission to establish a uniform methodology within each utility industry.<sup>36</sup> I&E witness Grab correctly observed that this lack of consistency will negatively impact the water and wastewater industry:

If different water and wastewater utilities are allowed to use different methods in Pennsylvania, as water and wastewater utilities are now allowed to do in New York, it will create an unfair advantage for certain companies. In essence, it will create competition in the water and wastewater industry where none previously existed.<sup>37</sup>

This sentiment is echoed by PBA whose witness testified that developers may choose to develop in service territories that are authorized to use the no gross-up method.<sup>38</sup>

Accordingly, PAWC's reliance on the NY PSC ruling fails to support a major shift in the industry practice through approval of Supplement No. 6.

### **C. The No Gross-Up Method Results in Unjust and Unreasonable Rates**

In the TRA-86 Order the Commission was correctly concerned with ensuring just and reasonable rates for utility customers. The Commission opined:

---

<sup>36</sup> I&E St. No. 1, p. 12.

<sup>37</sup> I&E St. No. 1-SR, p. 21.

<sup>38</sup> PBA St. No. 1-R, p. 4.

While we believe that a regulatory agency should not act in such a way as to assume the duties and decision making responsibilities of utility management or board of directors, regulatory bodies are charged with the responsibility to protect the interests of ratepayers by assuring reliable service and reasonable rates. A laissez-faire approach to regulation with regard to this issue will not ensure the accomplishment of those goals. Where the options with respect to a given issue are broad, a regulatory agency must set general policy and guidelines while attempting to retain as much flexibility in setting rates as it can without jeopardizing the interest of ratepayers or effectively bringing financial harm to the utilities it regulates.<sup>39</sup>

In executing this charge, the Commission examined six different methodologies for CIAC and two methodologies for CAC in the TRA-86 Investigation and Order. Three of the proposed CIAC methodologies were consistent with the gross-up methodology, which were identified in the TRA-86 Order as Method 2, Method 2(modified) and Method 5. The Commission found that the gross-up methodology was appropriate for water and wastewater utilities stating that the “contributor bears the total cost, including taxes of the plant because he also will reap its full benefit.”<sup>40</sup> The Commission rejected the no gross-up methodology and recognized that current ratepayers should be insulated from costs arising from CIAC or CAC stating that, “Current customers would have no vested interest in such a contribution and would not benefit from it. As such, they should not be responsible for the related income taxes.”<sup>41</sup> However, there was no consensus about which gross-up method should be used. Ultimately, the Commission concluded that “given the varying degrees of sophistication

---

<sup>39</sup> TRA-86 Order, p. 23.

<sup>40</sup> TRA-86 Order, p. 25.

<sup>41</sup> TRA-86 Order, p. 22.

in the water and sewer industry we shall authorize a great deal of flexibility. Therefore, we adopt a policy to allow the water and sewer utilities to select one of the following gross up methodologies: OTS Method No. 2, OTS Modified Method No. 2 or OTS Method No. 5.”<sup>42</sup> I&E recommends that the Commission continue to require PAWC to use one of these three gross-up methodologies that it approved in the TRA-86 Order. The ratemaking concerns expressed in the Investigation Order have not changed since this policy was implemented thirty years ago; therefore, PAWC ratepayers should continue to be insulated from these costs.

Approval of the no gross-up method in PAWC’s Supplement No. 6 will increase costs for existing PAWC customers. This cost shifting was rejected in the Commission’s TRA-86 Order as the Commission recognized that the financial burden should be placed on contributors and new customers. In support of Supplement No. 6, PBA contends that it would put an “extreme financial burden”<sup>43</sup> on developers and new customers to hold them responsible for the CIAC tax consequence; however, PBA fails to demonstrate why it is appropriate to shift that “extreme financial burden” to existing PAWC ratepayers thirty years after the Commission held that those customers should be insulated from these costs.

In the TRA-86 Investigation, OTS examined the impact on rates under the six different CIAC accounting methodologies and assumed that the plant to be constructed would be valued at \$1,000. Under this assumption, the net present value (“NPV”) effect

---

<sup>42</sup> TRA-86 Order, pp. 25-26.

<sup>43</sup> PBA St. No. 1, pp. 4-5.

of the no gross-up method, identified as Method 3, on current ratepayers was \$281.50. OTS argued that its NPV analysis demonstrated that adding taxes to rate base through the no gross-up method (Method 3) is a “very costly alternative for ratepayers.”<sup>44</sup> PAWC conducted a similar analysis in this proceeding. It compared the net present value of the effect on water customers based on an annual CIAC estimate of \$5 million for the no gross-up method (Method 3) proposed in Supplement No. 6 and the three gross-up methods (Method 2, Modified Method 2, and Method 5) approved in the Commission's 1989 Investigation Order.<sup>45</sup> The Company's no gross-up proposal had an NPV of \$931,000, which would be recovered from all customers, while the three gross-up methodologies either decreased rates (CIAC Method 2) or did not affect customer rates (CIAC Modified Method 2 and CIAC Method 5).<sup>46</sup> The same was true for the wastewater service. An annual CIAC estimate of \$500,000 resulted in an NPV of \$93,000 with the no gross-up method and the three gross-up methodologies either decreased rates or did not affect customer rates.<sup>47</sup>

This NPV analysis, like the one conducted in the TRA-86 Investigation, demonstrates that rates will not be just and reasonable if Supplement No. 6 is approved.

---

<sup>44</sup> TRA-86 Order, p. 16.

<sup>45</sup> I&E St. No. 1, p. 16; I&E Exhibit No. 1, Sch. 2, pp. 2-3.

<sup>46</sup> I&E St. No. 1, p. 16; I&E Exhibit No. 1, Sch. 2, pp. 2-3.

<sup>47</sup> I&E St. No. 1, p. 16, I&E Exhibit No. 1, Sch. 3, pp. 2-3.

#### **D. The Alleged Benefits to Existing PAWC Ratepayers are Unsupported**

PAWC and PBA attempt to offset the obvious harm to existing PAWC customers by arguing that Supplement No. 6 should be approved because those customers generally benefit from adding new customers and economic development through system expansion. As discussed below, these arguments are unsupported and do not justify recovering the tax from existing PAWC customers.

##### **1. PAWC Fails to Demonstrate that New Customers Will Be Added if Supplement No. 6 is Approved**

The Company argues that PAWC and its customers receive a net benefit when new customers are added by property funded by CIAC and CAC because the value of the property coming to PAWC from the contributors is more than the Company pays in refunds to the contributor.<sup>48</sup>

While I&E does not dispute that adding new customers benefits existing customers, PAWC provided no evidence that I&E's recommended gross-up method actually deters new development or new customers from joining the system.<sup>49</sup> There is no record evidence that charging the tax associated with CIAC and CAC to the contributor will prevent or decrease new customers growth. I&E witness Grab opined that this is likely because "water and wastewater are services that are essential and on-lot alternatives, septic and wells, are often significantly restricted for new development."<sup>50</sup> Moreover, the gross-up method was used from 1989 until the tax exemption became

---

<sup>48</sup> PAWC St. No. 1, pp. 7-8.

<sup>49</sup> I&E St. No. 1-R, p. 4.

<sup>50</sup> I&E St. No. 1, p. 14.

effective in 1996 and no support was provided that development stagnated during that time due to developers being required to pay the tax. This is because, as discussed in the TRA-86 Order, developers likely pass the full costs associated with lot improvements, including the CIAC and CAC tax, on to the purchaser:

Logic would dictate that where a contributor is a developer who may pass costs on to lot purchasers and all of the dollars contributed are committed to plant that will be used solely to provide utility services to that developer and his future potential clients, the increased tax costs should generally rest with the developer and eventually the new lot owners. Current customers would have no vested interest in such a contribution and would not benefit from it. As such, they should not be responsible for the related income taxes.<sup>51</sup>

PBA argues that passing the costs to potential homebuyers may deter individuals from buying homes.<sup>52</sup> In support, PBA witness Durden asserts that a potential \$1,000 increase in the price of a new home could price the home out of the market.<sup>53</sup> I&E witness Grab responded that PBA's analysis is unpersuasive because "the number of houses supposedly priced out of the market by a hypothetical \$1,000 increase is only 0.19% (9,374/4,966,122) of all houses in Pennsylvania in 2016."<sup>54</sup> Additionally, as previously discussed herein, PBA's testimony alleges that the cost of the tax associated with Contributions and Advances may price buyers out of market but fails to acknowledge that its proposed alternative may do the same as there are significant costs associated with wells and septic systems. Specifically, I&E witness Grab indicated that

---

<sup>51</sup> TRA-89 Order, p. 22.

<sup>52</sup> PBA St. No. 1, p. 5.

<sup>53</sup> PBA St. No. 1-R, pp. 4-5.

<sup>54</sup> I&E St. No. 1-R, p. 11.

the average cost to install both a septic system and well is \$20,000 to \$50,000 per lot and noted that these private systems impact lot size which may decrease developers' profitability.<sup>55</sup>

The fundamental issue is whether PAWC's rates will comport with the just and reasonable requirement if current customers are required to subsidize new customers. The Commission made it clear in the TRA-86 Order that the financial burden should remain on contributors and new customers, which is the exact opposite of what is proposed in Supplement No. 6. Attempts to diminish this subsidization by asserting that Supplement No. 6 should be approved because existing PAWC customers benefit from the addition of new customers rings hollow when those new customers will likely be added regardless of which methodology is used.

## **2. PBA's Vague Claims About Economic Development Fail to Justify Approval of Supplement No. 6**

PBA contends that approval of Supplement No. 6 is warranted because main and service line extensions for new residential developments bring a "whole host of economic benefits" to new territories and bring new businesses, jobs and increased tax revenues to the affected territories.<sup>56</sup> However, other than vague assertions of economic benefits, PBA fails to provide record evidence demonstrating why the alleged community benefits are more prevalent now than when the Commission rejected this argument in the TRA-86 Order. Specifically, the Commission determined that "Economic development, while an

---

<sup>55</sup> I&E St. No. 1-SR, p. 8.

<sup>56</sup> PBA St. No. 1, pp. 5-6.

important consideration, is not as sensitive to water utility pricing as it is to energy costs.”<sup>57</sup>

While PBA’s vague and unsupported contentions about general economic development does not warrant wholesale abandonment of the approved gross-up method, it is important to remember that the TRA-86 Order recognized that there are “special circumstances” that would allow water and wastewater utilities to deviate from the gross-up method:

[i]f the contributor is a single large user of utility service, the taxes associated with the contribution are not reasonably assignable to other existing ratepayers, absent special circumstances.<sup>58</sup>

Soon after the TRA-86 Order, PAWC identified a “special circumstance” and received Commission approval to deviate from the gross-up methodology for construction made by political subdivisions or other governmental entities. Other “special circumstances” contemplated in the TRA-86 Order include water extension projects that upgrade mains and other backbone facilities that benefit exiting utility customers. Additionally, the Commission contemplated the type of economic development alleged by PBA in this proceeding as a potential “special circumstance” that would warrant a change from the gross-up method to the no gross-up method:

---

<sup>57</sup> TRA-86 Order, p. 25.

<sup>58</sup> TRA-86 Order, p. 22.

Another special circumstance might be where a new large user of utility services will provide a “public good” that will benefit the existing community, at large, including current ratepayers. This “public good” could take the form of increased jobs for the area or even general economic development. In such instances as these, there may be room for a sharing of the additional tax cost even though the new plant is not directly used to the benefit of existing ratepayers.<sup>59</sup>

PBA wants to use general allegations of economic development to justify wholesale abandonment of the gross-up method in order to permanently and completely shift the tax responsibility to current PAWC ratepayers. In reality, the Commission approved just the opposite in the TRA-86 Order as it articulated the general rule that such costs should be assigned to the developers or new customers through the gross-up method, while also recognizing that flexibility was warranted in “special circumstances” such as business and job development as alleged by PBA. In short, under the TRA-86 Order, PBA members and PAWC can already seek Commission approval to use the no gross-up method if a “special circumstance” exists. However, absent that showing, the Commission’s general rule that such costs should not be passed to existing ratepayers remains sound.

#### **E. Capacity Reservation Fees are CIAC and Must Also Follow the Gross-up Method**

The Company argues that the gross-up method should not be applied to Capacity Reservation Fees because, although booked as CIAC, it reserves treatment capacity and are not traditional contributions. The Company maintains that since Capacity

---

<sup>59</sup> TRA-86 Order, p. 22.

Reservation Fees lower the overall cost of service to existing customers, they should not be grossed-up.<sup>60</sup> I&E disagrees because these fees are booked as CIAC; therefore, for the reasons discussed above, the new customer or developer should pay the tax rather than be subsidized by existing ratepayers. Although PAWC argues that Capacity Reservation Fees are different from main extensions, the fact remains that they are booked as CIAC and are taxable as contributions. For the reasons discussed above, requiring current customers to pay for these tax expenses reduces the benefit that flows to existing customers.<sup>61</sup> The record is devoid of evidence that charging the tax associated with Capacity Reservation Fees will decrease the number of potential wastewater customers.<sup>62</sup>

The Company further argues that its Capacity Reservation Fees are specific tariff rates that were approved in its last rate case and should not be changed outside of a subsequent rate case.<sup>63</sup> The Company's prior rate case was filed on March 24, 2017 and, by Order entered December 7, 2017, the Commission approved PAWC's new rates for service rendered on and after January 1, 2018. Between the entry of Commission Order and when PAWC's new tariff rates became effective, the TCJA was signed into law on December 22, 2017. However, PAWC's insistence that this must be addressed in a subsequent base rate proceeding is unsupported by the fact that the Commission has already determined that the impact of the TCJA can be treated outside a base rate case:

---

<sup>60</sup> PAWC St. No. 1, pp. 8-9.

<sup>61</sup> I&E St. No. 1-SR, p. 26.

<sup>62</sup> I&E St. No. 1-SR, p. 27.

<sup>63</sup> PAWC St. No. 1, pp. 8-9.

While ratemaking is generally *prospective* in nature, an exception to this rule applies in the case of expenses that are extraordinary, substantial and nonrecurring. In this regard, we agree with the OCA that the TCJA tax savings represent “an extraordinary and substantial, non-recurring reduction in utility expenses that should be treated outside of a general rate proceeding and flowed back to ratepayers.” Therefore, in the Commission’s judgment, there is no legal impediment to our present consideration of the substantial tax savings from the TCJA and we need not await a base rate case filing to address its effect on the justness and reasonableness of consumer rates.<sup>64</sup>

The Commission found that existing rates were no longer just and reasonable due to the TCJA’s decreased corporate tax rate and concluded that the tax savings and associated reductions in utility revenue requirements should flow back to consumers on a current basis by directing utilities who were not currently in for a base rate increase to implement a negative surcharge to recognize the TCJA changes.<sup>65</sup> While the TCJA Order was addressing the rate impact of the decreased corporate tax rate, it would similarly follow that changes relating to the changed taxable status of Contributions and Advances in the TCJA can also be made outside of a base rate case if it constitutes an extraordinary, substantial and nonrecurring expense.

---

<sup>64</sup> *Tax Cuts and Jobs Act of 2017 Temporary Rates Order*, Docket No. M-2018-2641242, p. 15 (Order entered May 17, 2018).

<sup>65</sup> *Id.* at 17-18.

## V. CONCLUSION

The Commission has already thoroughly examined this issue on an industry-by-industry basis and concluded that new customers, not current water and wastewater customers, should bear the full cost of Contributions and Advances. The gross-up method has been in place for nearly thirty years and the arguments put forth by PAWC and PBA fail to justify abandoning it and approving the no gross-up method proposed in Supplement No. 6. Accordingly, I&E respectfully requests that Supplement No. 6 be rejected and that PAWC be required to file a tariff supplement utilizing the gross-up methodology for CIAC and CAC consistent with the Commission's TRA-86 Order.

Respectfully submitted,

---

Allison C. Kaster  
Deputy Chief Prosecutor  
PA Attorney ID No. 93176

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-7998

Dated: November 5, 2018

## Appendix A

### I. Proposed Findings of Facts

1. 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. 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).
2. Prior to the Tax Reform Act of 1986 CIAC and CAC were not taxable so cost recovery was not an issue. I&E St. No. 1, p. 4.
3. CIAC and CAC became taxable under the Tax Reform Act of 1986. I&E St. No. 1, p. 4.
4. The Commission initiated an investigation to determine who should pay the tax and adopted the gross-up method for the water and wastewater industry finding that the contributor, not existing customers, should bear the total cost. I&E St. No. 1, p. 4.
5. PAWC received Commission approval to deviate from the gross-up methodology for construction made by political subdivisions or other governmental entities. *Pa. PUC v. Pennsylvania-American Water Company*, Docket No. P-890376 (Order entered November 3, 1989). I&E St. No. 1, p. 5.
6. The Small Business Job Protection Act of 1996 restored the taxable exclusion for CIAC and CAC; however, the exclusion was recently eliminated by the recent passage of the Tax Cuts and Jobs Act. I&E St. No. 1, pp. 5-6.
7. All jurisdictional water and wastewater companies used the gross-up method when CIAC and CAC were taxable. I&E St. No. 1, p. 11.
8. In 1996, when CIAC and CAC were no longer taxable, The York Water Company received Commission approval to use the no gross-up method. It is the only jurisdictional water and wastewater company that is currently authorized to use the no gross-up method. I&E St. No. 1, p. 11.

9. Competition exists in the gas industry because electricity is standard in nearly all residences and can be used as an alternative to natural gas. I&E St. No. 1, p. 10.
10. In addition to electric service, other alternatives to natural gas exist such as geothermal, wood, propane and oil. I&E St. No. 1, p. 10.
11. The average cost to install both a septic system and well is \$20,000 to \$50,000 per lot. I&E St. No. 1-SR, p. 8.
12. Septic systems and private wells potentially impact lot size and may decrease developers' profitability. I&E St. No. 1-SR, p. 9.
13. Private water and sewer pose more environmental and health concerns than public water and wastewater systems. PBA St. No. 1-R, p. 3.
14. Approval of Supplement No. 6 will increase costs for PAWC customers. I&E St. No. 1, p. 16.
15. Capacity Reservation Fees are CIAC. I&E St. No. 1-SR, p. 26.

## **II. Proposed Conclusions of Law**

1. The party seeking affirmative relief from the Commission bears the burden of proof. 66 Pa. C.S. § 332(a).
2. Courts have held that the burden of proof is satisfied by demonstrating by a preponderance of the evidence that the proposed transaction complies with Pennsylvania law. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).
3. To satisfy its burden, PAWC must demonstrate, by a preponderance of the evidence, that its proposed transaction complies with Pennsylvania law and should be approved.
4. A preponderance of the evidence is such evidence that is more convincing, by even the smallest amount, than that presented by another party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

5. The Public Utility Code mandates that rates must be just and reasonable. 66 Pa. C.S. § 1301.
6. PAWC has the burden of proving that Supplement No. 6 is in compliance with Section 1301 of the Public Utility Code.
7. The Commission adopted the gross-up method for water and wastewater utilities in the *Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, Docket No. I-880083 (Order entered June 14, 1989).
8. The Commission permits water and wastewater utilities to use the no gross-up method in “special circumstances” where it may be appropriate for customers to share the tax costs even if the new plant does not directly benefit existing ratepayers. *Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, Docket No. I-880083, p. 22 (Order entered June 14, 1989).
9. The Commission has determined that some degree of uniformity with respect to the treatment of CIAC and CAC is necessary to maintain fairness in setting utility rates. *Investigation of Accounting and Ratemaking Associated with Contributions in Aid of Construction and Customer Advances*, Docket No. I-880083, p. 23 (Order entered June 14, 1989).
10. Ratemaking is generally prospective; however, an exception to this rule applies in cases of expenses that are extraordinary, substantial and nonrecurring. *Tax Cuts and Jobs Act of 2017 Temporary Rates Order*, Docket No. M-2018-2641242, p. 15 (Order entered May 17, 2018).

### **III. Proposed Ordering Paragraphs**

It is ordered that:

1. Pennsylvania American Water Company's Supplement No. 6 to Tariff Water- Pa. P.U.C. No. 5 and Supplement No. 6. to Tariff Wastewater- Pa. P.U.C. No. 16 is denied.

2. Pennsylvania American Water Company is directed to file the appropriate tariff supplements necessary to employ one or more of the gross-up methodologies as directed in the Commission's TRA-86 Order.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania-American Water Company :  
Supplement No. 6 to Tariff Water- Pa. : Docket No. R-2018-3002502  
P.U.C. No 5 :

Pennsylvania-American Water Company- : Docket No. R-2018-3002504  
Wastewater Division Supplement No. 6 to  
Tariff Wastewater- Pa. P.U.C. No. 16

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Main Brief** dated November 5, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Served via First Class and Electronic Mail**

John Cox  
Pennsylvania-American Water  
800 West Hershey Park Drive  
Hershey, PA 17033  
[jcox@amwater.com](mailto:jcox@amwater.com)

Christine M. Hoover  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Fl.  
Harrisburg, PA 17101

Susan Simms Marsh  
Pennsylvania-American Water  
800 West Hershey Park Drive  
Hershey, PA 17033  
[susan.marsh@amwater.com](mailto:susan.marsh@amwater.com)

Elizabeth Rose Triscari, Esquire  
Office of Small Business Advocate  
300 North Second St., Suite 202  
Harrisburg, PA 17101

Anthony C. DeCusatis  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
[anthony.decusatis@morganlewis.com](mailto:anthony.decusatis@morganlewis.com)

Kristine Marsilio, Esquire  
Dan Clearfield, Esquire  
Carl Shultz, Esquire  
London L. Campbell, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8<sup>th</sup> Floor  
Harrisburg, PA 17101



\_\_\_\_\_  
Allison C. Kaster  
Deputy Chief Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 93176