



Elizabeth Rose Triscari

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December 31, 2018

VIA eFiling

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

In Re: Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement v.
Winola Water Company
Docket Nos. C-2018-2644592, P-2018-3006216, I-2018-3006498

Dear Secretary Chiavetta:

Enclosed for filing with the Commission, in the above-referenced proceedings, is the Prehearing Conference Memorandum of Pennsylvania-American Water Company. As directed in the Prehearing Conference Order dated December 17, 2018, I am serving a copy of the Prehearing Conference Memorandum on Administrative Law Judge Joel H. Cheskis as well as each of the parties listed on the enclosed Certificate of Service.

Should you have any questions concerning this filing, please contact me.

Respectfully,

Elizabeth Rose Triscari

Enclosures

cc: Administrative Law Judge Joel H. Cheskis (via E-Mail and UPS Overnight Delivery)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	P-2018-3006216
	:	C-2018-2644592
v.	:	I-2018-3006498
	:	
Winola Water Company	:	

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

Pennsylvania-American Water Company (“PAWC”), pursuant to 52 Pa. Code §5.22(d) and in compliance with the Prehearing Conference Order of the Honorable Administrative Law Judge (“ALJ”) Joel H. Cheskis, dated December 17, 2018, hereby files this Prehearing Conference Memorandum in the above captioned matter, and states as follows:

I. INTRODUCTION & PROCEDURAL HISTORY

On November 29, 2018, Commissioner Norman J. Kennard entered an Ex Parte Emergency Order, later ratified by the Pennsylvania Public Utility Commission (“Commission”) on December 6, 2018, granting the petition of the Commission’s Bureau of Investigation and Enforcement (“I&E”) and initiating an investigation pursuant to 66 Pa. C.S. § 529, into whether the Commission should order a capable public utility to acquire the Winola Water Company (“WWC”) water system (“529 Proceeding”). By that same order, the Commission appointed PAWC as Receiver for WWC for the pendency of the 529 Proceeding. On December 10, 2018, PAWC began its role as Receiver for WWC.

The Office of Consumer Advocate (“OCA”) filed a notice of intervention and public statement on November 29, 2018.

An informal conference call was held on December 7, 2018, amongst ALJ Cheskis, Ralph Scartelli, owner of WWC, PAWC, I&E, OCA, and the Pennsylvania Department of Environmental Protection (“PaDEP”), at which time PAWC confirmed that it was prepared to meet its obligations as Receiver and Mr. Scartelli indicated he did not oppose the emergency petition. Thus, there was no need for an emergency hearing. The parties also discussed the required notice of the 529 Proceeding and receivership to WWC customers. Also discussed was the required notice by I&E to all proximate public utilities providing the same type of service as WWC, all proximate municipalities and municipal authorities providing the same type of service as WWC, and the municipalities served by WWC, as required by Section 529(h) of the Public Utility Code (66 Pa. C.S. § 529(h)). Finally, the issue of Mr. Scartelli’s lack of representation and his need for counsel to represent WWC during the 529 Proceeding was raised.

A second informal call was held on December 14, 2018 with ALJ Cheskis, PAWC, OCA, I&E and PaDEP participating,¹ at which time procedural matters were discussed again, including notice and WWC’s lack of counsel, as well as the scheduling of an initial prehearing conference for January 7, 2019, before which time all protests and petitions to intervene must be filed.

Notice to WWC customers of the 529 Proceeding and PAWC’s receivership was hand-delivered by PAWC, as Receiver for WWC, on December 17, 2018.

¹ Mr. Scartelli did not participate on the December 14, 2018 call.

A hearing notice was issued on December 27, 2018, establishing an initial in-person prehearing conference for this matter for Monday, January 7, 2019 at 10:00 a.m. in Hearing Room 4 of the Commonwealth Keystone Building in Harrisburg. ALJ Cheskis issued a Prehearing Conference Order on December 17, 2018.

II. COUNSEL

Counsel for PAWC are:

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III. SERVICE OF DOCUMENTS

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

IV. ISSUES & PAWC'S POSITION

The ultimate issue in this proceeding is whether or not the Commission should order the acquisition of WWC by a capable public utility pursuant to Section 529 of the Public Utility Code. Section 529(a) lists six determinations that must be made by the Commission, after notice and an opportunity to be heard, to order such an acquisition. In making these determinations, Section 529(c) delineates several factors which the Commission shall consider.

PAWC, as Receiver for WWC, has been tasked with presenting testimony on each of these Section 529(c) factors pursuant to the Ex Parte Emergency Order entered in this proceeding and later ratified by the Commission. PAWC does not intend to present testimony apart from those factors in Section 529(c), because pursuant to Section 529(i), I&E has the burden of proof to establish a prima facie case that the acquisition of WWC would be in the public interest and in compliance with the provisions of Section 529.

PAWC reserves the right to rebut the direct testimony of I&E or other parties, including whether PAWC should be ordered to acquire WWC, and if so, on what terms. PAWC respectfully submits that another proximate, capable public utility company is approximately one or two miles closer to WWC's service area than is PAWC's. Therefore, the other company may be in a better position to easily and efficiently serve WWC's customers.

V. WITNESSES

PAWC expects to call the following witnesses and provide their testimony on the 529(c) factors as directed by the Commission:

Kent Lindsay

Mr. Lindsay is the CFO, Mid-Atlantic Division for American Water Company. His business address is 800 West Hersheypark Drive, Hershey, PA 17033 and phone number is (717) 531-3225.

David Kaufman

David Kaufman is the Vice President of Engineering for PAWC. His business address is 800 West Hersheypark Drive, Hershey, PA 17033 and phone number is (717) 531-3303.

PAWC also reserves the right to call additional witnesses, if necessary, and agrees to notify Judge Cheskis and the parties immediately should PAWC determine any additional witnesses will be called.

VI. LITIGATION SCHEDULE

PAWC will work with Judge Cheskis and all parties to develop a mutually agreeable litigation schedule.

VII. SETTLEMENT

PAWC is willing to participate in settlement discussions in this matter.

Respectfully submitted,



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Dated: December 31, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Pennsylvania Public Utility Commission	:	Docket Nos.: C-2018-2644592
Bureau of Investigation and Enforcement	:	P-2018-3006216
v.	:	I-2018-3006498
Winola Water Company	:	

Certificate of Service

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

VIA E-Mail

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Prehearing Conference Memorandum of Pennsylvania-American Water Company
Page 2

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The Prehearing Conference Memorandum of Pennsylvania-American Water Company has
been electronically filed on the Pennsylvania Public Utility Commission's eFiling system.



Dated: December 31, 2018

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