



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

IN REPLY PLEASE  
REFER TO OUR FILE

January 10, 2019

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

Re: Petition of Pennsylvania-American Water Company Wastewater  
Operations for Approval of Modification of Long-Term Infrastructure  
Improvement Plan  
Docket No. P-2014-2431005

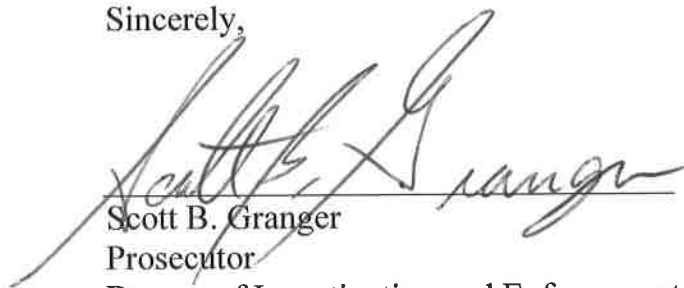
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Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's  
**(I&E) Amended Answer and Comments of the Bureau of Investigation and  
Enforcement to the Petition of The Pennsylvania-American Water Company** for the  
above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions,  
please contact me at (717) 425-7593.

Sincerely,



Scott B. Granger  
Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 63641

SBG/jfm  
Enclosure

cc: Per Certificate of Service

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania – American Water :  
Company Wastewater Operations for : Docket No. P-2014-2431005  
Approval of Modifications of Long-Term :  
Infrastructure Improvement Plan :

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**AMENDED ANSWER AND COMMENTS OF  
THE BUREAU OF INVESTIGATION AND ENFORCEMENT  
TO THE PETITION OF  
THE PENNSYLVANIA – AMERICAN WATER COMPANY**

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**I. INTRODUCTION AND BACKGROUND**

Pursuant to Section 1352(a) of the Public Utility Code, 66 Pa.C.S. § 1352(a), and 52 Pa. Code § 121.5(a), Pennsylvania-American Water Company ("PAWC" or the "Company") filed a Petition seeking the Pennsylvania Public Utility Commission ("Commission") approval of its proposed modified 5-Year Wastewater Long-Term Infrastructure Improvement Plan dated October 31, 2018 ("Modified LTIIIP").

The Bureau of Investigation and Enforcement ("I&E") hereby files this timely Amended Answer and Comments pursuant to 52 Pa. Code Section 121.4(c) amending I&E's initial Answer filed pursuant to 52 Pa. Code 5.61, requesting that the Commission deny the Company's requested relief and assign this matter to the Office of Administrative Law Judge ("OALJ") for an investigation and an evidentiary hearing, if necessary. The public interest necessitates a thorough review of the requested relief.

In support of its request for a full investigation of this Petition, I&E asserts the following:

## **II. ANSWER**

PAWC proffered that the Modified LTIIIP replaces Year 2019 of the Company's 2014 Wastewater Long-Term Infrastructure Improvement Plan, and further includes, Years 2020 through 2023. PAWC also offered that it also includes wastewater assets acquired by the Company since 2014. PAWC alleges that the Modified LTIIIP utilizes a risk-based condition approach in order to cost-effectively prioritize wastewater collection system replacement and rehabilitation projects and accelerates the rehabilitation, improvement, and replacement of aging wastewater infrastructure for wastewater systems.

PAWC asserts that as a regulated Pennsylvania public utility, the Company must comply with drinking water, environmental and other operational standards established by the Pennsylvania Department of Environmental Protection ("DEP") and the federal Environmental Protection Agency ("EPA").

Further, PAWC has alleged, since acquiring the identified wastewater systems, PAWC has made improvements and/or has undertaken system evaluations. PAWC claims capital additions continue to be needed to rehabilitate, improve and replace elements of the collection system in order to maintain adequate, efficient, safe, reliable and reasonable service and to comply with existing and evolving regulatory standards imposed by agencies of the state and federal governments. PAWC avers, of particular importance, consistent, ongoing rehabilitation, improvement and replacement of the

collection systems are necessary to avoid increases in and, to the extent possible, to reduce, infiltration and in-flow ("I&I").

As PAWC has stated, on July 3, 2014, PAWC filed a Petition for Approval of Wastewater Long-Term Infrastructure Improvement Plan ("LTIIP") and Approval to Establish and Implement a Distribution System Improvement Charge ("DSIC") (collectively referred to as "2014 LTIIP/DSIC Petition" or separately as "LTIIP 2014 Petition" or "DSIC 2014 Petition"). PAWC's DSIC 2014 Petition included Supplement No. 4 to Tariff Wastewater-PA P.U.C. No. 15, to introduce the DSIC Rider into the Company's tariff, effective January 1, 2015. The Commission ultimately approved PAWC's 2014 LTIIP on December 4, 2014.

On February 29, 2016, February 28, 2017 and February 27, 2018, PAWC filed its Annual Asset Optimization Plan ("AAOP") and those plans were subsequently approved. In a letter dated April 23, 2018 approving the February 27, 2018 AAOP, the Commission's Bureau of Technical Utility Services ("TUS") stated PAWC's AAOP shows the acceleration of DSIC-eligible wastewater capital investments. TUS also directed PAWC to provide the expected date in 2018 that the Company planned to file a petition to modify its LTIIP.

PAWC notes that by letter dated May 2, 2018, PAWC advised TUS that the Company expected to file a petition to modify its LTIIP on or before November 1, 2018, and by letter dated October 31, 2018, PAWC notified TUS the Company planned to file the petition to modify its LTIIP on or before November 8, 2018. On November 8, 2018, PAWC filed a Petition for Approval of a Major Modification to its Existing Long-Term

Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan ("LTIIIP 2018 Petition"). PAWC also notes that TUS provided guidance to PAWC on a Major Modification to its Existing Long-Term Infrastructure Improvement Plan rather than a Second Long-Term Infrastructure Improvement Plan. On December 10, 2018, PAWC filed a letter withdrawing the November 8<sup>th</sup> LTIIIP 2018 Petition.

Finally, PAWC stated that as a result of the proposed accelerated capital investment, TUS suggested to PAWC that this could be considered a modification. PAWC shared with TUS plans to revise the Company's LTIIIP to include other wastewater districts and TUS subsequently directed PAWC to provide the expected date, in 2018, the Company planned to file a petition to modify its LTIIIP.

PAWC bears the burden of proof to demonstrate that its proposed Modified LTIIIP and associated expenditures are reasonable, cost effective and are designed to ensure and maintain efficient, safe, adequate, reliable and reasonable service to consumers.<sup>1</sup> Further, pursuant to Commission regulations, PAWC's Modified LTIIIP Petition is subject to a 30-day comment period, and if comments raise material factual issues, it will be referred to the Office of Administrative Law Judge for hearings and a decision.<sup>2</sup> As explained more thoroughly below, I&E's review of PAWC's Modified LTIIIP has identified issues of material fact that warrant assignment of PAWC's Petition to the OALJ for hearings culminating in the issuance of a decision.

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<sup>1</sup> 52 Pa. Code § 121.4(d).

<sup>2</sup> 52 Pa. Code § 121.4(c).

I&E intends to participate in this proceeding to ensure that the proposed Modified LTIP is approved only if it meets the legal requirements of the Public Utility Code, applicable Commission rules and regulations, and Pennsylvania law; and, to ensure that the interests of all PAWC ratepayers are protected in this proceeding. I&E believes that an investigation and examination of PAWC's proposed Modified LTIP plan is warranted to protect the public interest in the provision of safe and reliable services at just and reasonable rates. PAWC's Petition should be subject to a formal investigation and an evidentiary hearing, if necessary. Further, additional time is necessary to afford the parties an opportunity to conduct formal and informal discovery given that the relief requested in the Petition has the potential to impact PAWC's existing LTIP plan, DSIC spending, and the PAWC ratepayers.

I&E anticipates the topics of inquiry will include, but not be limited to: (1) the risk-based condition approach relied on to formulate the proposed Modified LTIP; (2) whether the risk-based condition approach cost-effectively prioritizes wastewater collection system replacement and rehabilitation projects; (3) whether the risk-based condition approach cost-effectively accelerates the rehabilitation, improvement, and replacement of aging wastewater infrastructure for the PAWC wastewater systems; (4) any ongoing rehabilitation, improvement, and replacement of the collection systems necessary to avoid increases in and possible reductions to infiltration and in-flow into the wastewater systems, (5) the applicability and impact of drinking water, environmental and other operational standards established by the Pennsylvania DEP and the federal

EPA; and, (6) the potential impact of the proposed Modified LTIP on the safe and reliable wastewater service at just and reasonable rates to the PAWC ratepayers.

More specifically, I&E, by and through this Amended Answer and Comments, raises the following issues of material fact:

(1) Referencing PAWC's Petition at Paragraph 18, the Modified LTIP utilizes a risk-based condition assessment approach in order to cost-effectively prioritize wastewater collection system replacement and rehabilitation projects and accelerate the rehabilitation, improvement, and replacement of aging wastewater infrastructure for wastewater systems.

As stated, the Modified LTIP proposes to utilize a risk-based condition assessment approach ("RBCAA"). However, PAWC fails to provide a baseline risk assessment, that would demonstrate the "ordinary" (base rate) infrastructure improvement, schedule, cost and risk before applying the "additional recovery mechanism" associated with the Modified LTIP/DISC. The absence of a baseline risk assessment by PAWC eliminates the ability of I&E and the Commission to project an annual risk reduction and a total risk reduction for the accelerated infrastructure improvement schedule when applying the additional recovery mechanism ("ARM"). Attachment A to the Modified LTIP dated October 31, 2018 describes the intention of the RBCAA, which is to calculate the total risk of every PAWC pipeline and facility. PAWC proposes to prioritize their facility replacement starting with the facilities at the highest calculated risk and ending with the facilities at the lowest calculated risk. This proposed strategy, however, doesn't demonstrate a baseline risk assessment, that

identifies all the risks and consequences projected through time at the “ordinary” base rate; and therefore, doesn’t yield any useful expenditure and risk reduction end points that would indicate if the ARM is a detriment or benefit to the public interest. The method currently proposed by PAWC (the RBCAA) is unacceptable and requires a corrective fix that will establish a viable risk reduction strategy; and, that will demonstrate how the proposed ARM reduces annual risk and total risk going forward. PAWC’s failure to demonstrate how the proposed ARM will reduce total risk is also a failure to demonstrate how the proposed LTIP expenditures are cost effective and in the public interest.

(2) Again, referencing PAWC’s Petition at Paragraph 18, the Modified LTIP utilizes a risk-based condition assessment approach in order to cost-effectively prioritize wastewater collection system replacement and rehabilitation projects and accelerate the rehabilitation, improvement, and replacement of aging wastewater infrastructure for wastewater systems. PAWC, however, fails to provide data to support a risk-based condition assessment approach in its filing.

Table No. 4 located in (Attachment “A”) fails to provide the necessary pipe/conveyance data variables to properly assess conditions (material, install date, type, actual length, combined system, average depth, etc.) and no data currently exists for approximately 21.1 miles of pipe. Also, the pie charts (Figure Nos. 2 and 3) located in Attachment “A” fail to provide pipe/conveyance material breakdowns within the PAWC gravity system for approximately 54% of all pipe and for approximately 9% of all pressurized sanitary sewer pipe. And, pie chart (Figure No. 4) located in Attachment “A”

fails to provide pipe/conveyance installation dates for approximately 34% of the PAWC wastewater system.

The PAWC's filing is also deficient for failing to provide a condition assessment of all the PAWC wastewater systems and infrastructure that would allow the Commission to fully analyze and evaluate PAWC's proposed Modified LTIIIP Plan. Further, the requested condition assessment should identify all of PAWC's pipe/conveyance systems, infrastructure, etc., associated with sanitary sewer overflows ("SSO"); combined sewers; the combined sewer overflow ("CSO") mitigation/removal plan and schedule filed with the environmental authorities; and, should identify the risks associated with the failure of not meeting the CSO separation requirements with regard to Pennsylvania and federal regulations, public health hazards and water quality standards; all of which are in the public interest.

(3) Referencing the PAWC Petition Paragraphs 2, 6 and 12, the Petition and Modified LTIIIP addresses a variety of wastewater systems, Commission Orders, PAWC transfers, PAWC sales, etc., without clearly addressing the following: (i) the bottom line effect(s) (if any) to the eligible costs regarding ordinary infrastructure maintenance and replacement built into base rates; (ii) presenting key detailed and concise references to orders, transfers, sales, etc.; and (iii) following the guidelines of the Public Utility Code, Section 1353(b)(i) regarding a description of the eligible property. Most notably, PAWC failed to clearly separate (within all the appropriate areas of the Modified LTIIIP and applicable DSIC) the "ordinary" pipeline segment replacement and maintenance costs (associated with the appropriate base rates for each system) from the "additional recovery

mechanism” associated with the accelerated LTIP/DISC asset replacement proposed in the Modified LTIP. Further, PAWC failed to provide, for each individual PAWC wastewater system, the proposed DSIC charge as a function of percent billed to customers as described in the Public Utility Code, Section 1358, and the relevant limitations, in order to determine if a petition for a waiver is needed for any particular system. Furthermore, PAWC failed to provide a description of the improvements covered by the base rates and DSIC in sufficient detail and incorporated into the Modified LTIP. Finally, PAWC failed to break down the proposed wastewater infrastructure improvements further into the eligible property as defined in the Public Utility Code, Section 1351 “Eligible property.”

(4) Referencing PAWC Petition Paragraph 19, PAWC has failed to provide the projected annual expenditures and measures to ensure that the plan is cost effective as required by Section 1352(a)(5) of the Public Utility Code. Further, PAWC has failed to provide a cost/benefit analysis to support its claim that its plan is cost effective. PAWC’s Petition references an analysis performed by PAWC, but a cost/benefit analysis has not been assembled and demonstrated within PAWC’s as-filed Petition. PAWC’s failure to provide a complete cost/benefit analysis prohibits I&E and the Commission from determining if the proposed Modified LTIP and related DSIC are in the public interest.

(5) Referencing PAWC’s Modified LTIP, page 4, PAWC cites to a dramatic increase in customers from 16,803 to 65,139<sup>3</sup> since the filing of the 2014 LTIP which

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<sup>3</sup> As of February 28, 2014, PAWC was serving 16,803 customer connections. Since that time PAWC has added 48,336 customer connections through the acquisition of additional wastewater systems, including the

has significantly increased PAWC's customer base. I&E argues that a comprehensive investigation must include a more complete analysis of the impact of the revenues associated with the increased customer base which further confirms the need to perform a complete due diligence of data gathering as described in the material factual issues raised above, especially the requested cost/benefit analysis. This will ensure the highest probability of success in establishing a viable LTIIIP, with a well-established starting point and acceleration rate, that addresses "ordinary" base rate infrastructure replacement as well as the "additional recovery mechanism" that optimizes the cost/benefit and risk reduction with the appropriate level of acceleration.

(6) Referencing PAWC's Modified LTIIIP, page 4, PAWC makes the blanket statement that "PAWC believes that PA Department of Environmental Protection ("DEP") will now permit planning module approvals to resume" while referencing a reduction of sanitary sewer overflow ("SSO") events in the Clarion system and a reduction of I&I in the Marcel Lakes collection system. PAWC failed to provide sufficient information to support this statement. Further, additional investigation is required to translate and incorporate the DEP planning module permit approval process into I&E's and the Commission's analysis of PAWC's proposed Modified LTIIIP and the application of PAWC's DSIC.

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Scranton system, which single handily added 29,551 customer connections. All of which raise PAWC's current customer connections count to 65,139 as of July 31, 2018.

(7) Referencing PAWC's Modified LTIIP, page 36, Section 5 states:

The projected annual expenditures for 2019 to 2023 are listed in Table 9 below. These estimates are based on the quantities listed in Table 8 and recent, competitively-bid prices in Pennsylvania. Non-regulatory wastewater DSIC investments are expenditures that exclude regulatory driven costs such as projects associated with a consent order agreement (CO) or a connection management plan (CMP).

I&E asserts that additional investigation is required regarding "recent competitively-bid prices in Pennsylvania" and the attendant projects; as well as the relevance and impact of "non-regulatory wastewater DSIC investments." Further, the investigation must also include the relevance of these statements with regard to any risk and cost-benefit analyses.

(8) Compare PAWC Petition paragraph 18 with the Modified LTIIP, page 4. The Petition at paragraph 18 references utilizing a "risk-based condition assessment" whereas the Modified LTIIP at page 4 references replacing or rehabilitating collection system infrastructure based on "strategic condition assessment." These incongruent statements are concerning and demand further investigation. The Petition clearly states "risk-based" whereas the Modified LTIIP, which would be controlling if approved, merely states "strategic condition." Risk assessment must be part of the Modified LTIIP and future reductions in risk are directly related to performing any cost/benefit analysis to ensure that critical paths are met by PAWC to ensure that the DSIC is, and remains, in the public interest.

(9) Referencing PAWC's Modified LTIP, page 38, section 7 states:

To ensure system reliability and public safety, all wastewater DSIC eligible projects will be constructed by qualified contractors or PAWC staff. For some wastewater systems, PAWC staff complete investigative work, spot repairs, or lift station repairs which may be DSIC eligible work. Typically, DSIC eligible projects are bundled together for competitive bidding to prequalified contractors in order to achieve economies of scale.

I&E asserts that additional investigation is necessary regarding the definition of "qualified contractors." PAWC has failed to define what is a "qualified contractor:" who qualifies them and to what standard; if PAWC staff is required to meet the same standard; how many contractors and PAWC staff are projected to be qualified throughout the life of the LTIP; the details of each qualification such as subject matter; whether the qualification is in the classroom or the field; and the details of the tests (length, passing criteria, retest criteria, etc.).

(10) Referencing PAWC's Modified LTIP, page 39, section 8 states:

PAWC recognizes that coordination with other utilities minimizes disruption and ensures that infrastructure replacement is efficient and cost effective. Therefore, PAWC plans to take the following steps to reach out to customers about disturbances, and to coordinate with other utilities and the Pennsylvania Department of Transportation (Penn DOT) located within the PAWC service area:

1. Utilize Pennsylvania's one-call system for "design notifications"

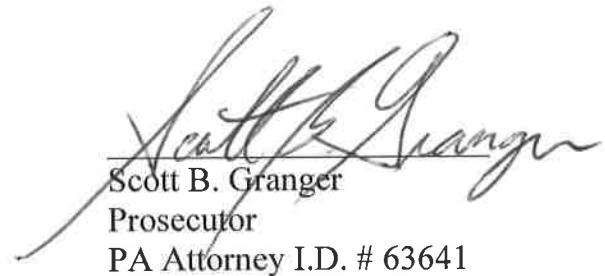
...

I&E asserts that the Modified LTIP must include provisions that PAWC create and initiate newly written procedures and orders to contractors, engineers, etc., to utilize the design notification system in PA One Call without exception. I&E notes that it could not find a single event where PAWC has utilized the PA One Call design notification system in the past. I&E requests that the Modified LTIP reflect this process and demonstrate,

via PAWC procedures, the methodology through which this will be achieved and measured to ensure a successful implementation and continued practice.

WHEREFORE, in consideration of the material factual issues raised *supra*, the Bureau of Investigation and Enforcement respectfully requests that the Commission assign PAWC's Petition to the OALJ for an investigation and examination of PAWC's proposed Modified LTIP plan to ensure that the proposed plan is consistent with the provisions of the Public Utility Code, the Commission regulations, and any other applicable statutes and regulations governing the creation, modification, application and execution of PAWC's LTIP and DSIC infrastructure improvement plans and charges.

Respectfully Submitted,



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Bureau of Investigation and Enforcement  
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Dated: January 10, 2019

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania-American Water :  
Company Wastewater Operations for : Docket Nos. P-2014-2431005  
Approval of Modification of Long-Term :  
Infrastructure Improvement Plan :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Amended Answer and Comments of the Bureau of Investigation and Enforcement to the Petition of The Pennsylvania-American Water Company** dated January 10, 2019, 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):

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