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January 28, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Margaret Collins v. Pennsylvania-American Water Company
Docket No. F-2017-2628770

Dear Secretary Chiavetta:

Enclosed for filing please find Pennsylvania-American Water Company's Reply to the Complainant's Exceptions in the above-referenced matter. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Michael A. Gruin

Enclosure

cc: Certificate of Service
Administrative Law Judge Jeffrey Watson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MARGARET COLLINS	:	
Complainant	:	
	:	
v.	:	Docket No. F-2017-2628770
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**PENNSYLVANIA-AMERICAN WATER COMPANY’S
REPLY TO EXCEPTIONS**

Pursuant to 52 Pa Code § 5.535, Pennsylvania-American Water Company (“PAWC” or “Company”), hereby replies to the Exceptions filed by the Complainant Margaret Collins (“Ms. Collins” or “Complainant”) to the Initial Decision issued by Administrative Law Judge Jeffrey Watson (“ALJ Watson”) in this matter. As set forth below, the Complainant’s Exceptions should be denied, and the Initial Decision should be upheld by the Commission.

I. Background and Procedural History

On or about October 10, 2017, PAWC was served with a notice of the Formal Complaint (“Complaint”) filed by the Complainant Margaret Collins. The Complaint made various allegations about charges and liens imposed by the Scranton Sewer Authority with respect to Ms. Collins’ property in Scranton, Pennsylvania. PAWC filed an Answer and New Matter on November 10, 2017. PAWC’s Answer and New Matter denied that PAWC was the manager of the Scranton Sewer Authority, and stated that the Commission does not have jurisdiction over municipal liens, statutory consumer

protection claims, or claims for refunds of utility charges that are more than four years old.

The evidentiary hearing in this matter was held on July 2, 2018. Ms. Collins testified on her behalf, and submitted five Exhibits into the record. PAWC presented the testimony of one witness, Regulatory Compliance Manager Tawana Dean, and submitted one exhibit into the record.

At the hearing, Ms. Collins explained that much of her complaint revolved around a long-running dispute with the Scranton Sewer Authority regarding unpaid sewer charges. Ms. Collins confirmed that she was not contesting or disputing her charges for water service from PAWC, or her charges for wastewater service from PAWC. N.T., pp. 61-62. She also stated that she was disputing a termination of her water service that took place in 2001. N.T., p. 62.

PAWC's witness confirmed that PAWC purchased the assets of the Scranton Sewer Authority on December 29, 2016, and at that time PAWC became Ms. Collins wastewater provider. N.T., p. 67. ¹ PAWC's witness explained that initially there was a balance of \$325.67 on Ms. Collins wastewater account when her account transferred from the Scranton Sewer Authority to PAWC, but then PAWC issued a courtesy credit adjustment for that entire amount. N.T. p. 68 and PAWC Ex. 1. PAWC's witness confirmed that PAWC had no liens on Ms. Collins property, and that PAWC never issued any bills on behalf of the Scranton Sewer Authority, and never served as a private manager of the Scranton Sewer Authority. N.T. pp. 68-69. PAWC's witness also confirmed that Ms. Collins' account with PAWC was current, and the only charges

¹ PAWC's acquisition of the assets of the Scranton Sewer Authority was approved by the Commission by Order entered in Docket No. A-2016-2537209 on October 19, 2016.

owing were charges for the most recent billing period in the amount of \$23.23.

N.T., p. 71

On December 15, 2018, Ms. Collins filed a Letter/Petition for Extension of Time to File Exceptions due to a death in the family. PAWC did not object to the request, and by Secretarial Letter dated December 27, 2018, the Commission extended the deadlines for the filing of Exceptions and Reply Exceptions.

Ms. Collins Exceptions are meritless and provide no basis for rejecting or modifying the Initial Decision. It is clear from the record that the Complainant's outstanding balance is correct, and that PAWC did not act improperly in connection with Ms. Collins' account.

II. Replies to Exceptions

A. The Complainant's Migration Balance from the Scranton Sewer Authority was properly handled by PAWC.

The Introduction to Ms. Collins' Exceptions allege that PAWC provided conflicting calculations for the outstanding balance that was transferred from Ms. Collins' Scranton Sewer Authority ("SSA") account to PAWC after PAWC acquired the assets of SSA. This issue was thoroughly examined and addressed by ALJ Watson in the Initial Decision, on pages 7-9.

As discussed in the Initial Decision, PAWC has provided water service to Complainant since 2001 and wastewater service to Complainant since December 29, 2016. In 2016, PAWC entered into an agreement to acquire essentially all of the sewer and wastewater treatment assets of the Scranton Sewer Authority, which was approved by the Commission. The acquisition closed on December 29, 2016. PAWC did not purchase any liabilities or liens from the Scranton Sewer Authority, but only assets.

N.T., pp 67-71. Upon closing the Authority acquisition, a balance of \$325.67 was transferred to Ms. Collins' Pennsylvania-American Water Company account, but PAWC subsequently issued a courtesy credit adjustment to Complainant in the full amount of the transfer. N.T. p. 68 and PAWC Exhibit 1. At the hearing PAWC established that it did not issue any bills on behalf of the Scranton Sewer Authority for wastewater services, prior to the completion of the acquisition on December 29, 2016. PAWC explained further that, following its acquisition of Authority assets in December of 2016, PAWC was only able to gain limited access to information for customer account histories. In March of 2017, Ms. Collins contacted PAWC seeking information about the calculation of her sewage bill. In response to the request from Ms. Collins, PAWC provided Complainant with an account history report indicating an outstanding balance for \$1,336.14, based upon the report PAWC received from the SSA. N.T. p. 70. PAWC's witness, Tawana Dean, a regulatory compliance manager for the Company, testified that PAWC was not asserting a claim against Ms. Collins for that amount. The actual amount of the balance that was ultimately transferred to Ms. Collins' PAWC account from her SSA account was \$325.67, and PAWC subsequently issued a credit adjustment to remove that entire balance. N.T. 68.

The evidence further established that, at the time of the hearing, Ms. Collins had an outstanding balance of \$23.23, which was not contested. Indeed, Ms. Collins acknowledged that she was not disputing any PAWC charges from January 2017 to the present. N.T. 62. Therefore, ALJ Watson correctly concluded that Ms. Collins failed to demonstrate that her PAWC account balance was incorrect or that PAWC acted improperly in handling the conversion of her balance from the SSA.

B. Reply to Complainant's First Exception: The ALJ properly considered the evidence in the record and properly concluded that Ms. Collins had failed to demonstrate a violation by PAWC

In Ms. Collins first exception, she alleges that ALJ Watson erred in the evaluation of the evidence in the record regarding Ms. Collins account balance. Ms. Collin's asserts that the testimony of PAWC's witness was not credible because the account statement provided did not include an alleged payment that Ms. Collins made to the SSA in 2015. But, as explained by PAWC's witness, PAWC did not acquire the assets of the SSA until December 28, 2016, and only had limited access to the account records of the SSA following the acquisition. Following the acquisition, a balance of \$325.67 was transferred from Ms. Collins' SSA account to her PAWC account, but the full amount of this converted balance was subsequently credited-off. N.T. p. 68. The testimony of PAWC's witness was credible and supported by the documents in the record, and therefore Mr. Collins' first exception should be denied.

C. Reply to Complainant's Second Exception: The ALJ properly concluded that PAWC had limited access to SSA's prior customer account histories and PAWC's evidence regarding Ms. Collins' account balances was credible

Ms. Collins' second exception references a March 2, 2017 letter from PAWC to her that was not in the evidentiary record in the case. Nevertheless, the letter from PAWC to Ms. Collins is completely consistent with the evidence in the record. The letter confirms that PAWC purchased the assets of the SSA effective December 30, 2016, and purchased the accounts receivable of the SSA. It explains that as of the date of the letter, the balance transferred from SSA was \$325.67 and that Ms. Collins' current PAWC account balance was \$292.01. This is confirmed by PAWC hearing Exhibit 1, Ms. Collins' PAWC account statement which showed a balance of \$292.07 as of 3/24/17, and which also shows the SSA conversion balance of 325.67, which was subsequently

credited off.² Ms. Collins alleges that this letter somehow proves that PAWC had access to a lien as far back as 2000, but as explained at the hearing, PAWC has not asserted any liens on Ms. Collins's property. N.T. pp. 68-69. As discussed in PAWC's brief and in the Initial Decision, Ms. Collin's complaint primarily relates to a dispute with the Scranton Sewer Authority over wastewater charges from the early 2000's, and a lien placed on her home by the Scranton Sewer Authority. The Commission has definitively ruled that it does not have jurisdiction over municipal liens imposed pursuant to the Municipal Claims and Tax Liens Act. See *SBG Management Services v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Order entered December 8, 2016, Reconsideration denied by Orders entered May 18, 2018 ("*May 18 Order*") and August 23, 2018). Accordingly, Ms. Collins' second exception should also be denied.

D. Reply to Complainant's Third Exception: The ALJ properly concluded that PAWC does not claim that Ms. Collins owes PAWC any amounts from her prior SSA account

Ms. Collins' third exception alleges that the balance shown on PAWC's account statement was fictitious and that PAWC is still claiming that there is a \$1,336.14 balance on her account. This is directly contradicted by the evidence in the record. PAWC hearing Exhibit 1 shows the SSA conversion balance of 325.67, which was subsequently credited off. PAWC's witness clearly testified that PAWC is not claiming that Ms. Collins owes \$1,336.14 and at the time of the hearing PAWC was only showing that Ms. Collins owed \$23.23 for current water charges N.T. pp. 70-71. As such, Ms. Collins' third exception is without merit.

E. Reply to Complainant's Fourth Exception: The ALJ properly concluded that Ms. Collins did not present any evidence of incorrect charges by PAWC

²The only discrepancy between the letter and the account statement was a six cent difference in the current balance, which was likely due to a typographical error.

Ms. Collins' fourth exception alleges that the ALJ improperly concluded that she provided no evidence in support of her claim. The ALJ concluded, on page 10 of the Initial Decision, that Ms. Collins presented no evidence at the hearing of any incorrect charges on PAWC's billing statements. Ms. Collins alleges that the five exhibits that she submitted show that PAWC's balances were not correct. However, the exhibits that Ms. Collins submitted relate to various periods and balances primarily from the Scranton Sewer Authority from 2004. As explained by PAWC and confirmed by the Initial Decision, Ms. Collins' allegations relate primarily to a dispute with the SSA from the early 2000's, and Ms. Collins confirmed that she is not disputing any PAWC charges for water or wastewater. See I.D. at 10 and N.T. pp. 61-62. Therefore, the ALJ properly concluded that Ms. Collins had not submitted any evidence to support a claim of improper billing by PAWC.

Ms. Collins fourth exception also takes issue with the \$325.67 balance that was transferred from the SSA. As discussed above, PAWC hearing Exhibit 1 shows the SSA conversion balance of 325.67, which was subsequently credited off. PAWC's witness clearly testified that PAWC is not claiming that Ms. Collins owes \$1336.14 and at the time of the hearing PAWC was only showing that Ms. Collins owed \$23.23 for current water charges N.T. pp. 70-71.

F. Reply to Complainant's Fifth and Sixth exceptions: Ms. Collins' allegations regarding service termination relate to her dispute with the SSA, not PAWC, and the ALJ correctly held that these claims were barred by the applicable statute of limitations.

Ms. Collins fifth and sixth exceptions relate to her dispute with the SSA regarding a service termination. Ms. Collins testified that she was disputing a water shut-off that

occurred in 2001, and that her water was restored approximately one month later. N.T. p. 33. She also made some generalized statements about PAWC's billings to her from the early 2000's. To the extent Ms. Collins is alleging that the PAWC violated the Public Utility Code or the Commission's regulations or Orders, the ALJ correctly concluded that such claims are barred by the statute of limitations at 66 Pa.C.S.A. 3314, which states that "No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part."

Ms. Collins complaint was filed in October of 2017. Therefore, any claims regarding PAWC's actions prior to October of 2014 are barred by the applicable statute of limitations.

G. Reply to Complainant's Seventh and Eighth exceptions: The ALJ correctly determined that Ms. Collins did not carry her burden of proving a violation by PAWC

Ms. Collins' seventh and eight exceptions reiterate her allegations regarding the difference between the preliminary migration balance provided by the SSA (\$1,336.14) and the final migration balance that appearing on her PAWC account (\$325.67). Ms. Collins' exception provides no basis for rejecting the ALJ's findings on this issue. At the hearing, PAWC established that it did not issue any bills on behalf of the Scranton Sewer Authority for wastewater services, prior to the completion of the acquisition on December 29, 2016. PAWC explained further established that, following its acquisition of Authority assets in December of 2016, PAWC was only able to gain limited access to information for customer account histories. In March of 2017, Ms. Collins contacted PAWC seeking information about the calculation of her sewage bill. In response to the

request from Ms. Collins, PAWC provided Complainant with an account history report indicating an outstanding balance for \$1,336.14, based upon the report PAWC received from the Authority. N.T. p. 70. PAWC's witness, Tawana Dean, a regulatory compliance manager for the Company, testified that PAWC did not assert a claim against Ms. Collins for that amount. The actual amount of the balance that was ultimately transferred to Ms. Collins PAWC from her SSA account was \$325.67, and PAWC subsequently issued a credit adjustment to remove that entire balance. N.T. 68.

The ALJ correctly determined that Ms. Collins has failed to present any evidence that PAWC violated the Public Utility Code or the Commission's regulations or order. At the hearing in this matter, Ms. Collins' testimony made it clear that she was attempting to contest some old sewer billings from the Scranton Sewer Authority, and the imposition of a lien on her property by the Scranton Sewer Authority. See N.T. pp. 11-22. She stated that she filed her Complaint against PAWC initially because there was a balance from the Scranton Sewer Authority transferred to her PAWC account, but then acknowledged that this amount was credited off. N.T. pp 10-11. PAWC also confirmed that this amount was credited off, and that Ms. Collins had no overdue balance on her water account. N.T. 71 and PAWC Exhibit 1.

To the extent that Ms. Collins is attempting to contest a lien that was placed her property by the Scranton Sewer Authority, the Commission has definitively ruled that it does not have jurisdiction over municipal liens imposed pursuant to the Municipal Claims and Tax Liens Act. See *SBG Management Services v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Order entered December 8, 2016, Reconsideration denied by Orders entered May 18, 2018 ("*May 18 Order*") and August 23, 2018). When a

municipal lien is placed against the property owner for recovery of the debt, *i.e.*, municipal claim, the property owner must present any defenses to the collection in accordance with the statutory provisions applicable to municipal claims and municipal liens. *See* 53 P.S. § 7184.³ The property owner and/or debtor does not have recourse to any other forum or any other means to strike off the lien or to reduce the indebtedness secured by the lien. Thus, the debtor cannot adjust the amount or have the lien taken off the subject property under any authority possessed by the Commission. *See May 18 Order* at 24.

Based on this clear legal authority, the Commission does not possess the jurisdiction to adjudicate Ms. Collins' claims related to the municipal lien imposed by the Scranton Sewer Authority. In short, Ms. Collins presented no evidence to support a finding of a violation by PAWC, and accordingly, she failed to meet her burden of proving any violation by PAWC or any entitlement to relief, and therefore the ALJ properly determined that her complaint should be dismissed.

III. Conclusion

For the reasons set forth above, the Commission should reject the Complainant's Exceptions, adopt the Initial Decision of ALJ Watson in full, and dismiss the Complaint, with prejudice.

³ *See Penn Twp. v. Hanover Foods Corp.*, 847 A.2d 219 (Pa. Cmwlth. 2004) – after a municipal claim is filed, three procedural alternatives are available to the parties: (1) the owner may contest the municipal claim or the amount of assessment by filing and serving a notice on the claimant municipality to issue a writ of *scire facias*, thereby forcing a hearing on the municipal claim; (2) the municipality may pursue a writ of *scire facias* without the owner's action; or (3) the owner and the municipality may choose not to do anything, thereby letting the municipal lien remain recorded indefinitely subject to revival of the lien every twenty years upon the issuance of a suggestion of nonpayment and an averment of default.

Respectfully submitted,



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*Counsel for
Pennsylvania American Water Company*

Dated: January 28, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MARGARET COLLINS	:	
Complainant	:	
	:	
v.	:	Docket No. F-2017-2628770
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Reply Exceptions upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA FIRST CLASS UNITED STATES MAIL

Margaret Collins
224 N. Hyde Park Avenue
Scranton, PA 18504



Michael A. Gruin

DATED: January 28, 2019