



COMMONWEALTH OF PENNSYLVANIA

March 1, 2019

**E-FILED**

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

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

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding. I respectfully request that a copy of any documents filed in this case also be shared with our witness at the address below:

Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720 T  
St. Louis, MO 63105  
[excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Erin K. Fure".

Erin K. Fure  
Assistant Small Business Advocate  
Attorney ID No. 312245

*Enclosures*

cc: Brian Kalcic  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**OFFICE OF SMALL BUSINESS ADVOCATE  
PREHEARING MEMORANDUM**

---

**I. INTRODUCTION**

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (“Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter is Assistant Small Business Advocate Erin K. Fure. Please address all correspondence as follows:

Erin K. Fure, Esquire  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, Pennsylvania 17101  
(717) 783-2525  
(717) 783-2831 (fax)  
[efure@pa.gov](mailto:efure@pa.gov)

## **II. HISTORY OF PROCEEDING**

On July 3, 2014, Pennsylvania-American Water Company (“PAWC”) filed with the Commission a Petition for Approval of Wastewater Long Term Infrastructure Improvement Plan (“LTIIIP”) and Approval to Establish and Implement a Distribution System Improvement Charge (“DSIC”) (“2014 LTIIIP/DSIC Petition”). The OSBA filed a Notice of Intervention, Public Statement and Notice of Appearance in response to PAWC’s 2014 LTIIIP/DSIC Petition on July 22, 2014. On July 23, 2014, the Office of Consumer Advocate (“OCA”) filed a Public Statement, Formal Complaint and an Answer to PAWC’s 2014 LTIIIP/DSIC Petition.

On December 4, 2014, the Commission entered an Opinion and Order, approving PAWC’s 2014 LTIIIP Petition. In the December 4, 2014 Opinion and Order, the Commission also approved PAWC’s 2014 DSIC Petition, subject to refund and recoupment after final resolution of the issues brought before the Office of Administrative Law Judge (OALJ) as well as the applicability of the DSIC to PAWC’s Franklin and Koppel wastewater systems.

On December 15, 2014, PAWC filed a Compliance Tariff for the DSIC which specified that the DSIC was applicable to the Coatesville, Claysville, Clean Treatment (Marcel Lake), Clarion, Pocono, Lehman Pike, Winona Lakes and Blue Mountain wastewater systems. The Compliance Tariff was approved via Secretarial Letter issued on December 22, 2014.

On January 28, 2015, a Prehearing Conference was held by the OALJ. PAWC, OSBA and OCA attended the Prehearing Conference, during which PAWC represented that the 2014 DSIC did not apply to PAWC’s Franklin and Koppel wastewater systems. On February 13, 2015, PAWC, OSBA, and OCA filed a Joint Stipulation in which the parties agreed that (1) PAWC wastewater DSIC was not applicable to the Franklin and Koppel wastewater systems, (2) PAWC’s December 15, 2014 Compliance Tariff resolved the issue remanded to the OALJ, and (3) in future DSIC filings, PAWC would not include revenue from acquired customers in projected quarterly revenue

and would not apply the DSIC to those customers until their rates became established by a base rate case of the acquiring utility. On March 30, 2015, the Presiding ALJ issued a Recommended Decision recommending that the Commission approve the parties' Joint Stipulation. The Commission issued an Order on May 7, 2015, approving the Joint Stipulation.

On November 8, 2018, PAWC filed the *Petition of Pennsylvania-American Water Company Wastewater Operations for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan* ("2018 LTIIIP Petition"). PAWC filed a letter on December 10, 2018 withdrawing the 2018 LTIIIP Petition.

On December 12, 2018, PAWC filed the *Pennsylvania-American Water Company Wastewater Operations Petition for Approval of Modification of Long-Term Infrastructure Improvement Plan* ("2018 Petition to Modify LTIIIP"). In the 2018 Petition to Modify LTIIIP, PAWC indicated that the major changes reflected in the LTIIIP were its use of a risk-based condition assessment to cost-effectively prioritize projects, increased spending, the expansion of the number of wastewater districts to eighteen (18), and expansion of DSIC-eligible property to include plants associated with both combined and sanitary sewer systems and the entire customer service lateral on a gravity wastewater collection system. On January 2, 2019, the Commission's Bureau of Investigation and Enforcement ("I&E") filed an Answer to PAWC's 2018 Petition to Modify LTIIIP. On January 9, 2019, the OCA filed Comments with the Commission in this proceeding responding to the 2018 Petition to Modify LTIIIP. On January 10, 2019, I&E filed an Amended Answer and Comments to the 2018 Petition to Modify LTIIIP. Deputy Chief Administrative Law Judge Joel Cheskis and Administrative Law Judge Andrew Calvelli were assigned to this matter. A Prehearing Conference was scheduled for Friday, March 8, 2019 at 10:00 A.M. in Harrisburg, Pennsylvania.

### **III. WITNESSES**

Assisting in the development and presentation of OSBA's position in this proceeding will be:

Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720 T  
St. Louis, MO 63105  
(314) 725-2511  
[excel.consulting@sbcglobal.net](mailto:excel.consulting@sbcglobal.net)

The OSBA requests that all parties provide courtesy copies of all documents, including discovery, testimony and briefs, upon Mr. Kalcic simultaneously with service upon the OSBA.

### **IV. IDENTIFICATION OF ISSUES**

The OSBA is participating in this case to ensure that the interests of small business customers of PAWC are adequately represented and protected. As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of PAWC and other parties, primarily through discovery, cross-examination of witnesses appearing for those parties, filing of testimony, and briefing of the issues that arise in this proceeding.

The OSBA reserves the right to pursue additional issues as they may arise throughout the course of the proceeding.

### **V. SERVICE OF DOCUMENTS**

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date<sup>1</sup> as satisfying the in-hand requirement, provided that such

---

<sup>1</sup> In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

documents are followed by hard copy delivery to OSBA. Hard copy delivery may be accomplished by first class mail, by personal hand delivery, or by overnight courier.<sup>2</sup> Service by electronic mail only is not sufficient. The OSBA requests that such hard copies are also provided to its witnesses identified above.

In addition to hard copies of pleadings, briefs, and exceptions, the OSBA requests hard copies of responses to discovery propounded by the OSBA or any other party. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

## **VI. DISCOVERY**

Discovery is ongoing. The OSBA will work with the Presiding Officers and the other parties to develop any mutually acceptable discovery modifications.

## **VII. SETTLEMENT**

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

---

<sup>2</sup> See 52 Pa. Code §§ 1.54(b)(1), 1.54(b)(2), and 1.56(a)(2). Regarding the *perfection of service*, the OSBA respectfully submits that 52 Pa. Code § 1.56(a)(2), as currently written, does not satisfy the requirements of due process.

**VIII. PROCEDURAL SCHEDULE**

The OSBA will work with the Presiding Officers and the other parties to develop a mutually acceptable procedural schedule.

Respectfully submitted,



---

Erin K. Fure  
Attorney ID No. 312245  
Assistant Small Business Advocate

For:

John R. Evans  
Small Business Advocate

Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

Dated: March 1, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Joel H. Cheskis  
The Honorable Andrew M. Calvelli  
Pennsylvania Public Utility Commission  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
[jcheskis@pa.gov](mailto:jcheskis@pa.gov)  
[acalvelli@pa.gov](mailto:acalvelli@pa.gov)  
**(Email and Hand Delivery)**

Erin L. Gannon, Esquire  
Christine Maloni Hoover, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5th Floor  
Harrisburg, PA 17101  
[EGannon@paoca.org](mailto:EGannon@paoca.org)  
[CHoover@paoca.org](mailto:CHoover@paoca.org)  
*(Counsel for OCA)*  
**(Email and Hand Delivery)**

Scott B. Granger, Esquire  
Bureau of Investigation & Enforcement  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
[sgranger@pa.gov](mailto:sgranger@pa.gov)  
*(Counsel for BIE)*  
**(Email and Hand Delivery)**

Susan Simms Marsh, Esquire  
Pennsylvania-American Water  
800 West Hersheypark Drive  
Hershey, PA 17033  
[susan.marsh@amwater.com](mailto:susan.marsh@amwater.com)  
*(Counsel for PAWC)*

DATE: March 1, 2019



---

Erin K. Fure  
Assistant Small Business Advocate  
Attorney ID No. 312245