

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Municipal Authority of the :
Township of Robinson :
 :
versus : Docket No. :
 : C-20030092 :
 :
Pennsylvania-American Water :
Company. For the Commission to :
enter an order prohibiting :
Pennsylvania-American Water :
Company from commencing service :
to Western Pennsylvania-American :
Water Company Agreement, or :
constructing any facilities with :
respect to such service. Initial :
telephonic pre-hearing :
conference. :
 :
-----x

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Pages 1 through 15

Hearing Room #2
Pittsburgh State Office Bldg.
300 Liberty Avenue
Pittsburgh, Pennsylvania

DOCUMENT
FOLDER

Friday, July 18, 2003

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

Larry Gesoff, Administrative Law Judge

APPEARANCES:

Albert J. Zangrilli, Jr., Esq. (by telephone)
11 Stanwix Street
Suite 1024
Pittsburgh, Pennsylvania 15222-1324
(For Municipal Authority of Township of
Robinson)

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700 Lisburn Road
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APPEARANCES: (Continued)

Anthony D. DeCusatis, Esq. (by telephone)
1701 Market Street
Philadelphia, Pennsylvania 19103
(For Pennsylvania-American Water Company)

John A. Vuono, Esq. (by telephone)
2310 Grant Building
Pittsburgh, Pennsylvania 15219
(For Western Allegheny County Municipal
Authority)

Micheal J. Witherel, Esq. (by telephone)
966 Perry Highway
Pittsburgh, Pennsylvania 15237
(For Pennsylvania Municipal Authorities
Association)

Commonwealth Reporting Company, Inc.

700 Lisburn Road
Camp Hill, Pennsylvania 17011

INDEX TO WITNESSES

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
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(No witnesses were called)

1 JUDGE GESOFF: This is the time and place
2 set by the Pennsylvania Public Utility Commission for
3 a telephonic pre-hearing conference in the Complaint
4 of the Municipal Authority of the township of Robinson
5 against Pennsylvania Water Company at C-20030092. I
6 am Larry Gesoff, the administrative law judge assigned
7 to the proceedings.

8 Note the following appearances: Albert J.
9 Zangrilli, Junior, on behalf of the Municipal
10 Authority of the township of Robinson; Anthony
11 DeCusatis on the behalf of Pennsylvania-American Water
12 Company. Also representing them but not present for
13 the hearing are Thomas Gadsden and Susan Simms Marsh,
14 John A. Vuono on behalf of the Western Allegheny
15 County Municipal Authority, and Michael J. Witherel on
16 behalf of the Pennsylvania Municipal Authorities
17 Association.

18 I wanted to discuss several things and
19 anything else that the parties bring up. First, I am
20 going to go over your e-mail addresses and then talk
21 about the pre-hearing memorandum that Pennsylvania-
22 American Water Company wanted to be made part of the
23 record, and then Western Allegheny County Municipal
24 Authority's petition to intervene. I am going to
25 refer to them as WACMA from now on. Then PMAA's

1 Motion to Intervene for the limited purpose of filing
2 an Amicus brief, and then Robinson Township's Petition
3 for the Declaratory Order, and discovery, and then a
4 litigation schedule.

5 The copy of the PAWC's pre-hearing memorandum,
6 they asked me to make an additional two copies and
7 submit it to me as part of the record. I don't do
8 that. We can do that with exhibits at the hearing,
9 but for pre-hearing memoranda, they should be filed
10 with the Commission's docket section. Now, with
11 respect to WACMA's Petition to Intervene,
12 Pennsylvania-American Water Company states in its
13 pre-hearing memorandum that it believes the petition
14 should be granted. I believe that the Robinson
15 Township Municipal Authority stated in its
16 pre-hearing memorandum, or in a letter, that it wants
17 to have the opportunity to reply; is that correct?

18 MR. ZANGRILLI: Yes, it is, Your Honor.
19 We have dictated an Answer and that will be filed with
20 the Commission and with Your Honor by Wednesday.

21 JUDGE GESOFF: All right. In the
22 meantime, we are going to let Mr. Vuomo participate in
23 this conference. The Pennsylvania Municipal Authority
24 Association has filed a Motion to Intervene for the
25 limited purpose of filing an Amicus brief. Is there

1 any objection to that? I believe that -- I am not
2 sure who voiced an objection. I think Pennsylvania-
3 American.

4 MR. DE CUSATIS: Your Honor, bear with me
5 for a moment. Your Honor, we don't oppose the idea of
6 the submission of an Amicus brief and don't have a
7 problem with them participating as Amicus. I think
8 the only thing we noted in our pre-hearing memorandum
9 was that we didn't think that if they submitted this
10 brief now they ought to get a second bite of the apple
11 when briefing stage actually comes around.

12 JUDGE GESOFF: All right. Mr. Zangrilli.

13 MR. ZANGRILLI: I have no objection to
14 their intervention, Your Honor.

15 JUDGE GESOFF: Okay.

16 MR. ZANGRILLI: And I have no objection to
17 their filing a brief at this point in time which in
18 effect sets forth their position here and why they
19 should be granted the right to intervene. We don't
20 oppose it.

21 JUDGE GESOFF: Mr. Vuono.

22 MR. VUONO: I don't oppose the
23 intervention.

24 JUDGE GESOFF: Okay. Mr. Witherel, in our
25 previous conversation I indicated to you that I

1 probably wouldn't allow it. If you want to file your
2 brief now, that is fine. It's premature. It is
3 usually based on the record. If you want to file it
4 later, making reference to the record, you may. I
5 guess I will leave it up to you. If you file one now,
6 I don't think I am going to let you have a second bite
7 of the apple, though.

8 MR. WITHEREL: I understand.

9 JUDGE GESOFF: Which do you want to do?

10 MR. WITHEREL: Probably wait for the
11 record, Your Honor.

12 JUDGE GESOFF: I will ignore the Amicus
13 brief that was filed. Do you at this point intend to
14 participate at the hearing?

15 MR. WITHEREL: No, Your Honor. The only
16 purpose that PMA has in this is to file the Amicus
17 brief.

18 JUDGE GESOFF: So you will do that at the
19 end of the proceeding and based upon the schedule I
20 set in the proceeding?

21 MR. WITHEREL: Yes, Your Honor.

22 JUDGE GESOFF: Do you wish to be copied
23 with everything that the parties submit?

24 MR. WITHEREL: I would appreciate it,
25 Your Honor.

1 JUDGE GESOFF: We are going to do a lot of
2 this by e-mail. Let me check your e-mail address:
3 WK-LAW@RWBEMS.ORG?

4 MR. WITHEREL: That is correct, Your
5 Honor.

6 JUDGE GESOFF: Do you wish to remain on
7 the call? You don't have to. I know you are on the
8 cell phone.

9 MR. WITHEREL: Your Honor, if you don't
10 need me any more, with the cell phone technology, who
11 knows when I will be cut off anyhow. I would rather
12 just be cut off at this point.

13 JUDGE GESOFF: Okay. I will probably be
14 sending everybody an e-mail with my pre-hearing order
15 and then I will send a hard copy in the mail. So you
16 will have other people's pre-hearing orders and there
17 is something else that I wanted to say but I can't
18 remember what it is. Thank you, Mr. Witherel.

19 MR. VUONO: Thank you very much, Your
20 Honor.

21 JUDGE GESOFF: Bye-bye.

22 JUDGE GESOFF: While I am at it, let me
23 check everyone else's e-mail address. Is it
24 AZANGRILLI@WMLZ.COM?

25 MR. ZANGRILLI: Your Honor, at YMLZ.COM.

1 JUDGE GESOFF: And is there an initial
2 before Zangrilli?

3 MR. ZANGRILLI: I am sorry, there is an
4 "A". Run those together and there is no period
5 there.

6 JUDGE GESOFF: And it is A. DeCusatis at
7 MORGANLEWIS.COM?

8 MR. DE CUSATIS: That is correct, Your
9 Honor.

10 JUDGE GESOFF: And there would be T.
11 Gadsden at MORGANLEWIS.COM?

12 MR. DE CUSATIS: Yes, Your Honor. And
13 Miss Marsh, it is FMARSH@PAWC.COM.

14 JUDGE GESOFF: Thank you. Yes, I had
15 that. That verifies that. Mr. Vuono, yours is
16 J.VUONO@VUONOGray.COM?

17 MR. VUONO: That's it.

18 JUDGE GESOFF: Let's go to the next.
19 Municipal Authority of the Township of Robinson for a
20 Petition for a Declaratory Order. I believe that
21 Pennsylvanian-American Water Company opposed it. I
22 don't believe it meets the four prong test because the
23 relief requested is not clear at this point. If we
24 can get a decision from the Commission by mid October,
25 and I think that is somewhat of a long shot, it would

1 more or less take care of the request for the
2 injunctive relief. Do we need to go any further with
3 that?

4 MR. ZANGRILLI: No, Your Honor. Can we
5 defer that until a later point until the record is
6 developed?

7 JUDGE GESOFF: Yes.

8 MR. ZANGRILLI: We are not requesting any
9 immediate injunctive or declaratory relief at this
10 time.

11 JUDGE GESOFF: All right, sir.

12 JUDGE GESOFF: We have the witnesses there
13 that everybody has submitted. I don't think we need
14 to go over that.

15 With respect to discovery, the way I
16 handle discovery -- some of you might know this
17 already -- I don't want to be served with any
18 discovery unless it is attached to a Motion to Compel.
19 But before I receive a Motion to Compel, I want the
20 parties to call each other. As soon as one has an
21 objection, they should call and try to resolve it over
22 the phone. Most of the time this happens. If
23 counsel cannot resolve it over the phone, don't file a
24 Motion to Compel. Call me, and I will discuss it over
25 the phone, and give you a telephone ruling which I

1 will not reduce to an order unless requested. Of
2 course, if you are calling me for a telephone ruling,
3 you are going to have to send me by fax or e-mail the
4 interrogatory on the objection ahead of time so I can
5 take a look at it.

6 Now, outstanding are MATR's June 30th application
7 for a Subpoena for Production of Documents and
8 Subpoena Ad Testificandum -- I haven't said that word
9 in a long time -- directed to WACMA. And also
10 outstanding is MATR's June 27th request for
11 production of documents and interrogatories, and
12 further Request for Production of Documents to which
13 PAWC objected to request 1, 2, and 10, and also
14 objected to interrogatories 3, 5, 6 and 11. I am not
15 going to make any ruling on those. I want the parties
16 to see if they can work that out amongst themselves.

17 Before we discuss scheduling, which we will
18 probably go off the record to do, is there anything
19 the parties wish to raise that I haven't discussed?

20 MR. ZANGRILLI: No, Your Honor.

21 JUDGE GESOFF: Hearing nothing from
22 anyone else, why don't we go off the record and talk
23 about a litigation schedule. All right, we are off
24 the record. (Discussion off the record.)

25 On the record now. While we were off the

1 record, the parties agreed to the following litigation
2 schedule. MATR's direct testimony will be due on
3 October 15th. It can be e-mailed on that date and
4 then a hard copy will be followed up in the mail. Any
5 exhibits that don't lend themselves to e-mail can be
6 submitted by facsimilie followed by a hard copy as
7 long as it is not too voluminous. Then PAWC and
8 WACMA's direct testimony is due November 17th. MATR's
9 rebuttal is due December 17th. PAWC's rebuttal
10 January 7th. The rejoinder will be an oral rejoinder
11 at the hearing. The hearing will take place in
12 Pittsburgh on January 21st, 22nd, and 23rd. I would
13 like to start at nine o'clock each day. Is that okay?

14 MR. ZANGRILLI: Yes, Your Honor.

15 MR. VUONO: Yes, Your Honor.

16 JUDGE GESOFF: Okay, nine o'clock each
17 day. Main briefs will be due March 1st and reply
18 briefs due March 15th. Is there anything else we need
19 to discuss?

20 MR. ZANGRILLI: No, Your Honor.

21 MR. DE CUSATIS: No, Your Honor, for PAWC.

22 MR. VUONO: No, Your Honor. Are you going
23 to issue subpoenas? I just need to know a due date
24 for what I am producing.

25 JUDGE GESOFF: I guess there is no

1 objection to that.

2 MR. ZANGRILLI: No.

3 JUDGE GESOFF: I will sign them for today
4 and what kind of a due date do we want?

5 MR. VUONO: I could use 15 days, if that
6 is okay with Al.

7 MR. ZANGRILLI: That is fine.

8 JUDGE GESOFF: This is for the
9 depositions?

10 MR. VUONO: This is the documents.

11 JUDGE GESOFF: All right, 15 days would be
12 -- so let's put a date on that. You know what, I will
13 probably do that in my pre-hearing order and what, the
14 5th of August, is that okay?

15 MR. VUONO: Yes. I have one of the main
16 parties away next week. August 5th is fine.

17 JUDGE GESOFF: As far as the depositions,
18 I will let you all schedule that amongst yourselves.

19 MR. ZANGRILLI: Fine, Your Honor.

20 JUDGE GESOFF: So basically I will be
21 approving that in my pre-hearing order and let the
22 dates up to you. Thanks for reminding me about that.
23 Is there anything else we need to discuss?

24 MR. ZANGRILLI: No, Your Honor.

25 MR. DE CUSATIS: No, Your Honor.

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MR. VUONO: No.

JUDGE GESOFF: Very good. Thank you gentlemen. Bye-bye.

(Whereupon, at 10:45 a.m., the hearing was concluded.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction: and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

BY: Anne V. Thompson

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