

DOCKET NO. : C-20030092
RESPONDENT OR APPLICANT: PA-AMERICAN WATER CO
PARTY OR COMPLAINANT: MUNICIPAL AUTHORITY OF TWP OF ROBINSON

ENTRY TYPE	DATE	BUREAU	PERSONNEL
1 N	04/15/03	SEC	STABLEY
FORMAL COMPLAINT OF MUNICIPAL AUTHORITY OF TWP OF ROBINSON V PA AMER WATER CO			
2 N	05/19/03	SEC	STABLEY
NOTICE OF COMPLAINT SERVED TO RESPONDENT FOR ANSWER IN 20 DAYS			
3 H	07/18/03	ALJ	GESOFF
INITIAL TELEPHONIC PREHEARING CONFERENCE, 10:00 A.M.			
4 N	06/04/03	SEC	BENJAMIN
RESPONDENT FILED REPLY TO NEW MATTER W/CERTIFICATE OF SERVICE			
5 N	05/16/03	SEC	PATRICK
RESPONDENT FLD ANSWER TO COMPLAINT/PETITION FOR DECLARATORY ORDER W/CERT OF SVC			
6 N	06/10/03	SEC	FRISCIA
ALJ GESOFF PREHRG CONF ORDER SVD-COMPLY W/CERTAIN RQMTS BEFORE 7/18/03 TEL HRG			
7 N	06/13/03	SEC	FRISCIA
PA MUNICIPAL AUTHORITIES ASSN FILED MOTION TO INTERVENE & AMICUS BRIEF W/CERT			
8 N	05/29/03	SEC	ZEIDERS
RESP FLD LTR ADV FILED ANSWER TO COMPLT @ P-00032042 FEELS NO NEED TO REFILE			
9 N	06/30/03	SEC	FRISCIA
MUNICIPAL AUTHORITY OF TWP OF ROBINSON FLD PET FOR ISSUANCE OF SUBPOENAS W/CER			
10 N	07/03/03	SEC	FRISCIA
SEC MEMO TO ALJ ASSIGNING PETITION			
11 N	07/14/03	SEC	FRISCIA
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12 N	07/18/03	SEC	BENJAMIN
WESTERN ALLEGHENY COUNTY MUNICIPAL AUTHORITY FLD PREHEARING MEMORANDUM W/CERT			
13 N	07/12/03	SEC	BENJAMIN
WESTERN ALLEGHENY CNTY MUNICPL AUTH FLD PET TO INTERVENE & REQ EXPEDITED ACTN			
14 N	07/17/03	SEC	FRISCIA
MUNI AUTH OF TWP OF ROBINSON FILED PRELIMINARY PREHEARING MEMORANDUM W/CERT			
15 N	07/18/03	SEC	FRISCIA
MATR LTR ADV WILL SET FORTH REASONS RE WEST ALLEGHY MUNI AUTH PET IN MATR ANSW			
16 N	07/24/03	SEC	JACOBBIANE
COMPLNT FLD ANS TO WEST ALLEGHY CNTY MUNI AUTH PET TO INTER/REQ EXPEDITED ACTN			
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19 N	01/28/04	SEC	FRISCIA
FURTHER HEARING SCHEDULED FOR 1/22/04 WITH ALJ GESOFF CANCELLED			
20 N	11/17/03	ALJ	FRISCIA
FURTHER HEARING SCHEDULED FOR 1/23/04 WITH ALJ GESOFF CANCELLED			
21 N	07/18/03	SEC	FRISCIA
ALJ GESOFF PREHEARING ORDER SERVED TO PARTIES			
22 N	08/05/03	SEC	JACOBBIANE
TRANSCRIPT OF INITIAL TELEPHONIC PREHEARING CONFERENCE HELD 7/18/03 FILED			
23 N	08/11/03	SEC	BENJAMIN
WESTERN ALLEGHENY FLD CERTIFICATE OF SERVICE OF ANSWER TO REQ FOR PROD OF DOCS			
24 N	07/28/03	SEC	MOTTER
WESTERN ALLEGHENY CO MUNICIPAL AUTH FILED VERIFICATION TO ITS PET TO INTERVENE			
25 N	08/04/03	SEC	MOTTER
WESTERN ALLEGHENY CO MUNICIPAL AUTH LTR-DUE DATE FOR RESPONSES EXTENDED TO 8/8			
26 N	10/16/03	SEC	FRISCIA
TOWNSHIP OF ROBINSON FILED DIR TESTIMONIES OF A LENZE & R ANTONELLI W/ATTCHMNTS			
27 N	10/20/03	SEC	BENJAMIN
COMPLAINANT LETTER TO ALJ GESOFF REQUESTING 1-DAY EXTENSION			

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WESTERN ALLEGHENY CNTY MUNI AUTH FLD DIR TEST OF PHILLIP MORRIS/DAVID NICHOLS			
31 N	12/01/03	SEC	FRISCIA
WSTRN ALLGHNY CNTY MUNI AUTH CPYS FLD DIR TEST OF PHILLIP MORRIS/DAVID NICHOLS			
32 N	12/02/03	SEC	FRISCIA
PAWC FLD MOT TO COMPEL ANSWERS TO INTRGS/REQ FOR PROD DOCS SETS I,II,III W/CER			
33 N	12/08/03	SEC	FRISCIA
ATT JOHN A PILLAR FILED NOTICE OF APPEARANCE FOR MUNI AUTH OF TWP OF RIBINSON			
34 N	01/15/04	SEC	FRISCIA
ALJ GESOFF 2ND INTRM ORD GRANTNG PA MUNI AUTH ASSN PET INTERVENE FILE BRIEF SV			
35 N	02/12/04	SEC	ZEIDERS
COMPLAINANT FILED PETITION FOR INTERIM EMERGENCY ORDER W/CERT OF SERVICE			
36 H	02/17/04	ALJ	GESOFF
HRG ON PET FOR INTERIM EMER ORD 11TH FL HRG RM STATE OFFICE BLDG PITTS 10 AM			
37 N	02/20/04	SEC	FARNERJOYCE
RESP FLD ANS TO PET FOR INTERIM EMERGENCY ORDER OF ROBINSON TWP W/CERT			
38 N	02/26/04	SEC	WILLIAMSDONNA
BRIEF IN SUPPORT OF INTERIM EMERGENCY ORDER FLD BY PA-AMERICAN WATER CO W/CERT			
39 N	02/27/04	SEC	MOTTER
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42 N	02/05/04	SEC	FRISCIA
TRANSCRIPT OF INITIAL HEARING HELD 1/21/04 FILED			
43 N	02/18/04	SEC	FRISCIA
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44 N	02/18/04	SEC	FRISCIA
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45 N	02/18/04	SEC	FRISCIA
LATE-FILED EXHIBITS CONTINUED PAWC STMTS 3-A,2,3;WACMA EXHIBITS 1 & 2 FILED			
46 N	02/19/04	SEC	MOTTER
TRANSCRIPT OF TEL HRG ON PET FOR INTERIM EMER ORDER HELD 2/17/04 FILED (COPY)			
47 N	02/19/04	SEC	MOTTER
ALJ GESOFF INTERIM EMERGENCY ORDER ISSUED-COMPLNT'S PET FOR INTERIM ORD DENIED			
48 N	02/19/04	SEC	MOTTER
ALJ GESOFF CERTIFICATION OF A MATERIAL QUESTION SERVED TO PARTIES			
49 N	03/08/04	SEC	JACOBDIANE
MAIN BRIEF WITH CERTIFICATE OF SERVICE FILED BY WACMA INTERVENOR			
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51 N	03/08/04	SEC	WILLIAMSDONNA
INITIAL BRIEF FILED BY PA-AMERICAN WATER COMPANY W/CERT SVC (NON PROPRIETARY)			
52 N	03/05/04	SEC	WILLIAMSDONNA
POST-HEARING AMICUS BRIEF FILED BY PMAA W/CERT SVC (NON PROPRIETARY)			
53 N	03/18/04	SEC	WILLIAMSDONNA
RECOM ADOPTED - ALJ EMERGENCY ORDER RATIFIED			
54 N	03/18/04	SEC	FRISCIA
OPINION & ORDER ADOPTED 3/18/04 ISSUED (SEE DOCS 457840 FOR CONTENTS OF O & O)			
55 N	04/01/04	SEC	FARNERJOYCE
REPLY BRIEF WITH CERTIFICATE OF SERVICE FILED BY PA-AMERICAN WATER CO			

ENTRY TYPE	DATE	BUREAU	PERSONNEL
56 N	04/02/04	SEC	FARNERJOYCE
REPLY BRIEF WITH CERT OF SVC FLD BY WESTERN ALLEGHENY COUNTY MUNICIPAL AUTH			
57 N	04/02/04	SEC	FARNERJOYCE
REPLY BRIEF WITH CERT OF SERVICE FLD BY MUNICIPAL AUTH OF TOWNSHIP OF ROBINSON			
58 N	02/09/04	SEC	FRISCIA
ALJ GESOFF LTR TO PARTIES ADV MAIN BRIEFS DUE 3/8/04; REPLIES DUE 4/2/04			
59 N	05/13/04	SEC	FRISCIA
COMMISSIONERS FILED REVIEW FORMS-NO REVIEW REQUESTED			
60 N	04/28/04	SEC	ZEIDERS
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EXCEPTIONS TO BE FILED			
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EXCEPTIONS FILED BY COMPLAINANT			
64 N	05/17/04	SEC	WILLIAMSDONNA
EXCEPTIONS FILED BY AMICUS PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION			
65 N	05/27/04	SEC	MOTTER
REPLY EXCEPTIONS WITH CERTIFICATE OF SERVICE FILED BY RESPONDENT			
66 N	05/28/04	SEC	MOTTER
REPLY EXCEPTIONS W/CERT OF SVC FLD BY WESTERN ALLEGHENY COUNTY MUNICIPAL AUTH			
67 N	06/02/04	SEC	JACOBDIANE
SEC MEMO TO OSA - EXCEPTIONS & REPLY EXCEPTIONS HAVE BEEN RECEIVED			
68 N	08/05/04	SEC	FARNERJOYCE
POSTPONED TO PUBLIC MEETING OF 8/19/04 FOR COMMISSION'S FURTHER CONSIDERATION			
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70 N	08/19/04	SEC	FRISCIA
COMMISSIONER THOMAS STATEMENT ATTACHED (SEE DOCS 491562 FOR CONTENTS OF STMT)			
71 N	08/19/04	SEC	FARNERJOYCE
RECOM ADOPTED-EXCEPTIONS OF MATR & PMAA DENIED; ALJ'S ID ADOPTED;GT STATEMENT			
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73 N	12/09/04	SEC	MOTTER
AMICUS CURIAE BRIEF W/CERT OF SVC FLD BY PA MUNICIPAL AUTHORITIES ASSN (COPY)			

1. REPORT DATE: 00/00/00	:	
2. BUREAU: ALJ	:	
3. SECTION(S):	:	
5. APPROVED BY:	:	4. PUBLIC MEETING DATE:
DIRECTOR:	:	00/00/00
SUPERVISOR:	:	
6. PERSON IN CHARGE:	:	7. DATE FILED: 04/15/03
8. DOCKET NO: C-20030092	:	9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: MUNICIPAL AUTHORITY OF TWP OF ROBINSON

RESPONDENT/APPLICANT: PA-AMERICAN WATER CO

COMP/APP COUNTY: ALLEGHENY

UTILITY CODE: 212285

ALLEGATION OR SUBJECT

COMPLAINANT STATES THEY WANT THE COMMISSION TO ENTER AN ORDER PROHIBITING PENNSYLVANIA-AMERICAN WATER COMPANY FROM COMMENCING SERVICE TO WESTERN ALLEGHENY COUNTY MUNICIPAL AUTHORITY PURSUANT TO THE PENNSYLVANIA AMERICAN WATER COMPANY AGREEMENT, OR CONSTRUCTING ANY FACILITIES WITH RESPECT TO SUCH SERVICE.

DOCUMENT
FOLDER

INDEXED
MAY 19 2003

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YUKEVICH, MARCHETTI, LIEKAR & ZANGRILLI P.C.

Writer's Direct Dial
(412) 261-6780

ATTORNEYS AT LAW
11 STANWIX STREET
SUITE 1024
PITTSBURGH, PENNSYLVANIA 15222-1324

ORIGINAL

April 15, 2003

TELEPHONE 412/261-6777
FAX 412/261-6780

VIA FEDERAL EXPRESS

C. 20030092

RECEIVED

APR 15 2003

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

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

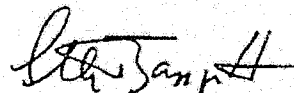
**RE: The Municipal Authority of the Township of Robinson v.
Pennsylvania American Water Company; Formal
Complaint and Petition for Declaratory Order**

Dear Sir or Madam:

Enclosed for filing please find an original and four (4) copies of a Formal Complaint and Petition for Declaratory Order in the above-referenced matter. As evidenced on the attached Certificate of Service, I have served copies of the Complaint on the following: Pennsylvania American Water Company, Western Allegheny County Municipal Authority; Office of Trial Staff; Office of Consumer Advocate; and Office of Small Business Advocate.

Please time stamp a copy of the Complaint and return it to me in the enclosed self-addressed, stamped envelope. If you have any questions concerning this filing, please contact me at the above telephone number or address.

Very truly yours,



Albert J. Zangrilli, Jr.

AJZ/ph
Enclosures

cc: Ms. Deborah Lippert (w/Encl.)
Mr. Phillip Morris (w/Encl.)
Office of Trial Staff (w/Encl.)
Office of Consumer Advocate (w/Encl.)
Office of Small Business Advocate (w/Encl.)

**DOCUMENT
FOLDER**

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ORIGINAL

RECEIVED

APR 15 2003

COMMONWEALTH OF PENNSYLVANIA

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PUBLIC UTILITY COMMISSION

THE MUNICIPAL AUTHORITY OF THE)
TOWNSHIP OF ROBINSON,)

Complainant - Petitioner,)

vs.)

PENNSYLVANIA AMERICAN WATER)
COMPANY,)

Respondent.)

No.: C-20030092

FORMAL COMPLAINT AND PETITION FOR DECLARATORY ORDER

AND NOW COMES The Municipal Authority of the Township of Robinson ("MATR") and by its undersigned attorneys files this Formal Complaint and Petition for Declaratory Order pursuant to 52 Pa.Code §§ 5.21 and 5.42, stating as follows:

1. Complainant-Petitioner MATR is a municipal authority organized and existing pursuant to the Municipal Authorities Act, 53 Pa.C.S.A. § 5601 et seq., and having its principal offices at 4192 Campbells Run Road, Pittsburgh, Pennsylvania 15205.

2. Respondent Pennsylvania American Water Company ("PAWC") is a Pennsylvania public utility having its principal offices in Western Pennsylvania at 300 Galley Road McMurray, Pennsylvania 15317.

DOCUMENT
FOLDER

DOCKED
MAY 19, 2003

3. MATR produces and distributes water for the residents and businesses of the Township of Robinson in Allegheny County, Pennsylvania, and supplies water to certain other municipal authorities pursuant to contracts.

4. In performing its public services, MATR operates a water plant capable of producing in excess of six million gallons of water per day.

5. MATR currently is supplying water to the Western Allegheny County Municipal Authority ("WACMA") pursuant to an Agreement dated October 20, 1983 (the "MATR Agreement").

6. WACMA is a municipal authority that operates a water distribution system but does not produce water itself.

7. Pursuant to the MATR Agreement, WACMA currently is obligated to purchase no less than 85% of its water requirements from MATR.

8. MATR earns substantial revenue from its contract with WACMA, which revenue benefits all of its rate payers.

9. The MATR Agreement terminates on October 20, 2003.

10. If MATR does not retain WACMA as a customer, MATR's lost revenue will have a detrimental impact upon MATR and its rate payers.

11. Upon information and belief, PAWC has entered a 15 year agreement with WACMA dated in April of 2003 (the "PAWC Agreement"), whereby PAWC has agreed to supply WACMA with 100% of its water requirements upon the termination of the MATR Agreement.

12. MATR has requested WACMA to make the PAWC Agreement available to it, which request has been refused by WACMA as of the date of this Complaint. Therefore, the PAWC Agreement cannot be attached hereto as an exhibit.

13. Upon information and belief, pursuant to the PAWC Agreement, PAWC will install, at its own substantial expense, all of the facilities necessary to connect the PAWC water system with WACMA's distribution system.

14. Upon information and belief, pursuant to the PAWC Agreement, WACMA will purchase water from PAWC at the rate of \$1.90 per thousand gallons of water (the "Contract Rate").

15. The Contract Rate is substantially less than any of the rates established in PAWC's current tariff (the "Tariff").

16. The following are PAWC's rates applicable to sales to water utilities such as WACMA, pursuant to the Tariff: Other Water Utilities Group A - \$3.92 per thousand gallons; and Other Water Utilities Group B - \$10.00 per thousand gallons. A copy of the relevant provisions of the Tariff is attached hereto as Exhibit A.

17. For purposes of PAWC's Tariff, "Group A" rates apply to sales to private or public water utilities where the water is to be resold to consumers of the utilities and where the purchaser is using the water as its primary source of supply. "Group B" rates apply to sales to private or public water utilities where the water is to be resold to consumers of the utilities and where the water is being used as an emergency source of supply. See Exhibit A.

18. Pursuant to the PAWC Agreement, PAWC will be the primary source of WACMA's water.

19. Pursuant to the PAWC Agreement, WACMA will be purchasing water from PAWC for resale to its own customers.

20. Based upon the Tariff, the Group A rate should apply to the sale of water from PAWC to WACMA for purposes of resale to WACMA's customers.

21. The Contract Rate is less than 50% of the Group A rate provided for in the Tariff.
22. Upon information and belief, the PAWC based the Contract Rate upon "Rider DRS" in the Tariff.
23. Rider DRS is available to PAWC customers only if all of the following conditions are met: the customer (a) purchases water from PAWC for resale; (b) enters into a Service Agreement with PAWC for a term of not less than 10 years; (c) agrees to maintain a daily load factor of not less than 0.75; and (d) has a viable competitive alternative to service from PAWC and intends to select the alternative to the detriment of PAWC and its other customers. See Exhibit A.
24. In the event that the conditions set forth in the preceding paragraph apply, PAWC is permitted to sell water to the customer at a rate not less than the "Minimum Rate." See Exhibit A.
25. The Minimum Rate is defined in the Rider DRS as a rate sufficient to recover: "(1) the Production Cost of Water; (2) the fixed costs (depreciation and pre-tax return) associated with all new facilities added to serve the customer; and (3) some portion of the fixed costs of the Company's other facilities. For purposes of this Rider, the Production Cost of Water shall be the variable cost the Company incurs to produce additional treated water, which consists of expenses for electric power, chemicals and purchased water." See Exhibit A.
26. By its terms, Rider DRS is designed to allow PAWC to attempt to retain a current customer who intends to purchase water from a viable competitive alternative, and thereby avoid the detriment of losing such customer with respect to whom it has constructed facilities and made expenditures.
27. When the terms of Rider DRS apply, PAWC is able to fashion a rate less than its regular Tariff rate, that meets its minimum expenses associated with the service, in order to prevent the loss of an existing PAWC customer.

28. Upon information and belief, WACMA's water distribution system consists of two, completely separate systems, which systems serve different geographic areas and are not connected in any manner.

29. WACMA's primary distribution system (the "Primary System") is substantially larger than its other system, covers most of WACMA's service area, and provides water to most of WACMA's customers.

30. WACMA's other system (the "Secondary System") serves a small geographic portion of WACMA's service area, and supplies water to those WACMA customers not connected to the Primary System.

31. Presently, WACMA purchases a small portion of its water from PAWC, for distribution in its Secondary System.

32. Presently, MATR is the principal supplier of water for WACMA's Primary System, and PAWC has no connection to such Primary System.

33. MATR's wholesale water rates are substantially less than PAWC's Group A resale rate, which Group A rate applies to any sale of water from PAWC to WACMA under the Tariff.

34. PAWC is attempting to utilize Rider DRS to undercut MATR's prices, in order to acquire MATR's customer.

35. PAWC is attempting to utilize Rider DRS, not to retain a customer, but to expand its service territory by taking a customer from MATR.

36. Rider DRS was not intended to provide PAWC with a weapon to take customers from its competitors.

37. Rider DRS was not intended to allow PAWC to establish below market rates to entice customers from its competitors.

38. Upon information and belief, even if Rider DRS applied to the PAWC Agreement, which MATR denies, the Contract Rate is less than the Minimum Rate required pursuant to Rider DRS.

COUNT I

39. MATR incorporates herein by reference paragraphs 1 through 38 of this Formal Complaint and Petition for Declaratory Order.

40. The Contract Rate, as established in the PAWC Agreement, is not supported by any applicable provisions in PAWC's Tariff.

41. The PAWC Agreement should be declared void, as it violates the Tariff.

WHEREFORE, MATR hereby requests this Commission to enter an Order (a) voiding the PAWC Agreement; (b) declaring that any agreement between PAWC and WACMA must utilize the Group A Resale rate from PAWC's Tariff; and (c) declaring that the DRS Rider does not and cannot apply to any agreement between PAWC and WACMA with respect to the Primary System referred to in this Complaint.

COUNT II

(In the Alternative)

42. MATR incorporates herein by reference paragraphs 1 through 38 of this Formal Complaint and Petition for Declaratory Order.

43. The Contract Rate is less than the Minimum Rate allowed by Rider DRS.

44. In the event the PUC determines that Rider DRS applies to the PAWC Agreement (which is denied by MATR), such Agreement should be declared void, as it violates the Tariff by establishing a Contract Rate that is less than the Minimum Rate.

WHEREFORE, MATR hereby requests this Commission to enter an Order voiding the PAWC Agreement.

COUNT III

45. MATR incorporates herein by reference paragraphs 1 through 38 of this Formal Complaint and Petition for Declaratory Order.

46. MATR believes and therefore avers that PAWC will soon commence construction of the facilities necessary to serve WACMA under the PAWC Agreement.

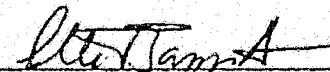
47. PAWC's violation of its Tariff, as described above, will cause immediate and irreparable harm to MATR.

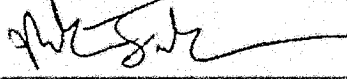
48. MATR's right to relief is clear.

49. MATR has no adequate remedy at law.

WHEREFORE, MATR requests this Commission to enter an Order prohibiting PAWC from commencing service to WACMA pursuant to the PAWC Agreement, or constructing any facilities with respect to such service.

YUKEVICH, MARCHETTI, LIEKAR
& ZANGRILLI, P.C.

By: 
Albert J. Zangrilli, Jr.
Pa. I.D. No. 15929

By: 
Mark Fischer
Pa. I.D. No. 69425

11 Stanwix Street, Suite 1024
Pittsburgh, PA 15222-1324
(412) 261-6777
Attorneys for The Municipal
Authority of the Township of Robinson

PENNSYLVANIA-AMERICAN WATER COMPANY
(Hereinafter referred to as the "Company")

RATES AND RULES

GOVERNING THE DISTRIBUTION AND SALE OF WATER

IN CERTAIN MUNICIPALITIES AND TERRITORIES LOCATED

THERE TO IN ADAMS, ALLEGHENY, ARMSTRONG, BEAVER, BERKS, BUCKS,
BUTLER, CENTRE, CHESTER, CLARION, CLEAFIELD, COLUMBIA, CUMBERLAND,
DAUPHIN, FAYETTE, INDIANA, JEFFERSON, LACKAWANNA, LANCASTER,
LAWRENCE, LEBANON, LUZERNE, MCKEAN, MONROE, MONTGOMERY,
NORTHAMPTON, NORTHUMBERLAND, PIKE, SCHUYLKILL, SUSQUEHANNA,
UNION, WASHINGTON, WARREN, WAYNE, AND YORK COUNTIES.

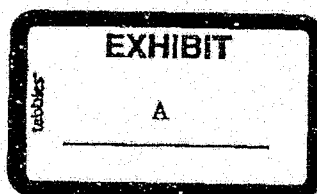
ALL IN THE COMMONWEALTH OF PENNSYLVANIA

Filed in compliance with the Pennsylvania Public Utility Commission
Order A-212285FC069, entered February 1, 2000.

Issued: April 2, 2003

Effective: April 6, 2003

BY: R. M. Ross, President



Issued: January 17, 2002

Effective: January 15, 2002

Supplement No. 120 to
Tariff Water-PA P.U.C. No. 4

Tenth Revised Page 9

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling 8th and 9th Rev.

Page 9

SCHEDULE OF RATES APPLICABLE TO RATE ZONE 1
FOR ALL RATE CLASSES EXCEPT INDUSTRIAL

METER RATES

All water supplied by the Company for any and all purposes, except Industrial, Qualified Private Fire Hydrants and Public Fire Hydrants, shall be metered as hereinafter set forth. All meters shall be read monthly or bimonthly and the water used shall be paid for in accordance with the following schedule of rates.

Service Charges

For All Rate Classes Except Industrial

All metered customers shall be subject to a monthly or bimonthly service charge, based on the size of meter required to render adequate service. (I)

<u>Size of Meter</u>	<u>Service Charge Per Month Except Other Water Utilities</u>	<u>Service Charge Per Month Other Water Utilities</u>
5/8 inch	\$ 10.50	\$ 12.70
3/4 inch	15.80	19.00
1 inch	26.30	32.00
1-1/2 inch	43.10	64.00
2 inch	68.90	102.00
3 inch	129.00	191.00
4 inch	162.00	318.00
6 inch	242.00	635.00
8 inch	468.00	1,016.00
10 inch	678.00	1,461.00
12 inch	1,061.00	2,286.00

Consumption Charges For all Rate Classes Except Industrial

The following rates shall apply per 100 gallons.

(I)

	<u>FIRST 16,000/MONTH</u>	<u>NEXT 584,000/MONTH</u>	<u>ALL IN EXCESS OF 600,000/MONTH</u>
Residential	.5277	.5277	.5277
Commercial	.5277	.3945	.3945

Municipal	.4210	.4210
Other Water		
Utilities Group A .3920	.3920	.3920
Other Water		
Utilities Group B 1.0000	1.000	1.0000

Issued: January 28, 2002

Effective: January 25, 2002

Supplement No. 120 to
Tariff Water-PA P.U.C. No. 4
9th Revised Page 9A

PENNSYLVANIA-AMERICAN WATER COMPANY

Canceling 7th and 8th Rev. Page
9A

SCHEDULE OF RATES APPLICABLE TO RATE ZONE 1
FOR INDUSTRIAL RATE CLASS

METER RATES

All water supplied by the Company for Industrial purposes shall be metered as hereinafter set forth. All meters shall be read monthly or bimonthly and the water used shall be paid for in accordance with the following schedule of rates.

Service Charges
For Industrial Rate Class

All metered customers shall be subject to a monthly or bimonthly service charge, based on the size of meter required to render adequate service. (I)

<u>Size of Meter</u>	<u>Per Month</u>
5/8 inch	\$ 15.70
3/4 inch	23.60
1 inch	39.30
1-1/2 inch	78.50
2 inch	125.60
3 inch	236.00
4 inch	393.00
6 inch	785.00
8 inch	1,256.00
10 inch	1,806.00
12 inch	2,826.00

Consumption Charges For Industrial Rate Class (I)

The following rates shall apply per 100 gallons per month.

Industrial

Industrial Curtailment*

RIDER DRS - DEMAND-BASED RESALE SERVICE

Applicability.

Throughout the territory served under this tariff.

Availability.

This rider is available to a customer that:

- (1) purchases water from the Company for resale;
- (2) enters into a Service Agreement for a term of not less than 10 years;
- (3) during the original and any renewal terms of the Service Agreement, agrees to maintain a daily load factor of not less than 0.75; and
- (4) has a viable competitive alternative to service from the Company and intends to select that alternative to the detriment of the Company and its other customers.

The Company shall require documentation to establish, to the Company's satisfaction, the existence of a competitive alternative. Such documentation may include, but is not limited to, an affidavit of the customer or, if the customer is a corporation, an affidavit of one or more of its officers.

Rate.

(C)

The rate(s) to be charged qualifying customers under this rider will be as set forth in the Service Agreement, provided, however, that such rate(s): (1) shall not exceed the Maximum Rate; (2) shall not be less than the Minimum Rate; and (3) shall be subject to an Escalation Clause, as hereafter defined.

Maximum Rate: The Maximum Rate shall be the charges specified in the Company's Rate Schedule that would otherwise apply to the qualifying customer absent this rider.

Minimum Rate: The Minimum Rate shall be sufficient to recover: (1) the Production Cost of Water; (2) the fixed costs (depreciation and pre-tax return) associated with all new facilities added to serve the customer; and (3) some portion of the fixed costs of the Company's other facilities. For purposes of this rider, the Production Cost of Water shall be the variable cost the Company incurs to produce additional treated water, which consists of expenses for electric power, chemicals and purchased water.

Escalation Clause: The rate set forth in the Service Agreement shall be subject to an Escalation Clause, during the original and any renewal terms of the Service Agreement, based upon changes in published price indices and/or changes in the Company's cost of service, as the Company and the qualifying customer shall agree.

Filing With The Pennsylvania Public Utility Commission/Confidentiality: Service Agreements entered into between the Company and qualifying customers under this rider shall be filed with the Commission on a confidential basis within five (5) days of their execution and shall not be subject to disclosure except by Petition made to and granted by the Commission pursuant to 52 Pa. Code §1.74 and the Commission's Order entered June 6, 1996 at Docket No. R-00943231. However, as required by that Order,

the Company shall provide copies of such Service Agreements to the Pennsylvania Office of Consumer Advocate ("OCA") contemporaneously with their filing with the Commission, subject to the OCA's execution of a Confidentiality Agreement.

Issued: August 2, 1996

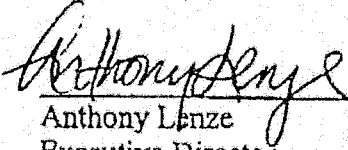
Effective: August 2, 1996

VERIFICATION

I, Anthony Lenze, verify that I am the Executive Director of The Municipal Authority of the Township of Robinson and that I am authorized to make this verification on its behalf. The statements made in the foregoing Formal Complaint and Petition for Declaratory Order are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of *18 Pa.C.S. § 4904*, relating to unsworn falsification to authorities.

THE MUNICIPAL AUTHORITY
OF THE TOWNSHIP OF ROBINSON

By: _____


Anthony Lenze
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Formal Complaint and
Petition for Declaratory Order has been served upon the following persons by first class mail:

Ms. Deborah P. Lippert
Pennsylvania American Water Company
300 Galley Road
McMurray, Pennsylvania 15317

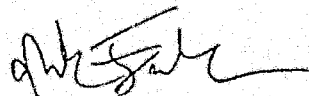
Mr. Phillip Morris, Chairman
Western Allegheny County Municipal Authority
403 Virginia Drive
Oakdale, PA 15071-9105

Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
Att: Office of Trial Staff

Office of Attorney General
Consumer Advocate's Office
555 Walnut Street
Harrisburg, PA 17101

Department of Commerce
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Date: April 15, 2003



Mark Fischer

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215.963.5000
Fax: 215.963.5001
www.morganlewis.com

ORIGINAL Morgan Lewis
COUNSELORS AT LAW

BTL

Thomas P. Gadsden
Esquire
215 963 5234
tgadsden@morganlewis.com

DOCUMENT FOLDER

May 16, 2003

BY HAND DELIVERY

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

C. 20030092

RECEIVED
03 MAY 16 PM 3:19
M.P.U.C.
SECRETARY'S BUREAU

Re. **The Municipal Authority Of The Township Of Robinson v. Pennsylvania-American Water Company**
Docket No. P-00032042-

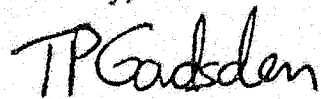
Dear Secretary McNulty:

Enclosed are the original and two copies of the Answer of Pennsylvania-American Water Company to the Complaint/Petition for Declaratory Order filed by the Municipal Authority of the Township of Robinson in the above-docketed matter. I have also enclosed an additional copy of the Answer that I ask be date-stamped and returned to our messenger as evidence of filing.

As indicated on the attached Certificate of Service, copies of the Answer are being served concurrently on counsel for the Complainant and Chief Counsel Pankiw, it being the Company's understanding that this matter has been referred to the Commission's Law Bureau.

James J. McNulty
May 16, 2003
Page 2

Sincerely,



Thomas P. Gadsden

TPG/jae

Enclosures

c: Bohdan R. Pankiw, Esquire
Albert J. Zangrilli, Jr., Esquire

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT FOLDER

THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF ROBINSON

v.

PENNSYLVANIA-AMERICAN WATER COMPANY

C-10030092

DOCKET NO. P-00032042

DOCKETED

JUN 12 2003

ANSWER OF PENNSYLVANIA-AMERICAN WATER COMPANY TO THE FORMAL COMPLAINT AND PETITION FOR DECLARATORY ORDER OF THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF ROBINSON

PA P.U.C. SECRETARY'S BUREAU

03 MAY 16 PM 3:20

RECEIVED

Pennsylvania-American Water Company ("PAWC" or the "Company"), Respondent in the above-captioned matter, hereby answers the Formal Complaint and Petition for Declaratory Order (the "Complaint") filed on or about April 16, 2003 by the Municipal Authority of the Township of Robinson (the "Authority").¹ For the reasons set forth below, PAWC respectfully submits that the Complaint should be dismissed and the requested Declaratory Order denied.

1. Admitted.

2. Admitted. By way of further answer, PAWC notes that its corporate headquarters are located at 800 West Hershey Park Drive, Hershey, Pennsylvania 17033-0888. Service of all pleadings and other documents should be directed to this address, care of Susan Simms Marsh, Esquire, and to the undersigned.

3. Admitted.

4. PAWC is without sufficient knowledge to admit or deny the alleged production capabilities of the Authority's "water plant" and, to the extent relevant, demands strict proof thereof at any hearing held hereon.

5. Admitted. By way of further answer, it is PAWC's understanding, as indicated in Paragraph 9 of the Complaint, that the water sales agreement between the Authority and the West Allegheny County Municipal Authority ("WACMA"), referred to in the Complaint as the "MATR Agreement," expires on October 20, 2003.

6. Admitted.

7. Denied as stated. By way of further answer, it is PAWC's understanding that the MATR Agreement obligates WACMA to purchase 85% of its water needs from the Authority, subject to a monthly cap of 30 million gallons, or approximately 1 million gallons per day (MGD). It is PAWC's further understanding that, in certain years, WACMA has purchased less than 85% of its water needs from the Authority.

8. PAWC is without sufficient knowledge to admit or deny the alleged financial impact of the MATR Agreement on the Authority or its customers and, to the extent relevant, demands strict proof thereof at any hearing held hereon.

9. Admitted.

¹ To date, PAWC has not officially been served with the Complaint by the Commission. PAWC obtained the docket number identified above from the Commission's web-site.

10. See the response to Paragraph 8, *supra*.

11. PAWC admits that it has entered into a Water Sales Agreement with WACMA (the "PAWC Agreement") which, subject to the satisfaction of certain terms and conditions, is scheduled to become effective on October 21, 2003. The remaining averments set forth in Paragraph 11 of the Complaint are denied. By way of further answer, PAWC notes that, pursuant to the Commission's Order entered June 6, 1996 at Docket No. R-00943231, the PAWC Agreement was filed, on a confidential basis, with the Commission and the Office of Consumer Advocate on March 28, 2003 and speaks for itself.

12. PAWC is without sufficient knowledge to admit or deny the alleged communications between the Authority and WACMA and, to the extent relevant, demands strict proof thereof at any hearing held hereon.

13. Admitted.

14.-17. It is admitted that the "Contract Rate" at which PAWC will sell water to WACMA under the PAWC Agreement is less than the Company's tariffed rates for Class A and Class B Sales for Resale customers. By way of further answer, PAWC avers that its tariff for water service speaks for itself.

18.-19. Admitted.

20. Denied. Rider DRS-Demand Based Resale Service, which is part of PAWC's Commission-approved tariff, expressly authorizes the Company to enter into alternative water rate arrangements under the circumstances presented here.

21.-22. Admitted.

23.-25. Admitted. By way of further answer, PAWC avers that its tariff, including Rider DRS, speaks for itself.

26.-27. Denied as stated. *See Paragraph 55, infra.*

28.-30. Denied. By way of further answer, it is PAWC's understanding that WACMA has operated a single, integrated water distribution system for several years and that the "Primary System"/"Secondary System" distinctions drawn by the Authority in its Complaint are no longer applicable.

31.-32. It is admitted that WACMA currently purchases water from both PAWC and the Authority. The remaining averments set forth in Paragraphs 31 and 32 of the Complaint are denied for the reasons explained in Paragraphs 28-30, *supra*.

33. It is admitted that the Authority's wholesale water rate is currently less than PAWC's "Group A resale rate." It is denied that the "Group A resale rate" necessarily applies to any sale of water from PAWC to WACMA for the reasons explained in Paragraph 20, *supra*.

34. It is denied that PAWC is attempting "to acquire MATR's customer." To the contrary, and as the Authority acknowledges in Paragraph 31 of its Complaint, WACMA is already a customer of PAWC. Indeed, PAWC has served WACMA for over 45 years.

35. It is denied that PAWC is attempting "to expand its service territory by taking a customer from MATR." To the contrary, the Company currently serves WACMA through a metered connection located within PAWC's Commission-approved service territory. Moreover,

as anticipated by the parties, PAWC will install three additional interconnections with the WACMA system, all of which similarly will be situated in PAWC's service territory.

36.-37. Denied as stated. As noted previously, WACMA is an existing customer of PAWC. Moreover, the MATR Agreement expires on October 20, 2003.

38. Denied. By way of further answer, PAWC submits that there is no reasonable basis upon which the Authority could have concluded, much less have represented to the Commission, that the "Contract Rate" set forth in the PAWC Agreement is less than the Minimum Rate defined in Rider DRS.

39.-41. Denied for the reasons set forth in Paragraphs 1-38, *supra*. By way of further answer, PAWC submits that Paragraphs 39-41 of the Complaint constitute a prayer for relief to which no affirmative response is required.

42.-44. Denied. As discussed *infra*, the "Contract Rate" set forth in the PAWC Agreement is substantially greater than the Minimum Rate defined in Rider DRS. By way of further answer, PAWC submits that Paragraphs 42-44 of the Complaint constitute a prayer for relief to which no affirmative response is required.

45.-49. It is admitted that PAWC plans to start construction shortly of the additional facilities needed to serve WACMA under the PAWC Agreement. By way of further answer, and as discussed *infra*, PAWC submits that the Commission lacks the statutory authority to enjoin PAWC from constructing such facilities. The remaining averments of Paragraphs 45-49 of the Complaint are either denied or constitute a prayer for relief to which no affirmative response is required.

NEW MATTER

A. PAWC Has The Right, Indeed the Statutory Obligation, To Serve WACMA

50. Under Section 1501 of the Public Utility Code (66 Pa.C.S. §1501), and subject to the terms and conditions set forth in its Commission-approved tariff, PAWC is obligated to “furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and [to] make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.”

51. Consistent with its statutory mandate, PAWC currently serves WACMA through a metered interconnection point in North Fayette Township. At WACMA’s request, PAWC has agreed to construct the facilities necessary to accommodate three additional interconnections with WACMA - - one near the existing interconnection in South Fayette Township, a second in Collier Township, and a third in Robinson Township, Washington County, to serve growth in the western portion of WACMA’s system. A map depicting PAWC’s certificated service territory, the area served by WACMA, and the existing and proposed interconnection points is attached hereto as Appendix “A.”

52. The existing interconnection is and the three proposed interconnections will be situated in PAWC’s certificated service territory. As such, PAWC has the unfettered right to serve WACMA and, as noted previously, has been serving WACMA for over 45 years.

B. WACMA Satisfies Rider DRS' Availability Requirements

53. Rider DRS, as approved by the Commission, is available to any customer that: (1) purchases water from the company for resale; (2) enters into a Service Agreement for a term of not less than 10 years; (3) during the original and any renewal terms of the Service Agreement, agrees to maintain a daily load factor of not less than 0.75; and (4) has a viable competitive alternative to service from the Company and intends to select that alternative to the detriment of the Company and its other customers (Supplement No. 20 to Tariff Water-PA P.U.C. No. 4, Second Revised Page 9E). Rider DRS further provides that the rates to be charged qualifying customers shall not exceed the "Maximum Rate" nor be less than the "Minimum Rate," both as defined in PAWC's tariff, and shall be subject to an agreed upon "Escalation Clause."

54. WACMA fully satisfies the foregoing criteria. As acknowledged by the Authority (Complaint, Paragraph 31), WACMA will purchase water from PAWC for resale. In addition, and as can be confirmed by a review of the PAWC Agreement filed with the Commission on March 28, 2003, WACMA has agreed to a term in excess of ten years, to maintain a daily load factor of at least 0.75 and to a rate that is subject to an escalation factor. Finally, it is readily apparent that WACMA has a "viable competitive alternative" (i.e., the Authority) and that the loss of current and/or prospective water sales to WACMA would have a detrimental effect on PAWC and its other customers.

55. The Authority's attempt to carve out the so-called "Primary System" as a "new" customer ineligible for Rider DRS treatment (*see* Complaint, Paragraph 41) fails as a matter of fact and of law. As noted previously (*see* Paragraphs 28-30, *supra*), it is PAWC's

understanding that WACMA's formerly separate "Primary System" and "Secondary System" have been interconnected and that, as a consequence, WACMA now operates a single integrated system. Moreover, there is absolutely no basis for the Authority's assertion that Rider DRS is limited in scope to the retention of existing sales. To the contrary, when Rider DRS was presented for the Commission's consideration, Robert L. Robowski, PAWC's Director of Rates and Revenue, stated that its purpose was to enhance the Company's ability "to maintain its existing customer base and, hopefully, attract new customers" (PAWC St. 5, p. 6, at Docket No. R-00943231) (excerpt attached as Appendix "B"). Later, in briefing the matter, PAWC observed: "The concept underlying the Company's position in this case is that its proposal will permit it flexibility to negotiate rates that retain or attract load that otherwise would be lost or never come on-line" (Initial Brief of Pennsylvania-American Water Company to Administrative Law Judge Robert A. Christianson, dated April 18, 1995, at Docket No. R-00943231) (excerpt attached as Appendix "C").²

C. The "Contract Rate" Set Forth In The PAWC Agreement Is Substantially Greater Than The "Minimum Rate" Required By Rider DRS

56. As the Authority notes in Paragraph 25 of the Complaint, the "Minimum Rate" required by Rider DRS must be sufficient to recover: "(1) the Production Cost of Water; (2) the fixed costs (depreciation and pre-tax return) associated with all new facilities added to serve the customer; and (3) some portion of the fixed costs of the Company's other facilities."

² This interpretation is entirely consistent with Rider DRS' requirement that the "Minimum Rate" recover "the fixed costs (depreciation and pre-tax return) associated with all new facilities added to serve the customer" (emphasis added).

57. Attached, as Appendix "D" to this Answer, is a quantification of the first two components enumerated above as they apply to the agreement between PAWC and WACMA. The Production Cost of Water, defined as the incremental cost of electric power, chemicals and purchased water, equals \$0.37 per 1,000 gallons. The fixed costs associated with the estimated \$2.1 million investment to be made by PAWC in new facilities equals \$0.67 per 1,000 gallons. The sum of these two components is far less than the "Contract Rate" specified in the PAWC Agreement, thereby assuring that PAWC will recover a substantial contribution towards the fixed costs of its other facilities to the benefit of its existing customers.

D. The Commission Lacks The Statutory Authority To Enjoin PAWC From Constructing The Necessary Facilities To Serve WACMA, And The Authority Cannot Satisfy The Legal Requirements For The Issuance Of An Injunction In Any Event

58. In Count III of the Complaint, the Authority seeks a Commission Order enjoining PAWC from, *inter alia*, "constructing any facilities" needed to provide service to WACMA. The Authority's request must be denied because there is no basis in law for the Commission to grant the relief the Authority requests. In addition, the Authority cannot satisfy the requirements for injunctive relief specified by the Commission's regulations at 52 Pa. Code §3.7 and generally applicable legal principles.

59. Pennsylvania's appellate courts have repeatedly held that the Public Utility Code does not grant the Commission authority to prohibit utilities from constructing new facilities. The Pennsylvania Supreme Court clearly articulated this principle in *Pa. P.U.C. v. Philadelphia Electric Company*, 501 Pa. 153, 159, 460 A.2d 734, 737-38 (1983):

It is well established that, absent express legislative authority, the PUC is powerless to interfere with the general management

decisions of public utility companies. *Swarthmore Borough v. Public Service Commission*, 277 Pa. 472, 478, 121 A. 488, 489-490 (1923). The Public Utility Code does not expressly grant the PUC general authority over the siting and construction of all utility plants. Nor does it require PUC approval for expansion of all facilities, the discretion of the company's management over such matters being generally beyond the PUC's power to supersede. *Duquesne Light Co. v. Upper St. Clair Township*, 377 Pa. 323, 337, 105 A.2d 287, 293 (1954). Even the PUC concedes that it is without power to order that construction of Limerick 2 [an electric generating unit] be ceased, an order which the PUC did not issue here

Accord Barasch v. Pa. P.U.C., 104 Pa. Cmwlth. 52,65, 521 A.2d 482, 488 (1986) (Section 520, which was added to the Public Utility Code in 1985 and authorized the PUC to "cancel or modify" the construction of an electric generating unit, "grants the PUC substantial new authority" because, in all other areas, the decision to construct new facilities is strictly a managerial function of the utility.)

60. The Commission's regulations at 52 Pa. Code §3.7 identify four conditions that are a necessary prerequisite for the Commission to grant extraordinary relief, such as the injunction sought by the Authority:

1. The petitioner's right to relief is clear.
2. The need for relief is immediate.
3. The injury would be irreparable if relief is not granted.
4. The relief requested is not injurious to the public interest.

The four conditions set forth above mirror the requirements for the issuance of extraordinary relief established by Pennsylvania's appellate courts. *See Pa. P.U.C. v Process Gas Consumers Group*, 502 Pa. 545, 467 A.2d 805 (1983).

61. The Authority has not alleged, nor can it satisfy, the foregoing conditions and, therefore, it is not entitled to the injunctive relief it requests. As previously explained, there is no basis for the Commission to block PAWC's construction of facilities to serve WACMA.

Moreover, no harm would accrue to the Authority from PAWC's construction of such facilities. Furthermore, even PAWC's prospective expansion of service to WACMA does not rise to the level of irreparable harm that would sustain the issuance of an injunction. Rather, any diminution in the Authority's revenues would be precisely the kind of "competitive" impact that the Commonwealth Court has expressly held "does not amount to an injury, irreparable or otherwise." *Brink's Inc v. Pa. P.U.C.*, 1982 Pa. Cmmw. LEXIS 1264 (1982) ("All that Brink's can claim is that the exercise of the temporary authority by Brooks will cause Brink's to face competition for business as a contract carrier. No basis can be found for concluding that it is necessarily injurious for an American business enterprise to encounter competition in its field").

REQUEST FOR EXPEDITED CONSIDERATION

62. In view of the foregoing, there is no lawful basis on which the Commission could grant the Authority's request for declaratory or injunctive relief. Furthermore, PAWC submits that the PAWC Agreement and the information supplied with this Answer resolve any factual dispute as to whether the "Contract Rate" agreed to by PAWC and WACMA satisfies the "Minimum Rate" requirements of Rider DRS. That being the case, there is no reason why this matter needs to be assigned to the Office of Administrative Law Judge. However, should the Commission disagree, PAWC requests that any further proceedings be conducted on an expedited basis so that a final Commission adjudication can be rendered well in advance of the expiration of the MATR Agreement, as well as the anticipated effective date of the PAWC Agreement, in mid-October.

WHEREFORE, for all of the reasons set forth above, PAWC asks that the Complaint be dismissed and the requested Declaratory Order be denied.

Respectfully submitted,



Thomas P. Gadsden
Anthony C. DeCusatis
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
215.963.5234
tgadsden@morganlewis.com

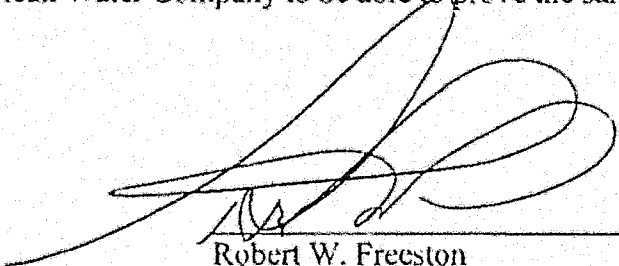
Counsel for Pennsylvania-American Water
Company

Date: May 16, 2003

AFFIDAVIT

Commonwealth of Pennsylvania)
) SS.
County of Dauphin)

Robert W. Freeston, being duly sworn according to law, deposes and says that he is the Vice President and Treasurer of the Pennsylvania-American Water Company; that he is authorized to and does make this Affidavit for it; and that the facts set forth in the foregoing document are true and correct to the best of his knowledge , information and belief and that he expects the said Pennsylvania-American Water Company to be able to prove the same at any hearing thereof.

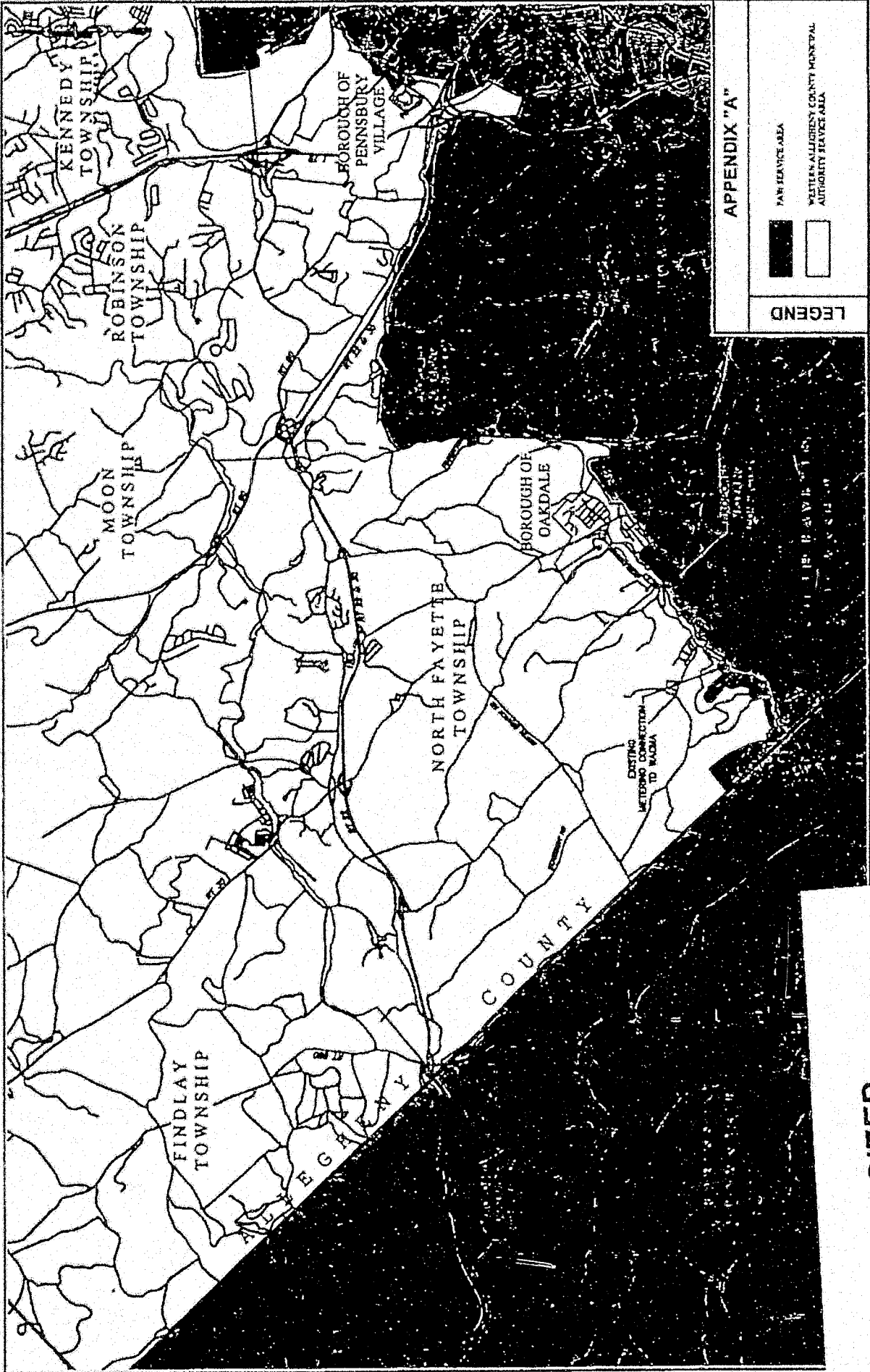

Robert W. Freeston

Sworn to and subscribed before me
This 16th day of March, 2003.

Emily T. Hicks
NOTARY PUBLIC

NOTARIAL SEAL
Emily T. Hicks, Notary Public
Derry Township Dauphin County
My Commission Expires March 4, 2006

A



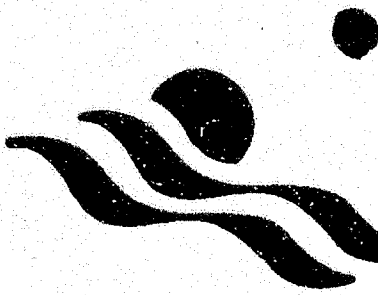
APPENDIX "A"

- PAR SEWERAGE AREA
- WASTEWATER ALLIANCE COUNTY MUNICIPAL AUTHORITY SEWERAGE AREA

LEGEND

OVERSIZED
DOCUMENT(S)

B



Pennsylvania-American Water Company

PAWC STATEMENT NO. 5

**DIRECT TESTIMONY
OF
ROBERT L. ROBOWSKI**

**WITH REGARD TO
THE COMPANY'S RATE DESIGN PROPOSAL,
ITS CLAIM FOR OTHER RETIREMENT BENEFITS,
PENSIONS, AND THE STATUS OF ITS ONGOING
CUSTOMER CLASS DEMAND STUDY**

PENNSYLVANIA-AMERICAN WATER COMPANY

DIRECT TESTIMONY OF ROBERT L. ROBOWSKI

1 1. Q. Please state your name and business address.

2 A. My name is Robert L. Robowski and my business address
3 is 800 West Hersheypark Drive, Hershey, Pennsylvania
4 17033.

5 2. Q. What positions do you hold with Pennsylvania-American
6 Water Company ("Pennsylvania-American", "PAWC" or the
7 "Company")?

8 A. I am Assistant Treasurer of the Company and the
9 Director of Rates and Revenues.

10 3. Q. Briefly outline your business experience.

11 A. I was first employed by the American Water Works
12 Service Company (the "Service Company") in 1959 in the
13 continuing property records section of its Richmond,
14 Indiana office. Thereafter, I held positions in the
15 accounting and rate areas of that office and, in that
16 capacity, was involved in the preparation and filing of
17 rate cases in the states of Ohio, Indiana, Kentucky,
18 Illinois and Missouri. In 1964, I accepted a transfer
19 to the Ashtabula Water Works Company in Ohio as
20 Business Manager. In 1968, I was transferred to the
21 Citizens Water Company of Washington, Pennsylvania in a
22 similar position. In early 1970, I was again
23 transferred to the Service Company in Pittsburgh,
24 Pennsylvania in the Rate Department and participated in

1 rate filings in the states of Maryland, Virginia and
2 Pennsylvania. In 1971, I was transferred to the then
3 Connellsville Water Company as Manager. When the
4 Connellsville and Uniontown Companies were subsequently
5 acquired and merged into what became the Western
6 Pennsylvania Water Company, I became manager of the
7 merged Connellsville/Uniontown Districts. In early
8 1975, I again accepted a transfer to the Pittsburgh
9 Division of Western Pennsylvania Water Company in the
10 position of business manager. In 1981, I accepted a
11 position on the corporate staff of Western Pennsylvania
12 Water Company as Manager of Operations. In early 1985,
13 I became manager of the Pittsburgh Division. In
14 mid-1989, I transferred to the Service Company and
15 became Director of Rates and Revenues. On January 1,
16 1993, I transferred from the Service Company to
17 Pennsylvania-American and assumed my current
18 responsibilities.

19 4. Q. Please briefly outline your educational background.

20 A. I attended Ball State University in Muncie, Indiana
21 with a major in Accounting. In addition, I have
22 participated in the NARUC rates school and have also
23 supplemented my education by attending various seminars
24 on utility regulation. I am a member of the
25 Pennsylvania Water Works Operators Association and the
26 American Water Works Association.

1 5. Q. What is the purpose of your testimony in this case?

2 A. The purpose of my testimony in this proceeding is
3 three-fold: (1) to outline the Company's rate design
4 proposal; (2) to explain its claim for Other Post-
5 retirement Benefits ("OPEBs"); and (3) to explain its
6 claim for pension expense.

7 6. Q. How is the Company proposing to recover its cost of
8 service in this proceeding?

9 A. As part of the Order in the Company's last rate case,
10 the Commission approved a further consolidation of the
11 Company's various rate zones, which increased even
12 further the number of customers billed under the same
13 set of rates through a pricing concept known as Single
14 Tariff Pricing. As a result, a single set of uniform
15 rates was established for approximately 99.9% of the
16 Company's customers (i.e., Rate Zone 1). Only about
17 300 customers in the recently-acquired Skyline service
18 area (Rate Zone S) and Gregg service area (Rate Zone G)
19 have separate, non-uniform rates. Through this filing,
20 it is recommended that the process be continued with
21 the consolidation of Rate Zones 1 and G. In addition,
22 the Company is proposing to increase rates in Rate Zone
23 S by 30%. Even with the proposed increase of 30%, this
24 will still leave the rates charged Rate Zone S
25 customers substantially below Rate Zone 1 rate levels.

1 In light of pending legislation and the fact that
2 public fire protection customers are already covering
3 in excess of 50% of their indicated cost of service,
4 the Company is not proposing to increase its "target"
5 public fire protection charge of \$240. The Company is,
6 however, proposing that public fire protection charges
7 in the Brownsville and California areas, which are
8 still subject to the multi-filing phase-in plan.

9 7. Q. How does the Company propose to allocate the requested
10 increase in revenues?

11 A. Because the revenue from private fire protection
12 customers is presently well above the indicated cost of
13 service, no increase has been proposed for that class.
14 As I noted earlier, Rate Zone G will be eliminated,
15 with its customers henceforth included in Rate Zone 1,
16 and the rates charged Rate Zone S customers will be
17 increased by 30%. The Company is proposing no increase
18 in customer service charges, but instead would recover
19 the entire remaining revenue requirement through
20 increases in consumption charges.

21 8. Q. Did you participate in the decision-making process
22 concerning the rates proposed in this case?

23 A. Yes. I consulted with the President, Vice President
24 and Treasurer of the Company and with Mr. Stout on
25 several occasions concerning tariff design policies.

1 During this process, Mr. Stout was provided the
2 guidance necessary to develop the various rates
3 proposed in this case.

4 9. Q. What specific rate design guidelines were provided to
5 Mr. Stout?

6 A. Mr. Stout was requested to design rates consistent with
7 the goal of Single Tariff Pricing; to retain existing
8 customer service charges and the present \$240 "target"
9 rate for public fire protection; and to increase rates
10 by customer class in a gradual manner taking into
11 account the results of the Customer Class Demand Study.

12 10. Q. Are there any other tariff changes which are being
13 proposed in this rate filing?

14 A. Yes. The Company is proposing to add riders to its
15 existing industrial and sale for resale tariff
16 schedules that would enable it to separately negotiate
17 rates with qualifying high load factor customers who
18 can establish (1) that they have available to them a
19 viable competitive alternative to service from PAWC
20 (e.g., the development of their own supply sources, the
21 relocation of facilities, the installation of recycling
22 equipment) and (2) that they intend to pursue that
23 alternative to the detriment of PAWC and its other
24 customers. In addition, the Company is proposing to
25 add Rate EGS, which would provide it similar

1 negotiating flexibility when dealing with cogenerators
2 and other electric generating facility customers.
3 These initiatives are being recommended by PAWC to
4 enhance its ability to maintain its existing customer
5 base and, hopefully, attract new customers.

6 11. Q. Please describe the Company's claim for OPEBs.

7 A. The Company's claim for OPEBs totals \$4,716,484 and was
8 developed in the same manner as presented to and
9 approved by the Commission in PAWC's last two rate
10 proceedings. As set forth at page 39 of Exhibit 3-A,
11 it consists of two components: (1) \$4,493,572 in
12 annualized benefit costs; and (2) \$222,912 annual
13 amortization of OPEB expense incurred in the first
14 quarter of 1993. Of these amounts, \$573,053 has been
15 capitalized. The foregoing figures are based on the
16 latest forecast by the Company's outside actuary,
17 Towers Perrin, and the supporting calculations have
18 been submitted with this filing at Exhibit 3-E, Book 3
19 of 7, pages 89-90.

20 12. Q. Please describe the Company's claim for pension
21 expense.

22 A. The Company's claim for pension expense, which is set
23 forth at page 40 of Exhibit 3-A, equals \$2,302,582. Of
24 this amount, \$279,764 has been capitalized and the
25 remaining \$2,022,818 charged to operating expense. As

1 in the case of the Company's OPEB claim, these figures
2 were developed by Towers Perrin and supporting
3 calculations have been provided in Exhibit 3-E, Book 3
4 of 7 at pages 83-85. Consistent with the treatment
5 accorded this item in PAWC's most recent rate
6 proceeding, the Company's claim represents the
7 estimated amount that it will be able to contribute to
8 the American Water System pension fund on a tax-
9 deductible basis during the plan year 1995-1996.

10 13. Q. As part of the settlement agreement at Docket
11 No. R-911909, the Company agreed to conduct additional
12 customer class demand studies. Please update the
13 status of that initiative.

14 A. In the past several years, the Company has installed
15 demand meters on all of its sale-for-resale customers.
16 Additionally, the Company has installed 161 metering
17 devices to measure the demands of various municipal,
18 commercial and industrial customers. Finally, the
19 Company has installed in excess of 500 demand meters on
20 residential customer accounts. The data obtained to
21 date will be discussed by Mr. Stout in his testimony.

22 14. Q. Does that conclude your direct testimony at this time?

23 A. Yes, it does.

c

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, ET AL. :
 :
v. : Docket No. R-00943231
 : (1994)
PENNSYLVANIA-AMERICAN WATER :
COMPANY :

INITIAL BRIEF OF RESPONDENT
PENNSYLVANIA-AMERICAN WATER COMPANY

Before Administrative Law Judge
Robert A. Christianson

Thomas P. Gadsden
Anthony C. DeCusatis

Counsel for Pennsylvania-
American Water Company

OF COUNSEL:

MORGAN, LEWIS & BOCKIUS
2000 One Logan Square
Philadelphia, Pennsylvania 19103
(215) 963-5234

DATE: April 18, 1995

documented the existence of a viable alternative to PAWC's water service, then no volumetric threshold should apply (PAWLUG St. 1, pp. 22-23). Dr. Romancheck's proposal is unacceptable in several important respects.

First, at this juncture, the Company sees no valid reason to offer to negotiate a below-tariff rate with an industrial customer that does not have a viable competitive alternative to PAWC's water service. The concept underlying the Company's position in this case is that its proposal will permit it the flexibility to negotiate rates that retain or attract load that otherwise would be lost or never come on-line. And, while the negotiated rates would be below standard tariff charges, they would provide a contribution to the Company's fixed cost recovery that otherwise would not occur. Absent the requirement of a viable competitive alternative, there would not appear to be a sound economic basis for offering a rate discount.

Second, as Mr. Robowski explained (PAWC St. 5-R, pp. 4-5), there is no valid reason to offer discounted rates to poor load factor customers. In addition to retaining or attracting incremental load, the riders can function as a demand management tool by creating an incentive for large industrial customers to improve their load factors (see PAWC St. 5-R, p. 4). This consideration also undercuts Dr. Romancheck's argument that the allegedly undue restrictiveness of the proposed eligibility

D

PENNSYLVANIA-AMERICAN WATER COMPANY
 WESTERN ALLEGHENY COUNTY MUNICIPAL AUTHORITY
 Minimum Rate Calculation

Minimum Rate Computation

	Per 1,000 Gallons	Annual Dollars
Criterion #1 - Production Cost of Water	\$0.37	\$162,060
Criterion #2 - Fixed Costs on new facilities	\$0.67	294,098
Criterion #3 - Fixed Costs on existing facilities	\$0.01	4,380
Minimum Rate	<u>\$1.05</u>	<u>\$460,538</u>

Criterion #1 - Recovery of the Production Cost of Water

Production Cost of Water per 1,000 gallons (1)	\$0.37	PAWC Tariff page 9B2, Consumption Charges
Gallons per year (1,000 gallons)	<u>438,000</u>	Per Contract
Annual Production Cost of Water	<u>\$162,060</u>	

Note 1: The 2002 production cost of water for PAWC's Pittsburgh facilities = \$0.21 per 1,000 gallons

Criterion #2 - Recovery of Fixed Costs on New Facilities

Estimated Cost of Additional Facilities	\$2,106,215	
Pre-Tax Rate of Return	<u>11.28%</u>	Appendix A
Pre-Tax Return	\$237,487	
Estimated Cost of Additional Facilities	\$2,106,215	
Depreciation Rate for Additional Facilities	<u>2.69%</u>	
Annual Depreciation	\$56,611	
Revenue Requirement (Pre-Tax Return and Depreciation) on New Facilities	<u>\$294,098</u>	
Rate per 1,000 gallons (\$294,098/438,000 gal)	\$0.67	

Contractual usage

Gallons per day	1,200,000	Per Contract
Gallons per year (1,000 gallons)	<u>438,000</u>	

**PAN AMERICAN WATER COMPANY
MINIMUM RATE ANALYSIS
WESTERN ALLEGHENY COUNTY MUNICIPAL AUTHORITY**

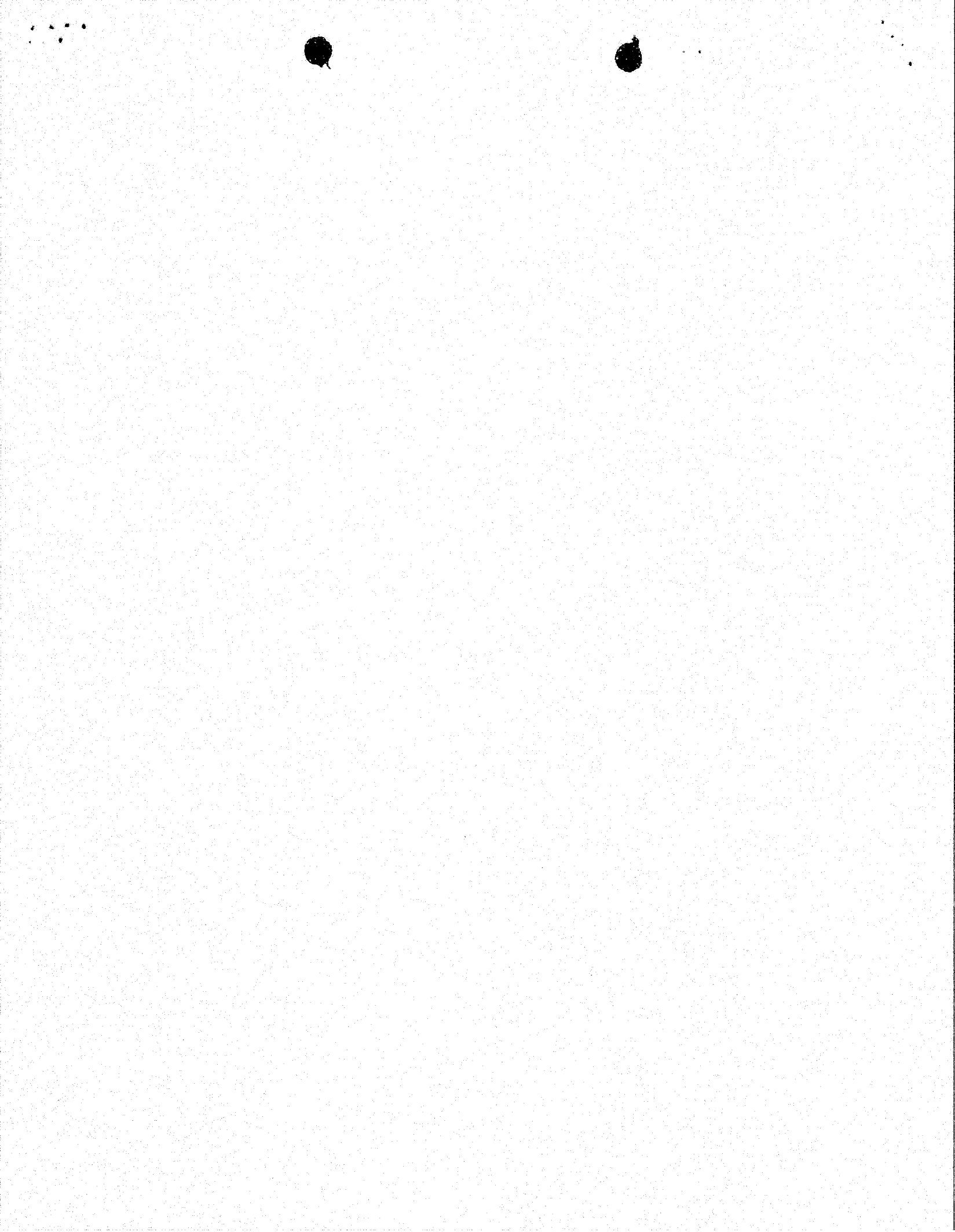
APPENDIX A

Type	(000's) Amount	Capital Structure	Cost Rate	Weighted Average Cost Rate	Revenue Multiplier	Revenue Requirement
Debt	\$884,987	56.8%	6.15%	3.49%		3.49%
Preferred	\$15,190	1.0%	8.08%	0.08%	1.70921	0.13%
Equity	\$657,329	42.2%	10.60%	4.47%	1.70921	7.65%
Overall Pre-Tax Rate of Return						11.28%

The weighted average cost rates for debt and preferred stock reflect the Company's pro forma capital structure and cost rates at December 31, 2003. The equity return rate is the Company's current authorized return on equity approved in the Commission's final Order at Docket No. R-00016339.

Revenue Multiplier Calculated as follows:

* Calculation:	1999
	100.00%
State Tax Rate	9.99%
Taxable Remainder	90.01%
Federal Tax Rate	35.00%
Federal Tax Rate	31.50%
State Portion	9.99%
Federal Portion	31.50%
Composite Tax Rate	41.49%
Tax Expansion Factor (100% - 41.49%)	58.51%
Revenue Multiplier: (100% / 58.51%)	1.70921



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Answer of Pennsylvania-American Water Company to the Complaint/Petition for Declaratory Order filed by the Municipal Authority of the Township of Robinson upon the following persons, in the manner indicated, in accordance with the requirements of §1.54 (relating to service by a participant).

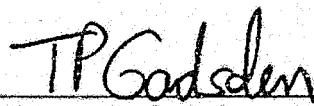
BY HAND DELIVERY

**Bohdan R. Pankiw, Esquire
Chief Counsel
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265**

BY FIRST CLASS MAIL

**Albert J. Zangrilli, Jr., Esquire
Yukevich, Marchetti, Liekar & Zangrilli, P.C.
11 Stanwix Street
Pittsburgh, PA 15222-1324**

Date: May 16, 2003



Thomas P. Gadsden

RECEIVED
03 MAY 16 PM 3:21
PA.P.U.C.
SECRETARY'S BUREAU

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

DATE SERVED: MAY 19, 2003

C-20030092

PENNA AMERICAN WATER COMPANY
ROBERT M ROSS
800 W HERSHEY PARK DR
HERSHEY PA 17033

DOCUMENT
FOLDER

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by THE MUNICIPAL AUTHORITY OF THE TOWNSHIP OF ROBINSON. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

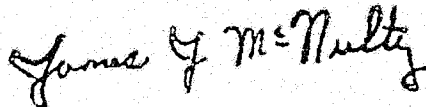
MAY 19, 2003

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script that reads "James J. McNulty". The signature is written in dark ink and is positioned above the typed name and title.

James J. McNulty
Secretary

was

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: MAY 19, 2003

DOCUMENT
FOLDER

THE MUNICIPAL AUTHORITY
OF THE TOWNSHIP OF ROBINSON
Complainant

VS.

Complaint Docket
No: C-20030092

PENNSYLVANIA AMERICAN WATER
COMPANY
Respondent

MAY 19 2003

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PENNSYLVANIA AMERICAN WATER COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, an answer (original and two copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

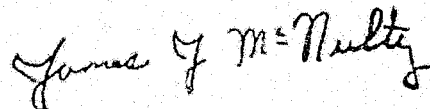
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which

prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215.963.5000
Fax: 215.963.5001
www.morganlewis.com

Morgan Lewis
COUNSELORS AT LAW

ORIGINAL

Thomas P. Gadsden
Esquire
215.963.5234
tgadsden@morganlewis.com

RECEIVED
2003 MAY 29 AM 9:20
SECRETARY'S BUREAU

May 27, 2003

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: The Municipal Authority Of The Township of Robinson
v.
Pennsylvania-American Water Company
Docket No. C-20030092

Dear Secretary McNulty:

On May 20, 2003, Pennsylvania-American Water Company ("PAWC" or the "Company") was served with the above-captioned Complaint filed by the Municipal Authority of the Township of Robinson (the "Authority").

Please be advised that the Company previously filed its Answer to this Complaint based on its understanding from information extracted from the Commission's web-site that this matter had been assigned to Docket No. P-00032042. A copy of the Company's transmittal letter, date-stamped on May 16, 2003, is enclosed.

Unless I hear from you to the contrary, I will assume that there is no need to refile PAWC's Answer at Docket No. C-20030092.

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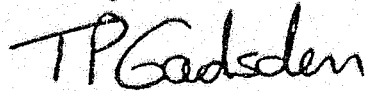
JUN 21 2003

RJP

23

James J. McNulty
May 27, 2003
Page 2

Sincerely,



Thomas P. Gadsden

TPG/jae

Enclosure

c: Bohdan R. Pankiw, Esquire
Albert J. Zangrilli, Jr., Esquire

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215 963 5000
Fax: 215.963.5001
www.morganlewis.com

Morgan Lewis
COUNSELORS AT LAW

Thomas P. Gadsden
Esquire
215 963 5234
tgadsden@morganlewis.com

May 16, 2003

BY HAND DELIVERY

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: **The Municipal Authority Of The Township Of Robinson v. Pennsylvania-
American Water Company**
Docket No. P-00032042

Dear Secretary McNulty:

Enclosed are the original and two copies of the Answer of Pennsylvania-American Water Company to the Complaint/Petition for Declaratory Order filed by the Municipal Authority of the Township of Robinson in the above-docketed matter. I have also enclosed an additional copy of the Answer that I ask be date-stamped and returned to our messenger as evidence of filing.

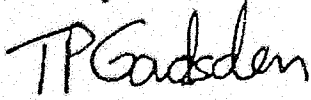
As indicated on the attached Certificate of Service, copies of the Answer are being served concurrently on counsel for the Complainant and Chief Counsel Pankiw, it being the Company's understanding that this matter has been referred to the Commission's Law Bureau.

SECRETARIAT & BUREAU

COMMITTEE ON 3:15

James J. McNulty
May 16, 2003
Page 2

Sincerely,



Thomas P. Gadsden

TPG/jac

Enclosures

c. Bohdan R. Pankiw, Esquire
Albert J. Zangrillh, Jr., Esquire

ORIGINAL RECEIVED

COMMONWEALTH OF PENNSYLVANIA JUN 04 2003

PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

THE MUNICIPAL AUTHORITY OF THE)
TOWNSHIP OF ROBINSON,)

Complainant - Petitioner,)

vs.)

PENNSYLVANIA AMERICAN WATER)
COMPANY,)

Respondent.)

No.: C-20030092

REPLY TO NEW MATTER OF PENNSYLVANIA-AMERICAN WATER COMPANY

AND NOW COMES The Municipal Authority of the Township of Robinson ("MATR") and by its undersigned attorneys files this Reply to New Matter of Pennsylvania-American Water Company ("PAWC"), stating as follows:

The allegations set forth in MATR's Formal Complaint and Petition for Declaratory Order are incorporated herein by reference.

RJP

50. The provisions of the Public Utility Code and PAWC's tariff speak for themselves. PAWC's characterization of such provisions is a conclusion of law to which no responsive pleading is required

51. MATR is without knowledge or information sufficient to form a belief regarding the allegations in paragraph 51 of PAWC's New Matter. To the extent such allegations are relevant, MATR demands strict proof thereof at the hearing. Appendix A speaks for itself.

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JUN 07 2003

52. MATR is without knowledge or information sufficient to form a belief as to the allegation regarding PAWC's existing and proposed interconnects. To the extent such allegation is relevant, MATR demands strict proof thereof at the hearing. The allegations that PAWC has the "unfettered right to serve WACMA" is a conclusion of law to which no responsive pleading is required. By way of further answer and defense, PAWC does not have the right, under its tariff, to utilize Rider DRS in its dealings with WACMA.

53. The terms of Rider DRS speak for themselves and do not require a responsive pleading.

54. MATR has recently obtained a copy of the PAWC Agreement from WACMA pursuant to Pennsylvania's Right to Know law. MATR admits that WACMA desires to purchase water from PAWC for resale. MATR also admits that, pursuant to the PAWC Agreement, WACMA has agreed to (a) a term in excess of ten years, (b) maintain a daily load factor of at least 75, and (c) to a rate that is subject to an escalation factor. MATR denies that WACMA has a "viable competitive alternative to service from [PAWC]", within the meaning of Rider DRS.

55. MATR is without knowledge or information sufficient to form a belief as to the allegation that WACMA's separate systems have been integrated. To the extent such allegation is relevant, MATR demands strict proof thereof at the hearing. No responsive pleading is required to PAWC's allegations regarding prior PUC testimony and a prior advocacy brief submitted by PAWC to the PUC. Such allegations constitute legal argument and the pleading of evidence. MATR denies that "there is no basis" for MATR's position regarding Rider DRS. As MATR will demonstrate at the hearing, the language of the tariff, together with the entire record of the PUC proceedings regarding Rider DRS, do not support PAWC's interpretation of Rider DRS.

56. Admitted.

57. MATR is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 57 of PAWC's New Matter. MATR demands strict proof thereof at the hearing.

58. The allegations set forth in paragraph 58 of PAWC's New Matter are conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, such allegations are specifically denied.

59. The allegations set forth in paragraph 59 of PAWC's New Matter are conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, such allegations are specifically denied.

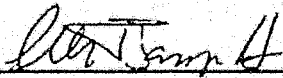
60. The PUC's regulations speak for themselves. No responsive pleading is required.

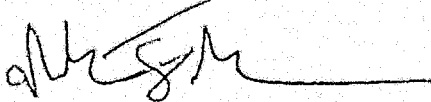
61. The allegations set forth in paragraph 61 of PAWC's New Matter are conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, such allegations are specifically denied.

62. MATR denies that there is "no lawful basis" for the MATR's requested relief and denies that PAWC's Answer and New Matter "resolve" the parties' factual disputes. Contrary to PAWC's assertion, MATR contends that this matter should be assigned to the Office of the Administrative Law Judge. MATR objects to PAWC's request to expedite these proceedings. MATR has raised issues of significant public importance which should be fully adjudicated pursuant to PUC regulations. Further, MATR must be granted the right to obtain discovery of both WACMA and PAWC so that it will be fully prepared for the hearing.

WHEREFORE, for the foregoing reasons, MATR hereby requests that relief be granted consistent with its Formal Complaint and Petition for Declaratory Order and that PAWC's New Matter and Request for Expedited Consideration be denied.

YUKEVICH, MARCHEITI, LIEKAR
& ZANGRILLI, P.C.

By: 
Albert J. Zangrilli, Jr.

By: 
Mark Fischer

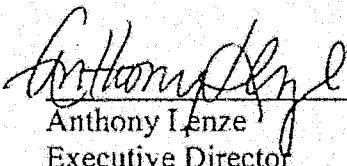
11 Stanwix Street, Suite 1024
Pittsburgh, PA 15222
(412) 261-6777

Attorneys for The Municipal
Authority of the Township of Robinson

VERIFICATION

I, Anthony Lenze, verify that I am the Executive Director of The Municipal Authority of the Township of Robinson and that I am authorized to make this verification on its behalf. The statements made in the foregoing Reply to New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of *18 Pa C.S. § 4904*, relating to unsworn falsification to authorities.

THE MUNICIPAL AUTHORITY
OF THE TOWNSHIP OF ROBINSON

By: 

Anthony Lenze
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Formal Complaint and Petition for Declaratory Order has been served upon the following persons by first class mail, except as otherwise noted.

Thomas P. Gadsden, Esq.
Morgan Lewis
1701 Market Street
Philadelphia, PA 19103-2921

Attorneys for Pennsylvania American Water Company

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265
Att: Office of Trial Staff

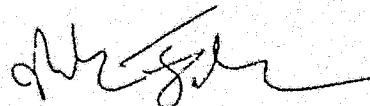
(Via Federal Express)

Bohdan R. Pankiw, Esq.
Chief Counsel
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Office of Attorney General
Consumer Advocate's Office
555 Walnut Street
Harrisburg, PA 17101

Department of Commerce
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Date: June 4, 2003



Mark Fischer



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

REP

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
June 5, 2003

IN REPLY PLEASE
REFER TO OUR FILE

In Re: C-20030092

(See attached list)

Municipal Authority of the Township of Robinson
v.
Pennsylvania-American Water Company

For the Commission to enter an order prohibiting Pennsylvania-American Water Company from commencing service to Western Allegheny County Municipal Authority pursuant to the Pennsylvania-American Water Company Agreement, or constructing any facilities with respect to such service.

NOTICE

This is to inform you that an Initial Prehearing Conference by telephone on the above-captioned case will be held as follows:

Date: Friday, July 18, 2003

Time: 10:00 a.m.

Presiding: Administrative Law Judge Larry Gesoff
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222
Telephone (412) 565-3550
Fax: (412) 565-5692

DOCUMENT
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If you have not provided a current telephone number where you can be reached for participation in the conference OR YOUR AREA CODE HAS CHANGED, then you must contact the presiding officer at least 7 days before the actual conference and provide the necessary information.

DOCKETED

JUN 06 2003

At the above date and time, the Administrative Law Judge will contact the parties as follows:

Albert J. Zangrilli, Jr.	(412) 261-6777
Thomas P. Gadsden, Esquire	(215) 963-5234

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Gesoff
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File