

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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March 19, 2019

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

Re: Application of The York Water Company –
Wastewater for approval of the acquisition
of the wastewater system assets owned by
the Jacobus Borough Sewer Authority
Docket No. A-2019-3007355

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Petition for Leave to Withdraw Intervention in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Erin L. Gannon".

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Attachment

cc: Honorable Dennis J. Buckley, ALJ
Office of Special Assistants (email only: ra-OSA@pa.gov)
Bureau of Technical Utility Services
Certificate of Service

*267649

CERTIFICATE OF SERVICE

Re: Application of The York Water Company - :
Wastewater for approval of the acquisition : Docket No. A-2019-3007355
of the wastewater system assets owned by :
the Jacobus Borough Sewer Authority :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Petition for Leave to Withdraw Intervention, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19th day of March 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Richard Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

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Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: March 19, 2019
*268498

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of The York Water Company -	:	
Wastewater for approval of the acquisition	:	Docket No. A-2019-3007355
of the Wastewater System Assets Owned by	:	
the Jacobus Borough Sewer Authority	:	

OCA PETITION FOR LEAVE TO WITHDRAW INTERVENTION

Pursuant to the provisions of Section 1.82 or, alternatively, Section 5.94(a) of the Pennsylvania Public Utility Commission’s Regulations, 52 Pa. Code §§ 1.82, 5.94(a), the Office of Consumer Advocate (OCA) hereby petitions for leave to withdraw its Intervention against The York Water Company (York or the Company) at the above-captioned docket.

I. BACKGROUND

1. On or about January 26, 2019, York filed an application under Sections 1102(a)(1) and 1102(a)(3) of the Public Utility Code, 66 Pa. C.S. §§ 1102(a)(1), (a)(3), to acquire the wastewater collection system owned by Jacobus Borough Sewer Authority (JBSA), expand its wastewater service territory, and provide service to JBSA’s existing customers. JBSA does not own its own treatment works; sanitary waste generated in and conveyed through the collection system is connected to the sanitary sewer system of Springfield Township York County Sewer Authority (STYCSA) pursuant to a 2006 municipal agreement. Attachments to the Application contain a statement by STYCSA acknowledging that York will succeed JBSA as the party to the agreement upon closing.

2. On February 19, 2019, the Office of Small Business Advocate filed a Protest. The OSBA identified areas that require further consideration and submitted they should be resolved prior to Commission approval of the Application. The OSBA noted that the Asset Purchase Agreement provides that rates for acquired JBSA customers will be frozen for a period of three years or until adjusted by the Commission, whichever is later. The OSBA raised a concern whether other York Water ratepayers would be impacted by the proposed rate freeze.

3. The Commission's Bureau of Technical Utility Services (TUS) raised a similar concern, in discovery questions it issued to York on February 13, 2019. TUS asked how the rate freeze provision conforms to 66 Pa. C.S. § 1304, which prohibits discrimination in rates. In its discovery, TUS also raised questions about, *inter alia*, whether JBSA is providing wastewater service outside its service territory, the facilities proposed to be transferred, and details of the sewage treatment agreement between STYCSA and JBSA.

4. On March 5, 2019, the OCA filed a Notice of Intervention to ensure that adequate service is provided to existing and acquired customers at just and reasonable rates and in accordance with applicable statutes, and that the proposed transaction provides all necessary and proper customer protections which are justified, reasonable, and in accordance with sound ratemaking principles and the Public Utility Code.

5. A Prehearing Conference was scheduled on March 20, 2019, before Administrative Law Judge Dennis J. Buckley. On March 15, 2019, by agreement of the Presiding Officer and all parties, the Prehearing Conference was cancelled.

II. STATUS OF THE PROCEEDING

6. The OCA reviewed the Company's responses to the TUS data requests and discussed the additional information with York. Further, York, OSBA and the OCA discussed

the rate freeze provision in the Asset Purchase Agreement. Consistent with those discussions, on March 18, 2019, York filed a letter with the Commission updating its response to TUS interrogatory A-5. In that letter, the Company states:

York Water acknowledges that the Commission has ultimate jurisdiction regarding rates charged to customers for utility service and that the effects of the rate freeze provision will be decided as part of York Water's next rate case.

This is consistent with the Commission's holdings in prior Application cases that the Commission's ability to set rates for the acquired customers is not limited by the private contract between the buyer and seller. See Application of Aqua Pennsylvania Wastewater, Inc., Docket No. A-2017-2586983, Order at 9 (July 12, 2017); Joint Application of Pennsylvania-American Water Company and the Sewer Authority of the City of Scranton, A-2016-2537209, Order at 70-71 (Oct. 19, 2016).

7. Further, the Company has not requested that the Commission approve a rate freeze for the Jacobus customers in this proceeding. In its updated response to TUS A-5, York clarified that:

York Water does not seek any ruling as part of the approval of this Application on the rate related issues with respect to the rate freeze provision in Section 9.1 of the Agreement. At closing, York Water will simply adopt the Jacobus Borough rates as described in the Application. It would not be until the time of York Water's next rate case that rate issues, including the effects of the rate freeze provision of the Agreement, would be presented to the Commission for consideration.

8. On March 18, 2019, OSBA filed a Notice of Withdrawal of Protest.

III. REQUESTED RELIEF

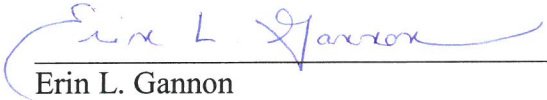
9. Based on the information York provided in its responses to TUS discovery and its March 18, 2019 letter, the OCA's concerns have been addressed and satisfied.

10. The OCA seeks to withdraw its Intervention in the matter.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the Pennsylvania Office of Consumer Advocate respectfully requests that it be granted leave to withdraw its Intervention.

Respectfully Submitted,



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Dated: March 19, 2019
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