

April 26, 2019

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2018-3006168
Hoffman and Kozlansky Realty v. PAWC
Joint Petition for Protective Order**

Dear Secretary Chiavetta:

Attached for filing is the Joint Petition for Protective Order requested by Pennsylvania American Water Company and the complainant, in the above referenced proceeding.

A copy of the Joint Petition has been provided to the Complainant's counsel, in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/lam

cc: The Honorable Steven K. Haas, PA Public Utility Commission [w/enc.]
Susan Simms Marsh, Pennsylvania American Water Company [w/enc.]
John G. Dean, Esquire [w/enc.]
Ernest D. Preate, Jr. Esquire [w/enc.]

**Re: Docket No. C-2018-3006168
Hoffman and Kozlansky Realty v. PAWC
Joint Petition for Protective Order**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic and First Class Mail

John G. Dean, Esquire
201 Penn Avenue, Suite 202
Scranton, PA 18503
jgd@elliottgreenleaf.com

Ernest D. Preate, Jr. Esquire
204 Wyoming Avenue
Suite C
Scranton, PA. 18503
epreate@comcast.net

Dated: April 26, 2019



Margaret A. Morris, Esquire

6. Under 52 Pa. Code § 5.365, the presiding Administrative Law Judge may issue a protective order to limit or prohibit disclosure of confidential and proprietary information where “the potential harm to the party providing the information would be substantial and . . . the harm to the party if the information is disclosed without restriction outweighs the public’s interest in free and open access to the administrative hearing process.”

7. The release of non-public information about PAWC’s operations and facilities could place PAWC and the public at risk if confidential information about PAWC’s operations and facilities are publicly disclosed.

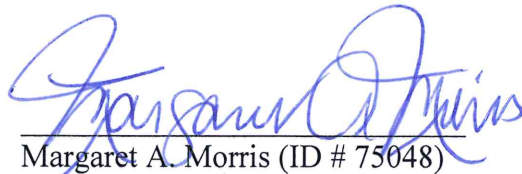
8. Conversely, the language proposed in the attached Protective Order protects against overly broad designations of protected information by giving all parties the right to “question or challenge the confidential or proprietary nature” of information marked as “Confidential” by a producing party.

9. The limitation on the disclosure of proprietary information proposed in the attached Protective Order fairly balances the interests of the parties, the public, and the Commission and will neither prejudice the rights of the participants to develop a full record, nor frustrate the prompt and fair resolution of this proceeding.

10. The Parties are in agreement with the terms of the proposed Protective Order.

WHEREFORE, for all the reasons set forth above, Pennsylvania American Water Company and Hoffman and Kozlansky Realty respectfully request that Administrative Law Judge Steven K. Haas issue a protective order substantially in the form attached in **Exhibit A** to this petition.

Respectfully submitted,



Margaret A. Morris (ID # 75048)
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
Phone: 215-495-6524
Fax: 215-495-6600
Email: mmorris@regerlaw.com
Attorney for Pennsylvania American Water Company


Dated: April 26, 2019

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John G. Dean
Shanna W. Williamson
Matthew G. Boyd
ELLIOTT GREENLEAF, P.C.
201 Penn Ave., Ste. 202
Scranton, PA 18503
Office: 570-346-7569
Fax: 570-969-2890
Email: mgb@elliottgreenleaf.com
jgd@elliottgreenleaf.com
SWW@elliottgreenleaf.com

Dated: April 26, 2019



Ernest D. Preate, Jr. Esquire
204 Wyoming Avenue
Suite C
Scranton, PA. 18503
Office: 570-558-5970
Fax: 570-558-5973
Email: epreate@comcast.net

Attorneys for Hoffman and Kozlansky Realty

EXHIBIT A

Protective Order

or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

4. Proprietary Information shall also be provided to (1) each party's counsel of record and their staff (2) the party's witness(es) or expert(s), to the extent required and for the limited purpose of participation in the above-captioned proceedings, who comply with the provisions of Paragraph 6 hereof.

5. No other persons may have access to the Proprietary Information except as authorized by Order of the Commission or the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to, any Proprietary Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Prior to making Proprietary Information available to any person as provided in numbered Paragraph 4 above, counsel for the non-producing party shall deliver a copy of this Order to such person and shall: (1) receive a written acknowledgment from that person in the form attached to this Order and designated as "Appendix A"; and (2) deliver a copy of the executed Appendix A to the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized or the accuracy of the assurances provided through the submission of an executed Appendix A.

7. A producing party shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or typewritten or printed designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

8. Any federal agency that has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as within the exemption from disclosure provided in the Freedom of Information Act as set forth at 5 U.S.C. § 552(b)(4) until such time as the information is found to be non-proprietary.

9. Any state agency that has access to and/or receives copies of the Proprietary Information will consider and treat the Proprietary Information as within the exemption from disclosure provided in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary.

10. Any public reference to Proprietary Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Parts of any record of this proceeding containing Proprietary Information, including, but not limited to, all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as specified in Paragraph 10 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to an order of the Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 6 shall be decided, upon a party's motion or petition, by the presiding officer or the Commission in conformity with applicable rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

12. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including, but not limited to, irrelevance, immateriality, or undue burden; to seek an order permitting disclosure of Proprietary

Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is Proprietary Information shall carry the burden of demonstrating that the designation is necessary and appropriate.

13. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes that contain any Proprietary Information shall be immediately returned upon request to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed.

Dated: May __, 2019

Steven K. Haas
Administrative Law Judge

