

January 27, 2020

VIA E-FILING

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

Re: In re Application of Pennsylvania-American Water Company under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the Borough of Kane Authority's assets, properties and rights related to its wastewater collection and treatment system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Borough of Kane, and in a portion of Wetmore Township, McKean County, Pennsylvania, et al.; Docket Nos. A-2019-3014248 et al.

Preliminary Response to the Bureau of Technical Utility Services' Data Request Set 1

Dear Secretary Chiavetta:

This correspondence is to acknowledge receipt of Data Request Set 1, issued by the Bureau of Technical Utility Services ("TUS") in the above-referenced matter. These data requests were served on Pennsylvania-American Water Company ("PAWC") on January 22, 2020.

PAWC begins by noting the procedural posture of this matter. Although PAWC's Application was conditionally accepted on December 11, 2019, this Application has not yet been finally accepted by the Pennsylvania Public Utility Commission ("Commission"). Consequently, it remains an inactive docket. *Implementation of Section 1329 of the Public Utility Code* (Final Supplemental Implementation Order entered February 28, 2019) p. 42 ("The assignment of a docket number does *not* indicate that a filing has been accepted and, therefore, a docket will remain inactive until a Section 1329 Application under that docket number has been formally accepted by the Commission. Filings in an inactive docket will not be considered until the time at which the docket becomes active.") (emphasis in original). PAWC respectfully submits that service of data requests at an inactive docket is procedurally improper.

In addition, we note that the Office of Small Business Advocate ("OSBA") filed a Notice of Intervention, Public Statement and Verification in this matter on December 27, 2019 (well before TUS served its data requests). The Commission has not yet issued a Secretarial Letter stating that the OSBA's submission was filed at an inactive docket and notifying PAWC how the Commission intends to treat that submission. Based on the above-quoted language from the Final Supplemental Implementation Order, it is our view that the OSBA's submission should be

considered by the Commission when the docket becomes active. In other words, as soon as this proceeding becomes an active matter, it will be a contested matter.

The facts presented in this matter are therefore distinguishable from the facts described in the Final Supplemental Implementation Order, in which TUS issued data requests *before* the matter became contested, but the Commission stated that PAWC was required to respond to those data requests *after* the matter became contested. Final Supplemental Implementation Order p. 50. Here, the matter will become contested instantaneously upon final acceptance because of the pending OSBA Notice of Intervention.

Consequently, PAWC does not believe that it is obligated to respond to TUS's data requests in the time frame indicated in the letter dated January 22, 2020. In the interest of moving this matter toward resolution, however, PAWC intends to respond to TUS's data request within ten business days of the date this matter is finally accepted by the Commission.

Finally, PAWC notes that it filed its proof of publication and verification of customer notification on January 22, 2020. PAWC respectfully submits that it has complied with all requirements of the Commission's conditional acceptance letter dated December 11, 2019 and there is no basis for further delay. Therefore, the Commission should promptly issue its final acceptance letter, making this proceeding an active matter and allowing it to proceed to a final conclusion with the statutorily-mandated six-month time frame.

Thank you for your attention to this matter. Please do not hesitate to contact me with any question or concern.

Sincerely,

COZEN O'CONNOR

By:  David P. Zambito

DPZ

cc: Per Certificate of Service
Paul T. Diskin, Director, Bureau of Technical Utility Services
Paul Zander, Analyst, Bureau of Technical Utility Services
Renaldo Hicks, Esquire, Chief Counsel, Law Bureau

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Preliminary Response to the Bureau of Technical Utility Services' Data Request Set 1** upon the parties, listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

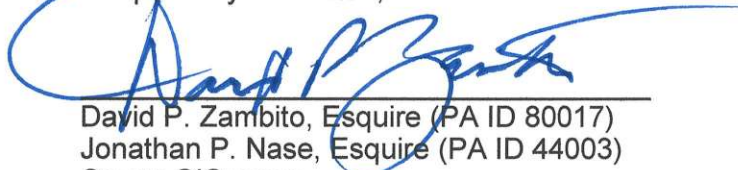
VIA FIRST CLASS MAIL

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Respectfully submitted,



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Date: January 27, 2020