

Carl R. Shultz
717.255-3742
cshultz@eckertseamans.com

February 18, 2020

Via Electronic Filing

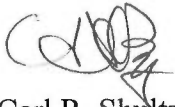
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Pennsylvania-American Water Company, Pursuant to the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a) and 1329, et al.; Docket No. A-2019-3014248

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Borough of Kane Authority's Petition to Intervene with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Carl R. Shultz

CRS/jls
Enclosure

cc: Certificate of Service (w/enc)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing **Petition to Intervene** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email and First Class Mail

Elizabeth Rose Triscari, Esquire
Director, Corporate Counsel
Pennsylvania American Water
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com

David P Zambito, Esquire
Jonathan Nase, Esquire
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg Pa 17101
dzambito@cozen.com
jnase@cozen.com

Carrie B. Wright, Esquire
Erika L. McLain, Esquire
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
carwright@pa.gov
ermclain@pa.gov

Sharon E. Webb, Esquire
Daniel G. Asmus, Esquire
Assistant Small Business Advocate
Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, Pa 17101
swebb@pa.gov
dasmus@pa.gov

Christine Maloni Hoover, Esquire
Erin L. Gannon, Esquire
Harrison W. Breitman, Esquire
Santo G. Spataro, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
choover@paoca.org
egannon@paoca.org
breitman@paoca.org
sspataro@paoca.org

Date: February 18, 2020



Carl R. Shultz, Esquire
Attorney for The Borough of Kane Authority


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American :
Water Company, Pursuant to the : Docket No. A-2019-3014248
Pennsylvania Public Utility Code, 66 :
Pa.C.S. § 1102(a) and 1329, 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; 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; and 3) for Approval of the :
use for Ratemaking Purposes of the Lesser :
Fair Market Value or the Negotiated :
Purchase Price of the Borough of Kane :
Authority's Assets Related to its :
Wastewater Collection and Treatment :
System :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.61, you are hereby notified that an answer to the enclosed **Petition to Intervene** of The Borough of Kane Authority must be filed within 20 days of the date of service of the Petition.

Any Answer to the Petition to Intervene must be filed with the Secretary of the Pennsylvania Public Utility Commission at PO Box 3265, Harrisburg, PA 17105-3265 **with a copy** served to (1) counsel for the Borough of Kane Authority and (2) the Honorable Joel H. Cheskis, Deputy Chief Administrative Law Judge, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120.



Carl R. Shultz, Esq.
Sarah C. Stoner, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101

Date: February 18, 2020

Attorney for The Borough of Kane Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American	:	
Water Company, Pursuant to the	:	Docket No. A-2019-3014248
Pennsylvania Public Utility Code, 66	:	
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Substantially all of the Borough of Kane	:	
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American Water Company; 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; and 3) for Approval of the	:	
use for Ratemaking Purposes of the Lesser	:	
Fair Market Value or the Negotiated	:	
Purchase Price of the Borough of Kane	:	
Authority’s Assets Related to its	:	
Wastewater Collection and Treatment	:	
System	:	

**PETITION TO INTERVENE
OF THE BOROUGH OF KANE AUTHORITY**

Pursuant to 52 Pa Code § 5.71 to 5.75 and the Prehearing Conference Order dated February 7, 2020,¹ the Borough of Kane Authority (“Authority” or “Seller”) submits this Petition to Intervene in the above-captioned proceeding by which Pennsylvania-American Water Company “PAWC” or “Company” or “Buyer”) seeks approval of its acquisition of the wastewater system assets of the Authority pursuant to Sections 1102 and 1329 of the Public Utility Code (“Code”), 66 Pa.C.S. §§ 1102, 1329.

In support of its Petition to Intervene, the Authority states as follows:

¹ <http://www.puc.state.pa.us/pdocs/1654219.docx>.

1. This proceeding concerns the Application filed by PAWC with the Pennsylvania Public Utility Commission (“Commission” or “PUC”) for approval of PAWC’s acquisition of the wastewater system assets of the Authority pursuant to Sections 1102 and 1329 of the Public Utility Code (“Code”), 66 Pa.C.S. §§ 1102, 1329. The deadline for filing a petition to intervene in response to the Application is March 9, 2020.²

2. The Authority is a municipal authority organized and existing under the laws of the Commonwealth of Pennsylvania.³ The Authority owns the wastewater collection and treatment system (“System”) which provides wastewater service to the public in the Borough of Kane (“Borough”) and in a portion of the Wetmore Township (“Township”) in McKean County, Pennsylvania.

3. The Authority’s attorneys in this proceeding are:

Carl R. Shultz, Esq.
Sarah C. Stoner, Esq.

Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101

Phone: (717) 237-3742
Fax: (717) 237-6019

4. The Commission’s regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the

² <http://www.puc.state.pa.us/pcdocs/1654219.docx>.

³ The Authority was organized by the Borough of Kane in 1963. It was created for “all of the purposes” under the Pennsylvania Municipal Authorities Act, 53 Pa.C.S. §§ 5601, *et seq.* The articles of incorporation of the Authority were amended in 1994 to include the joinder the Wetmore Township.

proceeding.⁴ Intervention is also permitted where participation of the person may be in the public interest.⁵ A “person” includes a municipal authority.⁶

5. The Authority meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). The Authority has a substantial and direct interest in the outcome of this proceeding, since it (a) is the owner of the System for which PAWC seeks approval to acquire and (b) is a party to the Asset Purchase Agreement (“Agreement” or “APA”). Moreover, as the seller of the System, the Authority’s interests in this proceeding are unique from and not adequately represented by other parties that have or may seek to intervene in this proceeding.

6. The Authority’s intervention is in the public interest. The Authority submits that, as the seller of the System, it is an indispensable party⁷ to this proceeding.

[Signature appears on next page]

⁴ 52 Pa. Code § 5.72(a)(2).

⁵ 52 Pa. Code § 5.72(a)(3).

⁶ See 52 Pa. Code § 1.8. Municipal authorities are a “body corporate and politic.” See, e.g., *Commonwealth v. Erie Metropolitan Transit Authority*, 281 A.2d 882 (Pa. 1971) (municipal authorities are independent agencies of the Commonwealth, quoting *Whitemarsh Twp. Auth. v. Elwert*, 196 A.2d 843 (Pa. 1964)); *Rhoads v. Lancaster Parking Auth.*, 520 A.2d 122, 126 (Pa. 1987) (Municipal authorities are independent corporate agents of the Commonwealth); *Bristol Twp. Water Auth. v. Lower Bucks County Joint Mun. Auth.*, 567 A.2d 1110 1113, (Pa.Cmwlt. 1989).

⁷ See, *Columbia Gas Transmission Corp. v. Diamond Fuel Co.*, 464 Pa. 377, 379 (1975)(“an indispensable party is one whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction.”).

WHEREFORE, the Authority respectfully requests that the Commission grant the Authority's Petition to Intervene in this proceeding.

Respectfully submitted,



Carl R. Shultz, Esq.
(PA Atty I.D. 70328)
cshultz@eckertseamans.com

Sarah C. Stoner, Esq.
(PA Atty I.D. 313793)
sstoner@eckertseamans.com

Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Fl.
Harrisburg, PA 17101
Phone: (717) 237-3742
Fax: (717) 237-6019

Date: February 18, 2020

Attorneys for
The Borough of Kane Authority

VERIFICATION

I, David Peterson, am the Chairman for The Borough of Kane Authority ("Authority"), and I hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief and that I expect the Authority to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to sworn falsification to authorities).



David Peterson
Chairman
The Borough of Kane Authority