



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 10, 2020

Via Electronic Filing

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

Re: Application of Pennsylvania-American Water Company Pursuant to Sections 507, 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Kane Borough Authority
Docket No. A-2019-3014248

I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** for the above-referenced proceeding.

Copies are being served on the parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Carrie B. Wright". The signature is written in a cursive style.

Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
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CBW/ac
Enclosures

cc: Honorable Joel H. Cheskis (*Deputy Chief ALJ, PUC Harrisburg*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water :
Company Pursuant to Sections 1102, 1329 :
and 507 of the Public Utility Code for : Docket No. A-2019-3014248
Approval of its Acquisition of the Wastewater :
System Assets of Kane Borough Authority :

**PREHEARING MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

In accordance with the Prehearing Conference Order dated February 7, 2020, the Bureau of Investigation and Enforcement (“I&E”) hereby submits this Prehearing Memorandum. The I&E prosecutors assigned to this proceeding are Carrie B. Wright and Erika L. McLain. Ms. Wright and Ms. McLain may be contacted as follows:

By Mail: Carrie B. Wright
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I. BACKGROUND

On December 2, 2019, Pennsylvania-American Water Company (“PAWC” or “Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) its Application pursuant to Sections 1102, 1329, and 507 of the Public Utility Code (“Code”), for (1) approval of the acquisition by PAWC of the wastewater system assets of the Borough of Kane (“Kane”) situated within, McKean County, Pennsylvania; (2) approval of the right of PAWC to begin to offer, render, furnish and supply wastewater service to the public in the areas served by the Authority in the Borough of Kane and in a portion of Wetmore Township, McKean County, Pennsylvania; (3) an order approving the acquisition that includes the ratemaking rate base of the Kane wastewater system assets pursuant to Section 1329(c)(2) of the Code and request for Approval of Contracts; and (4) assignments of Contracts, between PAWC and Kane, pursuant to Section 507 of the Code.

By Secretarial Letter dated December 11, 2019, the Commission indicated that the Application would be accepted for filing only on a conditional basis. The Secretarial Letter, among other things, directed PAWC to ensure notice be provided to all current and Kane Borough Authority wastewater customers.

On February 10, 2020, I&E filed its Notice of Appearance in this case. Additionally, The Office of the Small Business Advocate (“OSBA”) filed a Notice of Intervention and Public Statement on December 27, 2019. On February 6, 2020, the Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement in this case. On January 22, 2020, PAWC served the Commission’s Secretary with notice certifying that it fulfilled the conditions outlined in the Secretarial Letter of December 11, 2019; therefore, PAWC requested that its Application be accepted for filing. By way of a Secretarial Letter of

February 6, 2020, the Commission informed PAWC that its Application was accepted for filing. On February 22, 2020, the Commission published notice of PAWC's Application in the Pennsylvania Bulletin, and it established a protest deadline of March 9, 2020. Thereafter, PAWC's Application was assigned to the Office of Administrative Law Judge for establishment of an evidentiary record culminating in a Recommended Decision for the Commission's consideration.

A Prehearing Conference is now scheduled for Wednesday, March 11, 2020, at 1:00 p.m., before ALJ Cheskis. In accordance with the Prehearing Conference Order issued by ALJ Cheskis on February 7, 2020, I&E now respectfully submits this prehearing memorandum.

II. ISSUES

Based upon a preliminary review of the filing, I&E has identified the following area of inquiry, representing a listing of potential issues at this time. However, I&E reserves the right to address such other issues when those issues arise:

1. Errors and omissions in the Fair Market Appraisal done by Gannett Fleming Valuation and Rate Consultants;
2. Errors and omissions in the Fair Market Appraisal done by AUS Consultants, Inc.;
3. Cost of Service Study;
4. Comparison of Rate Base per Customer;
5. Combined Sewer Overflow Issues;
6. Outstanding easements and other property rights at issue for PAWC's acquisition of the Kane system;

7. Benefits and detriments of the acquisition;
8. Whether the transaction is in the public interest under 66 Pa. C.S. § 1102 of the Public Utility Code; and
9. Evaluation of PAWC's claimed rate base.

I&E notes that this listing of issues is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its issue list, to remove issues from this list, and to reassign issues between witnesses as necessary to facilitate the development of a full record in this case. Additionally, most of the issues raised by I&E will be supported by the Direct Testimony of I&E witnesses. If there are issues of Commission policy or legal interpretation that are not properly the subject of testimony or factual issues that are clear on the record and need not be supported by testimony, I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed in Brief.

III. WITNESSES

It is currently expected that I&E may call the following witnesses without being limited thereto:

- Christopher Henkel, Fixed Utility Financial Analyst
- Ethan H. Cline, Fixed Utility Valuation Engineer
- Holly Gilliland, Fixed Utility Valuation Engineer

The I&E witnesses may be contacted through the contact information listed above for Ms. Wright and Ms. McLain. I&E notes that this listing of witnesses is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its witness

list, and to remove witnesses from this list, as necessary to facilitate the development of a full record in this case. The ALJ and all active parties will be notified of any amendments to the I&E witness list.

IV. SCHEDULE

It is I&E’s understanding that all parties have agreed to the following litigation schedule:

Other Parties' Direct Testimony	Friday, March 27, 2020
Rebuttal	Thursday, April 9, 2020
Surrebuttal	Thursday, April 16, 2020
Rejoinder outline	Friday, April 17, 2020
Hearings in Harrisburg	Monday, April 20, 2020* and Tuesday, April 21, 2020
Main Briefs Due	Friday, May 1, 2020
Reply Briefs Due	Friday, May 8, 2020

* I&E witness Henkel is available only on April 20, 2020 for cross-examination.

V. PUBLIC INPUT HEARINGS

To the extent that public input hearings are deemed necessary in this proceeding, I&E advocates for the use of Smart Hearings where possible. Considering the truncated timeline that governs this proceeding, I&E avers that use of Smart Hearings would be the most efficient way to ensure that public input opportunities are available and that any evidence produced can be timely presented and considered in this case.

VI. DISCOVERY

On March 2, 2020, PAWC filed a Stipulation Regarding Discovery Rule Modifications providing an enumerated list of modifications to the Commission's regulations related to the discovery process. I&E understands, supports, and has adhered to those modifications.

VII. SETTLEMENT

I&E intends to participate in any settlement discussions and is willing to work with the parties to reach a resolution of any or all issues.

Respectfully submitted,



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Prosecutor
PA Attorney ID No. 208185
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Erika L. McLain
Prosecutor
PA Attorney ID No. 320526
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Dated: March 10, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water :
Company Pursuant to Sections 507, 1102 and :
1329 of the Public Utility Code for Approval : Docket No. A-2019-3014248
of its Acquisition of the Wastewater System :
Assets of Kane Borough Authority :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated March 10, 2020, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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Carrie B. Wright

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