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December 8, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265  
rchiavetta.pa.gov

**RE: Docket No. A-2020-3019634; Application of Pennsylvania-American Water Company – Wastewater Division Under Section 1329 of the Pennsylvania Public Utility Code for Approval of the Acquisition of Royersford Borough’s Waste water System Assets**

Dear Secretary Chiavetta:

We serve as counsel to the Royersford Borough in the above matter and are submitting, via electronic filing with this letter, the Borough’s Prehearing Memorandum in accordance with the Prehearing Conference Order dated November 5, 2020.

This document is being served via electronic mail on the Administrative Law Judge presiding over this matter and all parties of record. The document was also filed electronically with the Public Utility Commission on this date.

Very truly yours,

Matthew S. Olesh

cc: The Honorable Marta Guhl, Administrative Law Judge  
All parties of record

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water  
Company – Wastewater Division Under Section  
1329 of the Pennsylvania Public Utility Code for  
Approval of the Acquisition of Royersford  
Borough’s Wastewater System Assets

A-2020-3019634

**PREHEARING MEMORANDUM OF ROYERSFORD BOROUGH**

Royersford Borough (“Royersford” or the “Borough”), by and through its attorneys, Obermayer Rebmann Maxwell & Hippel LLP, submits this prehearing memorandum pursuant to the Prehearing Conference Order in advance of the December 10, 2020 Prehearing Conference in this matter.

**I. Background**

This proceeding concerns the July 14, 2020 application of Pennsylvania-American Water Company – Wastewater Division (“PAWC”) for approval to acquire the wastewater system assets of Royersford pursuant to Sections 1329 of the Pennsylvania Public Utility Code.

By Secretarial Letter dated October 30, 2020, the Commission, *inter alia*, conditionally accepted the application. By Secretarial Letter dated November 9, 2020, the Commission, *inter alia*, accepted the application for filing.

Administrative Law Judge Marta Guhl was assigned to preside over the proceeding. An Initial Prehearing Conference has been noticed for December 10, 2020. Judge Guhl issued the Prehearing Conference Order on November 5, 2020, which requires the parties to file and serve their prehearing memoranda by 12:00 PM on December 8, 2020.

On November 12, 2020, Royersford submitted a Petition to Intervene in this matter, and consequently submits this prehearing memorandum.

## **II. Issues**

### **A. Approval of Application**

Issue: Should the Pennsylvania Public Utility Commission approve PAWC's application to (i) acquire the wastewater system assets of Royersford and (ii) begin to offer, render, furnish and supply wastewater service to the areas served by Royersford?

Royersford's Position: The Commission should issue a Certificate of Public Convenience approving the acquisition because PAWC's acquisition of Royersford's wastewater system assets is necessary or proper for the service, accommodation, convenience or safety of the public.

1. Royersford currently provides wastewater service to approximately 1,580 customers in Royersford, 16 customers in Upper Providence, and, pursuant to a Service Agreement, a small portion of Limerick Township. The Commission has a longstanding policy in favor of consolidation and regionalization of small, local water and wastewater systems in order to allow the industry to institute better management practices and achieve greater economies of scale. This acquisition will permit Royersford to take advantage of PAWC's expertise in operating wastewater utility systems and regulatory compliance.
2. PAWC is a viable operator of Royersford's wastewater system, its viability will not be impaired by the acquisition, and it maintains the managerial, technical, and financial capabilities to safely and adequately operate the Borough's system in compliance with 66 Pa. C.S. (relating to the Public Utility Code), the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1--721.17) and other requisite regulatory requirements.
3. After receiving extensive input from the public, the democratically-elected officials of Royersford determined that the sale of its wastewater system is in the

best interest of the residents of Royersford, and they therefore agreed to the sale to PAWC pursuant to a heavily negotiated asset purchase agreement, dated December 10, 2019, as amended on October 27, 2020 (the “Asset Purchase Agreement”).

4. PAWC is a regulated public utility that furnishes water and wastewater service to the public in various counties throughout Pennsylvania, and it has the experience necessary to demonstrate that it is able to operate wastewater collection systems in a safe, reliable and efficient manner.
5. Pursuant to the Asset Purchase Agreement, the acquisition will not have any immediate impact on the rates of the Royersford customers.

**B. Rate-making Rate Base**

Issue: Pursuant to Section 1329 of the Public Utility Code, what is the ratemaking rate base of the wastewater system assets of the Borough?

Royersford’s Position: Under Section 1329 of the Public Utility Code, the ratemaking rate base of the wastewater system assets is set based on the lower of the purchase price or the average of two fair market value appraisals. The ratemaking rate base determined pursuant to Section 1329(c)(2) of the Public Utility Code is \$13,000,000, being the lesser of the purchase price of \$13,000,000 negotiated by PAWC and Royersford and the average of the fair market value appraisals, \$13,494,400 — the average of \$13,769,801 valuation presented in the appraisal of AUS Consultants, Inc. and the \$13,219,000 valuation presented in the appraisal of Gannett Fleming Valuation and Rate Consultants, LLC (“Gannett Fleming, Inc.”).

PAWC also seeks approval to (a) collect a distribution system improvement charge (“DSIC”) related to the service area prior to the first base rate case in which the service area plant-in-service is incorporated into the rate base; (b) accrue Allowance for Funds Used During

Construction (“AFUDC”) for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; (c) the deferral of depreciation related to post-acquisition improvements not recovered through DSIC for book and ratemaking purposes; and (d) the inclusion, in its next base rate case, of a claim for transaction and closing costs related to the acquisition.

**C. Validity of Contracts**

Issue: Pursuant to Section 507 of the Public Utility Code, is the Asset Purchase Agreement (“APA”) between PAWC and Royersford valid, reasonable, and otherwise lawful?

Royersford’s Position: The APA between PAWC and Royersford is valid, reasonable, and otherwise lawful under Section 507 of the Public Utility Code.

**III. Witnesses**

Royersford expects to present the testimony of witnesses Michael Leonard (the Borough Manager for Royersford), and Harold Walker, III of Gannett Fleming, Inc., Royersford’s Utility Valuation Expert. Royersford reserves its right to call additional witnesses, if necessary, and agrees to notify Administrative Law Judge Guhl and the parties promptly should Royersford determine that any additional witnesses will be called.

**IV. Litigation Schedule**

Royersford has agreed to the litigation schedule set forth in PAWC’s Prehearing Memorandum.

**V. Settlement**

Royersford is willing to address settlement of all or part of the proceeding with the other parties.

**VI. Discovery**

Royersford has agreed to the modifications to the discovery rules presented in PAWC's Prehearing Memorandum.

**VII. Protective Order**

Royersford has no objection to the proposed Protective Order submitted by PAWC.

Respectfully submitted,

/s/ Thomas Wyatt

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*Counsel for Royersford Borough*

Dated: December 8, 2020

**CERTIFICATE OF SERVICE**

I, Thomas Wyatt, Esq., hereby certify that I have served a true and correct copy of the foregoing Prehearing Memorandum of Royersford Borough upon the parties listed below in accordance with the requirements of 52 Pa. Code §§ 1.54 (relating to service by a party) via electronic mail.

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Dated: December 8, 2020

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