BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American Water :

Company-Wastewater Division under :

Section 1329 of the Pennsylvania Public : A-2020-3019634

Utility Code, 66 Pa. C.S.§ 1329, for the :

Acquisition of Royersford Borough’s Wastewater :

System Assets :

**PREHEARING ORDER #1**

History

On July 14, 2020, Pennsylvania-American Water Company – Wastewater Division (PAWC-WD), under Sections 1102 and 1329 of the Pennsylvania Public Utility Code (the Code), 66 Pa C.S. §§ 1102(a) and 1329, filed an application for approval of: (1) the transfer, by sale, of substantially all of the wastewater system assets, properties and rights of Royersford Borough related to its wastewater collection and treatment system; (2) the right of PAWC-WD to begin to offer or furnish wastewater service to the public in Royersford Borough and portions of Upper Providence Township, Montgomery 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 Royersford Borough assets related to its wastewater collection and treatment system.

On July 21, 2020, the Bureau of Investigation and Enforcement (I&E) entered the appearance of Erica McLain, Esquire.[[1]](#footnote-1)

On July 29, 2020, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and entered the appearance of Sharon Webb, Esquire.

On July 29, 2020, the Office of Consumer Advocate (OCA) filed a Protest and Public Statement. It also entered the appearances of Christine Hoover, Esquire, Erin Gannon, Esquire, Harrison Breitman, Esquire and Santo Spataro, Esquire on its behalf.

On November 3, 2020, a Prehearing Conference Notice was sent to the parties indicating that a telephonic prehearing conference would be held on December 10, 2020 at 10:00 a.m. I issued a Prehearing Conference Order dated November 4, 2020, which laid out the procedures for the prehearing conference. The matter was assigned to Administrative Law Judge Marta Guhl.

On November 9, 2020, via letter, the Commission’s Secretary’s Bureau accepted the Application. The letter indicated that the Application would be published in the November 21, 2020 Pennsylvania Bulletin and that any protests to the Application would be due by December 7, 2020.

On November 12, 2020, the Borough of Royersford, through its attorneys, filed a Petition to Intervene in this matter.

On November 19, 2020, Robert Redinger, Jr. filed a Protest in this case.

On December 3, 2020, Ronald Filippini filed a Protest in the case.

On December 8, 2020, PAWC, I&E, OCA, OSBA and Royersford filed Prehearing Conference Memorandum in accordance with the November 4, 2020 Prehearing Conference Order.

Also, on December 8, 2020, PAWC filed a Petition for Protective Order which was dealt with in a separate Order.

A prehearing conference in this matter was held on December 10, 2020. Counsel for PAWC, I&E, OCA, OSBA, and Royersford participated.

This Order sets forth the procedural matters addressed at the prehearing conference.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Borough of Royersford’s Petition to Intervene, being unopposed, is granted.
2. That the parties of record as of this date are PAWC, I&E, OCA, OSBA and Royersford.
3. Two consumer Protests were filed in this matter; Robert Redinger Jr., and Ronald Filippini.
4. Mr. Redinger requests to be on the active service list.
5. That pursuant to 52 Pa.Code § 1.55, each party shall be limited to one entry on the service list, although there can be more than one name listed. Service on Applicant PAWC shall be made on Ms. Triscari, Mr. Nase, and Mr. Zambito; service on I&E shall be made on Ms. McLain and Mr. Coogan; service on OCA shall be made on Ms. Hoover, Ms. Gannon, Mr. Spataro, and Mr. Breitman; service on OSBA shall be made on Ms. Webb; and service on Royersford shall be made on Mr. Wyatt, Mr. Olesh, and Ms. Melillo.
6. That the parties may arrange service amongst themselves as they agree.
7. That parties may serve documents electronically by 4:30 p.m. to meet any required due date, with hard copy to follow by regular first class mail, with the provision that large documents not able to be transmitted electronically may be hand-delivered to the parties located in Harrisburg on the due date and received the next business day by parties located outside Harrisburg.
8. That e-mail distribution list is as follows. Any changes or corrections should be communicated to me, via e-mail (mguhl@pa.gov) as soon as possible. Please include my legal assistant, Ms. Pamela McNeal (pmcneal@pa.gov), on anything you send to me.

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| **Party** | **Counsel** | **e-mail** |
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|  |  |  |
| ALJ | ALJ Guhl | [mguhl@pa.gov](mailto:mguhl@pa.gov) |
| ALJ | Pamela McNeal | [pmcneal@pa.gov](mailto:pmcneal@pa.gov) |

1. That discovery shall be conducted according to the Commission’s rules and regulations (52 Pa.Code § 5.321 et seq), subject to the following modifications:

a. Answers to written interrogatories shall be served in-hand within five (5) calendar days of service.

b. Objections to interrogatories shall be communicated orally within two (2) calendar days and in writing within three (3) calendar days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within two (2) calendar days of service of such motions.

e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within (5) calendar days.

f. Requests for admissions will be deemed admitted unless answered within three (3) calendar days of service.

g. Discovery and all discovery-related pleadings, such as objections, motions, or answers, served after 12:00 noon on a Friday or after 12:00 noon the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

h. The parties are directed to make every reasonable effort to comply with these discovery response times. In those instances when compliance is not possible, despite a party’s best efforts, the responding party shall so advise and the parties shall work together to address the requests and responses on a timely basis.

i. These discovery rule modifications are for the limited purposes of this proceeding and should not be viewed as binding, or otherwise limiting, upon positions taken by the parties in any other proceeding.

1. That the following schedule is adopted:

Other Parties Direct Testimony December 22, 2020

Rebuttal Testimony January 6, 2021

Surrebuttal Testimony January 13, 2021

Rejoinder Outline January 14, 2021

Evidentiary Hearings January 15 & 19, 2021

Main Briefs January 29, 2021

Reply Briefs February 10, 2021

Public Meeting May 6, 2021

End of Six-Month Statutory Period May 9, 2021

1. That the January 15 & 19, 2021 hearings will be held telephonically.
2. That there is sufficient public interest in this matter to schedule one public input hearing.
3. That the parties will provide the presiding officer with a date and time for the public input hearing by the close of business on Friday, December 18, 2020.
4. That the parties will provide the presiding officer with the platform for the public input hearing and the call-in information so that the information can be provided on the Public Input Hearing Notice by the close of business on Friday, December 18, 2020.
5. That the notice requirement of publication in a newspaper of general circulation in the service territory is waived in this matter because it would be burdensome and costly to the Applicant PAWC.
6. That the parties should use all means available to them to notify the public of the public input hearing on websites, social media, etc.
7. That any motions with respect to, or objections to, written testimony must be presented in writing no later than three days prior to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be filed within three days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.
8. In accordance with the schedule set forth above, main briefs must be filed with the Secretary of the Commission and received in-hand by all parties no later than 4:00 p.m. on Friday, January 29, 2021, and reply briefs must be filed with the Secretary of the Commission and received in-hand by all parties no later than 4:00 p.m. on Wednesday, February 10, 2021.
9. That an original copy of all main briefs must be filed with the Secretary, in accordance with 52 Pa.Code § 5.502(b), and one copy served on the presiding officers and the other parties no later than 4:00 p.m. on Friday, January 29, 2021, and filing of an original copy of all reply briefs must be filed with the Secretary and one copy served on the presiding officers and the other parties no later than 4:00 p.m. on Wednesday, February 10, 2021. Service must be made electronically due to the Commission’s Emergency Order dated March 20, 2020.[[2]](#footnote-2) 52 Pa.Code § 5.501(e) requires that “[b]riefs shall be as concise as possible.”
10. That the parties are to confer amongst themselves in an attempt to resolve all or some of the issues associated with this proceeding. The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code §5.231(a). The parties are strongly urged to seriously explore this possibility. If a settlement is reached, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on the presiding officers.
11. That the parties shall comply with the procedural rules and regulations discussed herein.

Date: December 16, 2020

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Marta Guhl

Administrative Law Judge

**A-2020-3019634 - Section 1329 Application of Pennsylvania-American Water Company – Wastewater Division for the Acquisition of Royersford Borough’s Wastewater System Assets**

*(updated 12/11/20)*

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1. On August 11, 2020, John Coogan, Esquire, also entered his appearance on behalf of I&E. [↑](#footnote-ref-1)
2. Parties are directed to e-mail us a copy of their as-filed briefs in a WORD-formatted document in addition to ADOBE or other compatible PDF format. The format of the briefs served electronically on the parties may be as requested by the parties. [↑](#footnote-ref-2)