

February 4, 2020

**VIA E-FILING**

**David P. Zambito**

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

**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; Docket Nos. A-2019-3014248 et al.**

**Pennsylvania-American Water Company's Response to the Request of the Bureau of Technical Utility Services for an Extension of the Filing Date of Application**

Dear Secretary Chiavetta:

By e-mail of February 3, 2020, staff of the Pennsylvania Public Utility Commission's Bureau of Technical Utility Services ("TUS") advised counsel for Pennsylvania-American Water Company ("PAWC") of the following:

By the Secretarial Letter dated December 11, 2019, the Commission conditionally accepted for filing Pennsylvania-American Water Company – Wastewater Division's (PAWC-WD's) above-referenced application (Application) submitted on December 2, 2019, and subsequently amended on December 6, 2019. This conditional acceptance required, *inter alia*, that PAWC-WD provide notice of the Application on various entities and file a verification letter at the docket indicating satisfaction of the various conditions. By the letter dated January 22, 2020, PAWC-WD provided a verification indicating satisfaction of the conditions of the Commission's December 11, 2019 Secretarial Letter at the same docket.

Consistent with the Commission's Final Supplemental Implementation Order (FSIO) entered February 28, 2019 at Docket No. M-2016-2543193, the Commission performed a review of whether the notices used by Pennsylvania-American Water Company - Wastewater Division comply with *McCloskey v. Pa. PUC*, 195 A.2d 1055 (Pa. Cmwlth. 2018) (New Garden). Additionally, the Commission performed a review to verify whether PAWC-WD satisfied the conditions of the Commission's December 11, 2019 Secretarial Letter. Based

upon these reviews, the notices used by PAWC-WD appear to comply with New Garden and PAWC-WD appears to have satisfied the conditions of the Commission's December 11, 2019 Secretarial Letter.

Consistent with the FSIO, the Commission requests that PAWC voluntarily extend the filing date of the Application to provide an Application consideration period of at least 170 days. FSIO at pages 39-40. If PAWC-WD declines to voluntarily extend the filing date of the Application by 4 p.m. on February 5, 2020, the Commission will withhold acceptance of the Application until February 6, 2020 to provide a consideration period of at least 170 days. The Commission will then issue a Secretarial Letter accepting the Application on February 6, 2020. PAWC-WD may agree to voluntarily extend the filing date of the Application by responding to this email or by filing a letter at Docket No. A-2019-3014248.

PAWC respectfully declines to extend the statutory consideration period voluntarily for this matter. In addition, PAWC reserves its right to raise any and all arguments in response to TUS's plan to delay final acceptance of the Application until February 6, 2020.

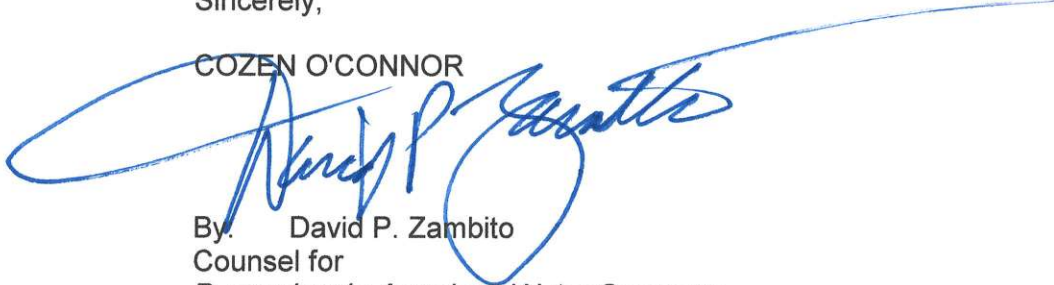
On January 22, 2020, PAWC filed its verification of compliance with the conditions of the December 11, 2019 Secretarial Letter. If TUS had promptly issued a Secretarial Letter finally accepting the Application, as required by *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Implementation Order entered October 27, 2016), pp. 24-25, the Commission would have had well over 170 days to resolve this matter before the Commission's public meeting of July 16, 2020. Instead, TUS staff delayed finally accepting the Application to permit consideration of the Application at the Commission's August 6, 2020 public meeting (almost eight months after this matter was filed). PAWC respectfully submits that TUS erred in not finally accepting the Application promptly after PAWC filed its verification of compliance.

TUS staff reviewed the customer notices issued by PAWC to determine whether they complied with the Commonwealth Court's decision in *McCloskey v. Pub. Util. Comm'n*, 195 A.3d 1055 (Pa. Cmwlth. 2018) ("*New Garden*"). This was also error; it exceeds the role of TUS as clearly articulated by the Commission in *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Tentative Supplemental Implementation Order entered September 20, 2018), p. 15 ("The Commission would clarify here that the Bureau of Technical Utility Services does not review the veracity or substantive quality of information that an applicant may submit to fulfill the threshold requirements of the Application Checklist."). In any event, the customer notices clearly were in the form approved by the Commission in *Application of Pennsylvania-American Water Company Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Water System Assets of the Steelton Borough Authority*, Docket No. A-2019-3006880. Review and approval of the customer notices did not require nearly two weeks.

Copies of this correspondence are being served as indicated on the enclosed certificate of service. Please contact me if you have any question regarding this correspondence.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito  
Counsel for  
*Pennsylvania-American Water Company*

DPZ

cc: Per Certificate of Service  
Paul Diskin, Director, Bureau of Technical Utility Services  
Sean Donnelly, Supervisor, Bureau of Technical Utility Service  
Patricia Wiedt, Esq., Law Bureau  
Elizabeth Rose Triscari, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 :

Docket No. A-2019-3014248, *et al.*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Response to the Request of the Bureau of Technical Utility Services for an Extension of the Filing Date of Application**, 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**

Office of Small Business Advocate  
555 Walnut Street  
Forum Place, First Floor  
Harrisburg, PA 17101-1923

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120

Office of Consumer Advocate  
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Respectfully submitted,



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Date: February 4, 2020