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June 21, 2021

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

RE: Docket No. A-2020-3020178, et al.; Application of Pennsylvania-American Water Company to Acquire Valley Township's Water Treatment and Distribution and Wastewater Collection and Conveyance System

Dear Secretary Chiavetta:

We serve as counsel to Valley Township ("Township") in the above matter and are submitting, with this letter, the Township's Prehearing Memorandum.

This document is being served via electronic mail on the Administrative Law Judges 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 Conrad A. Johnson, Administrative Law Judge
The Honorable Emily I. DeVoe, Administrative Law Judge
Nick Miskanic, Legal Assistant, Office of Administrative Law Judge
All parties of record

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In 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 Valley Township’s :
assets, properties and rights related to its : Docket No. A-2020-3019859, *et*
water treatment and distribution system to Pennsylvania- : *al.*
American Water Company, and (2) the rights of :
Pennsylvania-American Water Company to begin to offer or :
Furnish water service to the public in Valley Township, a :
portion of West Caln and East Fallowfield Townships, :
Chester County, Pennsylvania. :

and

In 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 Valley Township’s : Docket No. A-2020-3020178,
assets, properties and rights related to its wastewater : *et al.*
collection and conveyance 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 Valley Township, :
and limited portions of East Fallowfield Township, :
Sadsbury Township, and West Caln :
Township, Chester County, Pennsylvania. :

PREHEARING MEMORANDUM OF VALLEY TOWNSHIP

Valley Township (“Valley” or “Township”), by and through its attorneys, Obermayer
Rebmann Maxwell & Hippel LLP, submits this prehearing memorandum pursuant to the
Prehearing Conference Order for Telephonic Conference (“Prehearing Conference Order”) in
advance of the June 23, 2021 Prehearing Conference in the above-captioned matters.

I. Background

These proceedings concern the October 16, 2020 applications of Pennsylvania-American
Water Company (“PAWC”) for approval to acquire the water and wastewater system assets of

Valley respectively pursuant to Sections 507, 1101 and 1329 of the Pennsylvania Public Utility Code. Although each application was docketed separately, the Commission has apparently consolidated them on its own motion. Consequently, these applications will be referred to collectively herein.

By Secretarial Letter dated March 19, 2021, the Commission, *inter alia*, conditionally accepted the both applications. By Secretarial Letter dated May 18, 2021 the Commission, *inter alia*, finally accepted both applications for filing. Administrative Law Judges Conrad A. Johnson and Emily I. DeVoe were assigned to preside over both proceedings. An Initial Prehearing Conference for each application was scheduled for June 23, 2021. Additionally, a Prehearing Conference Order was issued on May 18, 2021, which requires the parties to file and serve their prehearing memoranda by 4:00 p.m. on Monday, June 21, 2021.

On May 21, 2021, Valley filed Petitions to Intervene in both cases to adequately address the interests of the Township, and consequently submits this prehearing memorandum.

II. Issues

Through early cooperative efforts, all the current parties—PAWC, the Township, the Office of Consumer Advocates (“OCA”), the Bureau of Investigation and Enforcement (“I&E”), and Office of the Small Business Administration (“OSBA”)—have reached a unanimous agreement in principle in the above-referenced proceedings. The agreement proposes to resolve all issues in the proceeding, with all parties reserving the right to address any new or novel issues that may be raised at a telephonic public input hearing that the parties will request be scheduled in these proceedings. Additionally, the parties understand that the window to file a protest or intervention in these proceedings does not formally close until Monday, June 21, 2021; however, the parties are unaware of any potential intervention or protests.

A. Approval of Application

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

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

1. Valley currently provides wastewater service to approximately 3,164 customers in Valley. The wastewater system collects and conveys sanitary wastewater from the Township residents, as well as 30 residents of West Caln Township, Sadsbury Township, and East Fallowfield Township. Additionally, Valley currently distributes approximately 65 million gallons of drinking water per year to approximately 1,669 customers. The water system serves Valley residents, as well as 22 residents of West Caln Township, Sadsbury Township, and East Fallowfield 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 Valley to take advantage of PAWC's expertise in operating water and wastewater utility systems and regulatory compliance.
2. PAWC is a viable operator of Valley's water and wastewater systems, its viability will not be impaired by the acquisition, and it maintains the managerial, technical, and financial capabilities to safely and adequately operate the Township's systems in compliance with the Pennsylvania Public Utility Code ("Code"), 66 Pa. C.S.

§§ 101 *et seq.*, 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 Valley determined that the sale of its water and wastewater systems is in the best interest of the residents of Valley, and agreed to the sale to PAWC pursuant to two heavily negotiated asset purchase agreements, both dated December 11, 2019 (the “Asset Purchase Agreements”).
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 water and wastewater systems in a safe, reliable and efficient manner.
5. Pursuant to the Asset Purchase Agreements, the acquisition will not have any immediate impact on the rates of the Valley customers.

B. Ratemaking Rate Base

Issue: Pursuant to Section 1329 of the Code, what is the ratemaking rate base of the respective water and wastewater system assets of the Township?

Valley’s Position: Pursuant to Section 1329 of the Code, PAWC shall be permitted to use \$13,950,000 for ratemaking rate base purposes for the acquired wastewater system assets, and \$7,325,000 for the acquired water system assets.

C. Validity of Contracts

Issue: Pursuant to Section 507 of the Code, are the Asset Purchase Agreements between PAWC and Valley valid, reasonable, and otherwise lawful? Additionally, is the assignment of the November 16, 1988 Sewer and Water Service Agreement Between West Caln Township, Valley Township, Valley Township Authority and Highlands Corporate Center, and the November 15,

2011 Agreement between Valley Township and Sadsbury Township valid, reasonable, and otherwise lawful?

Valley's Position: The Asset Purchase Agreements for Valley's water and wastewater systems between PAWC and Valley are valid, reasonable, and otherwise lawful under Section 507 of the Code. Additionally, the assignment of the November 16, 1988 Sewer and Water Service Agreement Between West Caln Township, Valley Township, Valley Township Authority and Highlands Corporate Center, and the November 15, 2011 Agreement between Valley Township and Sadsbury Township is valid, reasonable, and otherwise lawful.

III. Settlement

As stated above, all the current parties—PAWC, the Township, OCA, I&E, and OSBA have reached a unanimous agreement in principle in the above-referenced proceedings.

IV. Public Input Hearing

Valley agrees to cooperate in good faith with Commission staff and all parties to promptly schedule one telephonic public input hearing in this matter.

V. Witnesses

Valley witnesses Patrice Proctor, the Chairwoman of the Township's Board of Supervisors, and Harold Walker, III of Gannett Fleming Valuation and Rate Consultants, LLC, Valley's Utility Valuation Expert, provided direct testimony with the Application as Appendix A-13-A and A-13-B respectively. Valley reserves its right to call additional witnesses, if necessary, and agrees to notify the presiding Administrative Law Judges and the parties promptly should Valley determine that any additional witnesses will be called.

VI. Litigation Schedule

Valley is willing to work with the Administrative Law Judges and the parties to develop an agreed upon litigation schedule.

Respectfully submitted,

/s/ Thomas Wyatt

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Counsel for Valley Township

Dated: June 21, 2021

CERTIFICATE OF SERVICE

I, Thomas Wyatt, Esq., hereby certify that I have served a true and correct copy of the foregoing *Prehearing Memorandum of Valley Township* upon the parties list 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: June 21, 2021

/s/ Thomas Wyatt
Thomas Wyatt, Esquire