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*"The difficult legal challenges we
complete immediately; the impossible
ones take a little longer."*

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June 24, 2021

Honorable Dennis Buckley
Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
Via Email: debuckley@pa.gov

**RE: 600 Scranton, LLC v. Pennsylvania American Water
C-2021-3024207**

Dear Judge Buckley:

Please find enclosed herein, Complainant's Supplemental Prehearing Conference Memorandum.

If you have any questions or concerns, please do not hesitate to contact me. Thanking you for your attention hereto, I am,

Very truly yours,
THOMAS J. JONES, JR. P.C.



Thomas J. Jones, Jr., Esquire

TJJ,Jr./rf

cc: Timothy McHugh, Esquire
Michael Gruin, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

600 Scranton, LLC

v.

PA American Water Company

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C-2021-3024207

SUPPLEMENTAL PREHEARING CONFERENCE MEMORANDUM

AND NOW comes the Complainant, 600 Scranton LLC, (hereinafter 600 Scranton or Complainant) by and through its Counsel, Thomas J. Jones Jr. Esq., submitting the within Supplemental Prehearing Conference Memorandum pursuant to the Second Prehearing Order of Administrative Law Judge, Dennis J. Buckley, dated June 16, 2021.

At the prehearing teleconference held before ALJ Buckley on June 16, 2021, new counsel for Pa American Water Co. (hereinafter Pa American Water or Respondent), Attorney Michael Gruin, entered his appearance as co-counsel and informed the ALJ and 600 Scranton, LLC that he was planning to file a Motion to Limit the Scope of the Hearing by June 25, 2021. At the very end of the teleconference, he requested of Complainant to consider settlement of the case which might be outside of the limitations set forth in the Pa American Water Tariffs but fair to all parties.

A. Prior, co-counsel for Respondent made an “emergency” request to remove the matter from mediation. 600 Scranton, LLC is in agreement with Attorney Gruin that the dispute would best be resolved by settlement and request the case be resubmitted to Mediator, Mathew Homsher pursuant to the Interim Order Setting Resolution Conference issued by Chief Administrative Law Judge, Charles E. Rainey, Jr. on March 12, 2021.

B. Respondent's Counsel apparently would file a Motion to Limit the Scope of the Hearing based upon the written statements contained in the filed Formal Complaint as well as those in Complainant's first Prehearing Conference Memorandum:

"4. Other witnesses to testify on issue: Pa America Water, Public Utility and PPL Electric Public Utility (600 Scranton LLC v. PPL Electric Utilities (2019-C-3014952) devote substantial resources to aid and assist new industrial, commercial construction in the new Business Park located on the new highway in Archbald, while at the same time ignoring, if not penalizing, customers struggling with rehabilitated and recovered brownfield properties served by old, deteriorating infrastructure on the old commercial highway on the other side of town."

" (e) List of Issues, Sub Issues

1. See 4. Above.

2. Has the Respondent failed to provide safe, adequate, economical and efficient Public Utility Service to Complainant by providing Notice of a Catastrophic Water Leak in the routine monthly Water Bill (Exhibit A) which itemized an 8 Million Gallon Water usage.

a. Respondent has a duty to equip the service meter, at the connection of the commercial consumer's lateral water line and the utility main line, with an alarm system to immediately signal an unusually high-water loss. Respondent offers residential customers this quality of service, however it does not to commercial consumers. This alarm system is even more necessary where the commercial consumer has had a previous, substantial catastrophic water loss as a result of a broken water line.

(i) The Facts will reveal Complainant remarkably, never had any loss of water pressure to signal a massive water leak, however there was a clear and present danger there would not be enough water pressure to serve the fire suppression system and fire hydrants on the premises putting the lives of employees, customers, delivery persons and fire emergency personnel at risk.

b. Respondent's failure to promptly notify 600 Scranton LLC of a catastrophic water leak until the routine monthly bill (Exhibit A), showing 8 million gallons of water to be paid for, placed Complainant immediately into financial distress jeopardizing the ability to make the capital improvement to install a new waterline to connect to the building and fire hydrants.

3. The massive water leak (approximately total of 32 million gallons) was subsurface and not detected because it flowed into the abandoned coal mines 1000 feet beneath the building. A portion of the building was built over the 8-inch water line in the 1960's to early 1970's and the leak location was undiscoverable until the broken waterline suffered a complete breach and water burst through the concrete floor of a corner tenant on April 8, 2021. By that time, 600 Scranton, LLC had almost completed installation of a new water line to connect to the building.

The issues are: Did 600 Scranton, LLC do everything it reasonably could to detect the location of the water leak and prevent further loss of water? Did the Respondent reasonably do everything it could to minimize the loss of water through a break of the lateral water line on the Consumer's property? What is the appropriate relief or remedy for 600 Scranton, LLC if it is determined the Respondent did not provide adequate, safe, efficient and reliable public utility service?

The Pa Water Co. pending Motion to Limit Scope of the Hearing, if granted by an Interim Order, would foreclose the significant common issue that exists before Administrative Law Judge Buckley in the Case, 600 Scranton LLC v. PPL Electric Utilities (2019-C-3014952)

The common issue raised by complainants is:

The Public Utilities, Pennsylvania American Water and PPL, have not provided recovering and rehabilitated, brownfield commercial areas adequate, safe, economical and efficient service to the commercial customer. Further, the public utilities discriminatorily, do provide abundant public utility Service to the developer of the new Commercial and Business Park in the same municipality, the Greater Scranton Chamber of Commerce.

The premises owned by 600 Scranton LLC known locally as Sugarmans (no apostrophe), was a past project of the Lackawanna County Industrial Development Authority (LCIDA), now defunct and no longer in operation. The successor to the LCIDA is the Greater Scranton Chamber of Commerce and its development arm, Scranton Lackawanna Industrial Building Company (SLIBCO).

The paramount factual evidence of Public Utility Disservice:

A. Pa. Water does not provide adequate notice of a catastrophic water leak (undetectable subsurface, drained into abandoned coal mines below) on the commercial property side of the meter until the regular monthly bill is delivered. That bill showed Complainant had used 8 million gallons of water, already a bill that could not be afforded by a reasonable commercial consumer.

1. Pa. Water: Evidence will show there was a maze of water pipes underground on the premises funded by the defunct LCIDA for the future industrial and commercial development off premises. As a result of no maps or diagrams available to search for the leak on the 58-acre premises, all reasonable and extraordinary efforts to detect the location of the leak were to no avail. 600 Scranton, LLC had already commenced installation of a new 8-Inch Water Line when the leak revealed itself by erupting through the floor of a tenant. By that time the total water loss was 32 million gallons (Exhibit B).

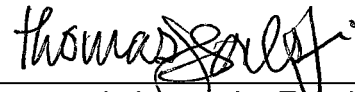
B. PPL : PPL permitted an unauthorized employee of the bankrupt previous owner of the premises, while still in bankruptcy, to order electric service for 600 Scranton, LLC at the highest possible electric rate, then delayed billing for 4 months, after 600 Scranton, LLC paid the first electric bill in August, 2017. Further, PPL started billing 600 Scranton, LLC with summary billing in January, 2018 which prevented 600 Scranton, LLC from tracking demand and usage to reduce energy consumption. Additionally, 600 Scranton, LLC's request for an audit of onsite equipment and usage pursuant to Act 129 Energy Conservation Law was ignored or denied by PPL.

The significant common issue with the Pa Water case and the PPL case is: Did the public utilities provide safe, adequate, efficient and economical service to the consumer owner of a recovering, antiquated brownfield site? And, of course, this is juxtaposed with the public utility service being provided new construction and

development in the new Archbald Business Park. The LERTA Exemption for the new businesses (No and reduced real estate taxes for a 10-year period) is a substantial governmental discriminatory practice that falls outside the jurisdiction of the Pa. Public Utility Commission.

The Respondent's pending Motion to Limit Scope of the Hearing will be opposed by the Motion of 600 Scranton, LLC to consolidate the two (2) cases to properly and efficiently address this important issue before the same Administrative Law Judge.

Respectfully submitted,
THOMAS J. JONES, JR. P.C.



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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

600 SCRANTON, LLC	:	
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Complainant	:	
	:	
v.	:	C-2019-3024207
	:	
PA AMERICAN WATER	:	
	:	
Respondent	:	

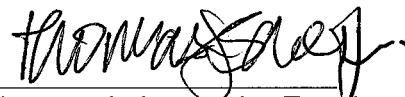
CERTIFICATE OF SERVICE

I, Thomas J. Jones, Jr., Esquire, hereby certify that I have served the foregoing Supplemental Prehearing Conference Memorandum upon the individuals electronically at the addresses set forth below.

Honorable Dennis Buckley
Administrative Law Judge
Pa. Public Utility Commission
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debuckley@pa.gov

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Thomas J. Jones, Jr., P.C.



Thomas J. Jones, Jr., Esquire
Attorney for Complainant
600 Scranton, LLC

June 24, 2021