

# Stevens & Lee

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July 1, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

Re: 600 Scranton, LLC v. Pennsylvania-American Water Company  
Docket No. C-2021-3024207

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Response to Supplemental Prehearing Conference Memorandum in the above-referenced matter. A copy of the Response has been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Timothy K. McHugh

TKM:jama

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

600 Scranton, LLC	:	
	:	
v.	:	Docket No. C-2021-3024207
	:	
Pennsylvania-American Water Company	:	
	:	
	:	

**RESPONSE OF PENNSYLVANIA-AMERICAN WATER COMPANY TO  
COMPLAINANT’S SUPPLEMENTAL PREHEARING CONFERENCE  
MEMORANDUM**

Pursuant to the Order issued by Administrative Law Judge Dennis J. Buckley on June 7, 2021, Pennsylvania-American Water Company (“PAWC” or “Company”), by and through the undersigned counsel, hereby submits its Response to the Complainant’s Supplemental Prehearing Conference Memorandum in the above-captioned matter.

**I. BACKGROUND**

On February 18, 2021, PAWC was served with a Formal Complaint (“Complaint”) filed by 600 Scranton, LLC (“Complainant”). Complainant owns and/or operates the property located at 600 Scranton Carbondale Highway, Eynon, Pennsylvania (“Property”) and receives water service from PAWC at the Property. In its Complaint, the Complainant alleged that: 1) PAWC was threatening to shut off its service; 2) there were incorrect charges on its bill; and 3) it is having a reliability, safety or quality problem with its water service. The Complaint requested that PAWC provide the Complainant with: 1) diagrams, blueprints or plans of the now defunct Lackawanna County Industrial Development Authority’s Project that existed on or was planned for the

Complainant's property; 2) high-quality leak-detection equipment; and 3) the ability to forego paying its water bill in order to install a new service pipe in the event a leak is detected. On March 10, 2021, PAWC filed an Answer to the Complaint at Docket Number C-2021-3024207. PAWC denied both the Complainant's allegations and the relief requested in the Complaint.

On June 7, 2021, the presiding Administrative Law Judge ("ALJ") issued the Initial Prehearing Order setting an Initial Prehearing Conference beginning at 10 a.m. on June 16, 2021. The parties each submitted Prehearing Conference Memorandum on June 15, 2021, and the Prehearing Conference took place on June 16, 2021. At the Prehearing Conference, counsel for PAWC made an oral Motion for Clarification of the Scope of the Proceeding ("Motion"). Complainant's counsel concurred and the Motion was granted by the presiding ALJ. That same day, the presiding ALJ issued an Order directing the parties to file a Supplemental Prehearing Conference Memorandum to help define the scope of the proceeding and identify which issues the Commission should consider. On June 23, 2021, the Complainant submitted its Supplemental Prehearing Conference Memorandum. PAWC submitted its Supplement Prehearing Conference Memorandum on June 25, 2021. The June 16, 2021 Order provided that, if desired, the parties must file a Reply to the Supplemental Prehearing Conference Memorandum by July 1, 2021.

## **II. RESPONSE TO COMPLAINANT'S SUPPLEMENTAL PREHEARING CONFERENCE MEMORANDUM**

In its Supplemental Prehearing Conference Memorandum ("Memo"), the Complainant incorrectly states that counsel for PAWC was planning to file a Motion to Limit the Scope of the Hearing by June 25, 2021. *See* Memo, pg. 1. Complainant continued that if PAWC's "Motion to Limit Scope of the Hearing" is granted by an Interim Order, it would "foreclose the significant common issue that exists before [ALJ] Buckley in the Case, 600 Scranton LLC v. PPL Electric

Utilities (2019-C-3014952).” *Id.* at p. 3. Complainant concluded that it opposes the “Motion to Limit Scope of the Hearing.” *Id.* at p. 5.

For starters, the Complainant incorrectly characterizes PAWC’s Motion for Clarification of the Scope of the Proceeding. As stated in the June 16, 2021 Order, counsel for PAWC made an oral Motion for Clarification of the Scope of the Proceeding (“Motion”). Complainant’s counsel concurred with the Motion and it was granted. This is confirmed in the June 16, 2021 Order. The purpose of each party’s Supplemental Prehearing Conference Memorandum was to “afford an opportunity to . . . further define the scope of this proceeding and to list, with specificity, the issues to be considered by the Commission.” It did not provide for an opportunity to oppose a previously granted Motion. PAWC requests that Complainant’s opposition to its Motion for Clarification of the Scope of the Proceeding be denied as untimely.

Furthermore, Complainant attempts to request a consolidation of this proceeding with that of another Formal Complaint proceeding that it apparently filed against an Electric Distribution Company. The Complainant has not filed a Motion to Consolidate the completely separate proceedings nor is there any basis to request such. Furthermore, the proceedings are factually separate and it is specious, at best, to claim that they involve a common question of law. A Motion to Consolidate can be granted to avoid unnecessary costs or delay. *See* 52 Pa. Code § 5.81. However, it does not exist simply to make things easier for one party or to bundle matters so as to conflate the separate issues or cause undue delay. PAWC is not a party to the separate Formal Complaint nor does it provide electrical service to Complainant, which appears to be the subject of that Formal Complaint. In addition, the purpose of the Supplemental Prehearing Conference Memorandum was defined in the ALJ’s Order. Complainant’s Memo often surpasses the stated purpose of such, as is the case with requesting that separate proceedings be consolidated. As such, in the event Complainant’s Memo includes a Motion to Consolidate the separate proceedings,

PAWC opposes such and requests that the Motion to Consolidate be denied.

Finally, PAWC denies Complainant's request that the case be resubmitted to mediation. Complainant has a habit of mischaracterizing the mediation process and PAWC's request that the matter be scheduled for a hearing. PAWC does acknowledge that at the Prehearing Conference, counsel for PAWC stated that it will continue to communicate with Complainant to determine if a resolution to this matter is possible. However, to the extent Complainant alleges such, PAWC denies that it similarly requested that the matter be reassigned to mediation. PAWC stands by its request in its Prehearing Conference Memorandum that an evidentiary hearing be scheduled on July 7, 2021 or July 8, 2021, subject to the presiding ALJ's availability.

Respectfully submitted,



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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

600 Scranton, LLC	:	
Complainant	:	
	:	
v.	:	Docket No. C-2021-3024207
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Response to Supplemental Prehearing Conference Memorandum upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL  
Thomas J. Jones, Jr., Esquire  
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Scranton, PA 18503  
[tjjoneslaw@gmail.com](mailto:tjjoneslaw@gmail.com)



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Timothy K. McHugh

July 1, 2021