



August 3, 2021

**VIA E-FILE**

**David P. Zambito**

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

**Re: 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 water treatment and distribution system to Pennsylvania-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; Docket Nos. A-2020-3019859 *et al.***

**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 wastewater 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; Docket No. A-2020-3020178 *et al.***

**Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Ordering Paragraphs**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Ordering Paragraphs in the above-referenced matters. Please note that the transcript from the evidentiary hearing of July 23, 2021 has not yet been issued. Consequently, references to specific transcript pages have been left blank. Specific page references will be provided by a separate filing when the transcript has been issued

A copy of the enclosed filing is being served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,

COZEN O'CONNOR



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

DPZ:kmg  
Enclosure

cc: Administrative Law Judge Conrad A. Johnson  
Administrative Law Judge Emily I. DeVoe  
Per Certificate of Service  
Susan Simms Marsh, Esq.

**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 water treatment :     Docket No. A-2020-3019859, *et*  
and distribution system to Pennsylvania-American :     *al.*  
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 assets, :  
properties and rights related to its wastewater :     Docket No. A-2020-3020178, *et*  
collection and conveyance system to :     *al.*  
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 :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 3<sup>rd</sup> day of August, 2021 served a true copy of the foregoing ***Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Ordering Paragraphs*** upon the parties, listed below in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

**Due to the COVID-19 Pandemic, Service is Being Made by E-Mail Only**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Administrative Law Judges  
Conrad A. Johnson and  
Emily I. DeVoe**

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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 water treatment and distribution system to : Docket Nos.  
Pennsylvania-American Water Company, and (2) the rights of : A-2020-3019859, *et al.*  
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 assets, properties and rights : Docket Nos.  
related to its wastewater collection and conveyance system to : A-2020-3020178, *et al.*  
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. :

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**JOINT STIPULATION OF PROPOSED FINDINGS OF FACT,  
PROPOSED CONCLUSIONS OF LAW AND  
PROPOSED ORDERING PARAGRAPHS**

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Pennsylvania-American Water Company (“PAWC”), Valley Township (“Valley”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), all of the active parties to the above-captioned proceedings (hereinafter, collectively referred to as the “Stipulating Parties”), file this Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of

Law and Proposed Ordering Paragraphs (“Stipulation”) in the above-captioned proceeding, pursuant to Paragraph 52 of the Joint Petition for Approval of Unanimous Settlement of All Issues (the “Settlement”).

In support of the Stipulation, the Stipulating Parties represent as follows:

1. Paragraphs 1 through 27 (regarding “Background”) of the Settlement are hereby incorporated by reference.

2. Consistent with Paragraph 50 of the Settlement, the Stipulating Parties have jointly prepared **Appendix A - Proposed Findings of Fact, Appendix B - Proposed Conclusions of Law and Appendix C - Proposed Ordering Paragraphs**. The Stipulating Parties agree that the facts agreed-to in this Joint Stipulation are sufficient to find that the Settlement is in the public interest.

3. This Stipulation is presented by the Stipulating Parties in conjunction with the Settlement, which is intended to settle all issues in the above-captioned proceedings. If the Commission rejects or otherwise modifies the Settlement, the Stipulating Parties reserve their respective procedural rights to submit testimony and exhibits, and cross-examine witnesses at on-the-record evidentiary hearings.

4. This Stipulation is being presented in conjunction with the Settlement only to support the proposed resolution of the above-captioned proceedings. Regardless of whether this Stipulation is approved, no adverse inference shall be drawn, nor shall prejudice result to any Stipulating Party in this or any future proceeding as a consequence of this Stipulation, or any of its terms or conditions.

5. Attached hereto as **Appendix D** is a proposed “Order Granting Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Ordering Paragraphs” for consideration by Administrative Law Judges Conrad A. Johnson and Emily I. DeVoe.

WHEREFORE, the Stipulating Parties, by their respective counsel, respectfully request that Administrative Law Judges Conrad A. Johnson and Emily I. DeVoe approve this Stipulation.

[Signatures appear on next page.]

Respectfully submitted,



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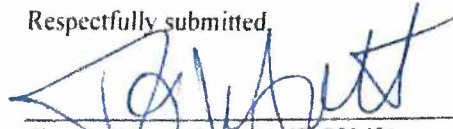
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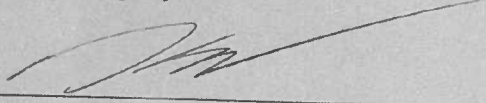
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## APPENDIX A

### PROPOSED FINDINGS OF FACT

#### Parties

1. PAWC, a subsidiary of American Water Works Company, Inc. (“American Water”), is the largest regulated water and wastewater public utility duly organized and existing under the laws of the Commonwealth of Pennsylvania. It furnishes water and wastewater service to the public in a service territory encompassing more than 400 communities in 36 counties. Overall, PAWC serves a combined population of over 2,400,000 across the Commonwealth. PAWC St. No. 1W p. 13. As of August 31, 2020, PAWC served approximately 671,431 water customers, PAWC St. No. 1W p. 15, and approximately 75,253 wastewater customers, PAWC St. No. 1WW p. 15, across Pennsylvania.

2. Valley is a Second Class Township in Chester County, Pennsylvania. It has approximately 7,600 residents. Valley St. No. 1W p. 5.

3. I&E serves as the Commission’s prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Code and Commission Regulations and Orders. Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011).

4. The OCA is a Commonwealth agency created by Act 161 of 1976 to represent the interests of consumers before the Commission. 71 P.S. § 309-2.

5. The OSBA is a Commonwealth agency created by Act 181 of 1988 to represent the interests of small businesses before the Commission. 73 P.S. § 399.41.

### **The Water System**

6. The Water System is supplied by Township-owned wells and bulk water purchased from PAWC. It has a water treatment plant, a 150,000 gallon elevated tank and approximately 22 miles of water mains. The water sources and the water system customers are metered. Valley St. No. 1W p. 5.

7. As of March 31, 2020, the Water System furnished service to approximately 1,670 customers, including Valley residents and 22 residents of West Caln and East Fallowfield Townships. PAWC St. No. 1W p. 15; Valley St. No. 1W p. 5.

### **The Water Asset Purchase Agreement**

8. Valley sold its Water System pursuant to arm's length negotiations. Valley entered into a consulting agreement with PFM Financial Advisors LLC ("PFM") to assist with the sale, pre-qualified interested bidders and issued a request for bids. PAWC submitted the only bid for the Water System, which was accepted by Valley. Valley St. No. 1W pp. 7-9; PAWC St. No. 1W pp. 8-10. On or about December 17, 2019, Valley and PAWC executed the APA for the sale of substantially all the assets, properties and rights of Valley's Water System at an agreed-upon price of \$7,325,000. PAWC St. No. 1W p. 12.

### **The Water UVE Appraisals**

9. The Water Application seeks to utilize the process set forth in 66 Pa. C.S. § 1329 to determine the fair market value of the Water System and the ratemaking rate base of that system. PAWC St. No. 1 p. 4. As required by Section 1329, PAWC and Valley jointly retained the services of Pennoni Associates, Inc. to complete the Valley Township Water Facilities Engineering Assessment and Original Cost. PAWC Exhibit KEG-2W, Appendix A-15-a.

10. As also required by Section 1329, the Application included the appraisals of PAWC's utility valuation expert ("UVE"), AUS Consultants, Inc. ("AUS"), and Valley's UVE, Gannett Fleming Valuation and Rate Consultants, LLC ("Gannett Fleming"). PAWC Exhibit KEG-2W, Appendices A-5.1 and A-5.2.

11. AUS is registered as a utility valuation expert with the PUC. PAWC St. No. 4W p. 1. AUS prepared a fair market valuation report dated as of December 17, 2019. AUS's fair market value report utilized the cost approach, the income approach, and the market approach. PAWC Exhibit KEG-2W, Appendix A-5.1. AUS filed a verification that states the fair market value report was prepared in compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). PAWC Exhibit KEG-2W Appendix A-9.1. AUS's fair market value report concluded that the value of the Valley Water System was \$11,570,369. PAWC St. No. 4W p. 3.

12. Gannett Fleming is registered as a UVE with the PUC. Valley St. No. 2W p. 2. Gannett Fleming issued a fair market valuation of the Water System as of March 31, 2020. Valley St. No. 2W p. 3. Gannett Fleming's fair market value report utilized the cost approach, the income approach, and the market approach. PAWC Exhibit KEG-2W Appendix A-5.2. Gannett Fleming filed a verification that states its fair market valuation report was prepared in compliance with USPAP. PAWC Exhibit KEG-2W Appendix A-9.2. Gannett Fleming's fair market value report concluded that the value of the Valley Water System was \$10,532,000 (rounded). Valley St. No. 2W p. 26.

### **The Wastewater System**

13. The Wastewater System is a collection system that discharges all sewage into PAWC's Coatesville wastewater system for final treatment. PAWC St. No. 2WW p. 2. It is not a combined sewer system, nor is it a municipal separate storm sewer system ("MS4 System"). PAWC St. No. 2WW p. 3.

14. As of December 31, 2020, the Wastewater System provided service to approximately 3,125 customers. PAWC St. No. 2WW p. 14.

### **The Wastewater Asset Purchase Agreement**

15. Valley sold its Wastewater System pursuant to arm's length negotiations. Valley entered into a consulting agreement with PFM Financial Advisors LLC ("PFM") to assist with the sale, pre-qualified interested bidders and issued a request for bids. PAWC submitted the only bid for the Wastewater System, which was accepted by Valley. Valley St. No. 1WW pp. 6-8; PAWC St. No. 1WW pp. 8-9. On or about December 17, 2019, Valley and PAWC executed the APA for the sale of substantially all the assets, properties and rights of Valley's Wastewater System at an agreed-upon price of \$13,950,000. PAWC St. No. 1WW p. 12.

### **The Wastewater UVE Appraisals**

16. The Wastewater Application seeks to utilize the process set forth in 66 Pa. C.S. § 1329 to determine the fair market value of the Wastewater System assets and the ratemaking rate base of those assets. PAWC St. No. 1WW p. 4.

17. As required by Section 1329, PAWC and Valley jointly retained the services of Pennoni Associates Inc. to complete the Valley Township Sewerage Facilities Engineering Assessment and Original Cost. PAWC Exhibit KEG-2WW Appendix A-15-a.

18. As also required by Section 1329, the Application included the appraisals of PAWC's UVE, AUS, and Valley's UVE, Gannett Fleming. PAWC Exhibit KEG-2WW Appendices A-5.1 and A-5.2.

19. AUS prepared a fair market valuation report dated as of December 17, 2019. AUS's fair market value report utilized the cost approach, the income approach, and the market approach. PAWC Exhibit KEG-2WW Appendix A-5.1. AUS filed a verification that states the fair market value report was prepared in compliance with USPAP. PAWC Exhibit KEG-2WW Appendix A-9.1. AUS's fair market value report concluded that the value of the Valley Wastewater System was \$19,081,059. PAWC St. No. 4WW p. 3.

20. Valley retained the services of Gannett Fleming to complete an appraisal of the Wastewater System. Valley St. No. 2WW p. 3. Gannett Fleming issued a fair market valuation of the Wastewater System as of April 30, 2020. Valley St. No. 2WW p. 3. Gannett Fleming's fair market value report utilized the cost approach, the income approach, and the market approach. PAWC Exhibit KEG-2WW Appendix A-5.2. Gannett Fleming filed a verification that states its fair market valuation report was prepared in compliance with USPAP. PAWC Exhibit KEG-2WW Appendix A-9.2. Gannett Fleming's fair market value report concluded that the value of Valley's Wastewater System was \$19,846,000 (rounded). Valley St. No. 2WW p. 26.

#### **PAWC's Financial Fitness**

21. PAWC had total assets of approximately \$5.3 billion, and annual revenues of \$689 million, for 2019. For 2019, PAWC had operating income of approximately \$330 million and net income of approximately \$187 million. PAWC St. No. 3W p. 4; PAWC St. No. 3WW p. 4.

22. In addition to generating positive operating cash flows, PAWC may also obtain financing through: (i) equity investments; (ii) a \$400 million line of credit through American



Water Capital Corp. (“AWCC”); and (iii) long term debt financing at favorable rates from AWCC, the Pennsylvania Infrastructure Investment Authority (“PENNVEST”) and the Pennsylvania Economic Development Financing Authority (“PEDFA”). PAWC St. No. 3W pp. 4-5; PAWC St. No. 3WW pp. 4-5.

23. PAWC will initially fund the Transaction with short-term debt and will later replace it with a combination of long-term debt and equity capital. PAWC St. No. 3W p. 5; PAWC St. No. 3WW p. 5. PAWC does not anticipate that the acquisition of the Water System and Wastewater System will have a negative impact on PAWC’s cash flows, credit ratings or access to capital. Therefore, the Transaction will not deteriorate in any manner PAWC’s ability to continue to provide safe, adequate, and reasonable service to its existing customers at just and reasonable rates. PAWC St. No. 3W p. 9; PAWC St. No. 3WW p. 5.

24. PAWC is a financially-sound business that can financially support the acquisition of the Water System and Wastewater System as well as the ongoing operating and investment commitments that will be required to operate, maintain and improve those Systems. PAWC St. No. 3W p. 4; PAWC St. No. 3WW p. 4. Given its size, access to capital and its recognized strengths in system planning, capital budgeting and construction management, PAWC is well-positioned from a financial perspective to ensure that high quality water and wastewater service meeting all federal and state requirements is provided to Valley’s customers and maintained for PAWC’s existing customers. PAWC St. No. 3W pp. 6-7; PAWC St. No. 3WW pp. 6-7.

#### **PAWC’s Technical Fitness**

25. PAWC currently employs approximately 1,100 professionals with expertise in all areas of water and wastewater utility operations, including engineering, regulatory compliance, water and wastewater treatment plant operation and maintenance, distribution and collection

system operation and maintenance, material management, risk management, human resources, legal, accounting and customer service. PAWC St. No. 2W p. 6; PAWC St. No. 2 WW p. 7.

26. As a subsidiary of American Water, PAWC has available to it additional resources of highly trained professionals who have expertise in various specialized areas. These operations and process experts have deep experience in the operation and maintenance of every possible type of wastewater treatment technology, as well as the experience available to support PAWC's operations staff and facilities. PAWC St. No. 2W p. 6; PAWC St. No. 2WW p. 8.

27. PAWC's Coatesville operations center is located within one mile from Valley and houses both the local operations teams and operations support staff. PAWC St. No. 2W p. 4; PAWC St. No. 2WW p. 5.

28. The Valley Water System will be managed as part of PAWC's Coatesville water department within PAWC's Southeast Area operations. The Valley systems that receive water wholly from PAWC (Valley Crossing and Villages of Hillview) will be integrated into the PAWC Coatesville water system. The Valley Springs system will continue to operate as a standalone system. PAWC St. No. 2W p. 4.

29. The Valley Wastewater System will be managed as part of PAWC's Coatesville wastewater department within PAWC's Southeast Area operations. PAWC St. No. 2WW p. 5.

30. The Southeast Area provides a range of shared support services -- including purchasing, environmental compliance, health and safety, meter reading, customer service work and PA One Call. The water and wastewater operations in Valley will be supported by common shared support services. PAWC St. No. 2W p. 4; PAWC St. No. 2WW p. 5.

### **PAWC's Legal Fitness**

31. PAWC is a Commission-regulated public utility with a good compliance history. There are no pending legal proceedings that would suggest that PAWC is not legally fit to provide water and wastewater service to Valley customers. PAWC St. No. 1W p. 17; PAWC St. No. 1WW p. 17. PAWC has the expertise, the record of environmental compliance, the commitment to invest in necessary capital improvements and resources, and the experienced managerial and operating personnel necessary to provide safe and reliable water and wastewater services to the existing customers of Valley. PAWC St. No. 1W p. 14; PAWC St. No. 1WW p. 14.

### **Benefits of the Transaction and the Settlement**

32. The Transaction will benefit Valley by improving its financial condition and outlook and by enabling it to reallocate its administrative time to focus on other key initiatives. The Transaction will also increase Valley's tax base through increased development opportunities and will preserve all jobs related to the Water System and the Wastewater System. Valley St. No. 1W pp. 3-4; Valley St. No. 1WW pp. 3-4.

33. PAWC is a large, financially-sound company that has the capacity to finance necessary capital additions and improvements that will benefit Valley's customers. PAWC is well-positioned to ensure that high quality water and wastewater service meeting all applicable state and federal regulatory requirements is provided to Valley's customers. PAWC St. No. 1W pp. 15-16; PAWC St. No. 1WW p. 15.

34. PAWC is subject to the jurisdiction of the Commission requiring PAWC to provide adequate, efficient, safe, and reliable water and wastewater service at just and reasonable rates. Valley is not regulated by the Commission and does not need to comply with the Code, the Commission's Regulations or Orders. PAWC St. No. 1W p. 16; PAWC St. No. 1WW p. 15. After

Closing on the Transaction, I&E, OCA and OSBA will be statutory representatives for Valley's customers. PAWC St. No. 2W p. 14; PAWC St. No. 2WW pp. 15-16.

35. Valley's current customers also will have access to additional bill payment options, extended customer service and call center hours, enhanced customer information and education programs, and access to PAWC's customer assistance programs. PAWC St. No. 1W p. 16; PAWC St. No. 1WW p. 16; PAWC St. No. 2W pp. 11-13; PAWC St. No. 2WW pp. 13-14.

36. Although the amount that will be added to PAWC's rate base will be determined in this proceeding, any impacts on the rates of PAWC's existing customers would occur only upon Commission approval as part of a base rate proceeding. The Transaction will have no immediate rate impact on PAWC's existing customers. PAWC St. No. 3W p. 9; PAWC St. No. 3WW p. 9.

37. The Transaction will add approximately 1,670 new water customers to PAWC's existing water customer base of approximately 671,431 customers (or an increase of about 0.2%). PAWC St. No. 1W p. 15.

38. The Transaction will add approximately 3,125 wastewater customers to PAWC's existing wastewater customer base of approximately 75,253 customers (or an increase of more than 4.1%). PAWC St. No. 1 WW p. 14.

39. The Transaction will not result in unnecessary duplication of operations or facilities following Closing. PAWC St. No. 2W p. 5; PAWC St. No. 2WW p. 6.

#### **Ratemaking Rate Base**

40. The Settlement proposes a ratemaking rate base for the Water System of \$7,325,000, based on the agreed-to purchase price of \$7,325,000. This amount was less than the average of the two UVE appraisals ( $\$11,570,369 + \$10,532,000 = 22,102,369/2 = \$11,051,185$ ). PAWC St. No. 3W p. 6.

41. The Settlement proposes a ratemaking rate base for the Wastewater System of \$13,950,000, based on the agreed-to purchase price of \$13,950,000. This amount was less than the average of the two UVE appraisals ( $\$19,081,059 + \$19,846,000 = \$38,927,059/2 = \$19,463,530$ ). PAWC St. No. 3WW p. 6.

#### **Rate Stabilization Plan**

42. PAWC states that the Water APA does not contain a “rate stabilization plan” as defined by 66 Pa. C.S. § 1329(g). PAWC St. No. 3W pp. 14-15. Although the Water APA contractually restricts PAWC from proposing an increase in base rates until after the second anniversary of the day of Closing, nothing in the Water APA purports to restrict the Commission’s authority to set just and reasonable rates in a base rate proceeding. *Id.* p. 15. PAWC will adopt Valley’s water rates at the time of closing, but will bill customers on a monthly (rather than quarterly) basis. *Id.* p. 11.

43. PAWC states that the Wastewater APA does not contain a “rate stabilization plan” as defined by 66 Pa. C.S. § 1329(g). PAWC St. No. 3WW pp. 16-17. Although the Wastewater APA contractually restricts PAWC from proposing an increase in base rates until after the second anniversary of the day of Closing, nothing in the Wastewater APA purports to restrict the Commission’s authority to set just and reasonable rates in a base rate proceeding. *Id.* p. 17. PAWC will adopt Valley’s wastewater rates at the time of closing, but will not adopt Valley’s policy of providing a 5% discount to customers for early payment of flat rate wastewater bills because that would be discriminatory towards PAWC’s legacy customers. *Id.* p. 8. Additionally, PAWC will bill customers monthly (rather than quarterly). *Id.* p. 12.

**Distribution System Improvement Charge, Allowance for Funds Used During Construction, Deferred Depreciation and Transaction and Closing Costs**

44. PAWC requested authority from the Commission to approve the collection of a distribution system improvement charge (“DSIC”) related to the Water System and the Wastewater System in the future, prior to the first base rate case in which the Systems’ plant-in-service is incorporated into rate base. PAWC St. No. 3W p. 17; PAWC St. No. 3WW p. 19.

45. PAWC will make post-acquisition improvements in the Valley Water and Wastewater Systems. As such, PAWC will likely accrue allowance for funds used during construction (“AFUDC”) for post-acquisition improvements. PAWC St. No. 3W p. 18; PAWC St. No. 3WW p. 20. PAWC also intends to defer depreciation on non-DSIC-eligible post-acquisition improvements for book and ratemaking purposes. PAWC St. No. 3W p. 18; PAWC St. No. 3WW p. 21.

46. Transaction and closing costs that PAWC may seek to recover include the UVE’s appraisal fee and the buyer’s closing costs, including reasonable attorney fees. PAWC is unable to determine the exact extent of transaction and closing costs at this time. In its Water Application, PAWC estimated the anticipated range of transaction and closing costs for acquiring the Water System as \$441,000 to \$656,000. PAWC St. No. 3W p. 13; PAWC Exhibit KEG-2W Appendix A-10. In its Wastewater Application, PAWC estimated the anticipated range of transaction and closing costs for acquiring the Wastewater System as \$534,000 to \$749,000. PAWC St. No. 3WW p. 15; PAWC Exhibit KEG-2WW Appendix A-10.

47. Any transaction and closing costs that PAWC seeks to claim are not properly reviewed, and cannot be approved, in this Section 1329 proceeding. Instead, PAWC’s transaction and closing costs are properly reviewed in its next base rate case that follows the acquisition, and they will be subject to the preponderance of evidence standard in that review. PAWC St. No. 3W

p. 13; PAWC St. No. 3WW pp. 14-15; *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Final Implementation Order entered October 27, 2016) (“*Final Implementation Order*”) p. 14.

### **Rates**

48. As required by Section 1329, PAWC included a *pro forma* tariff supplement in the Water Application. PAWC Exhibit KEG-2W Amended Appendix A-12. Upon Closing of the Transaction, PAWC will adopt Valley’s minimum charge and consumption charge then in effect for its Water System. PAWC St. No. 3W p. 14.

49. As required by Section 1329, PAWC included a *pro forma* tariff supplement in the Wastewater Application. PAWC Exhibit KEG-2WW Second Amended Appendix A-12. Upon Closing of the Transaction, PAWC will adopt Valley’s flat rates and metered rates then in effect for its Wastewater System. PAWC St. No. 3WW p. 15. After PAWC closes on the Transaction, System customers will be subject to PAWC’s prevailing wastewater tariff on file with the Commission with respect to all other rates other than the minimum charge and consumption charge, including certain capacity reservation fees, reconnection fees and the like, as well as non-rate related terms and conditions of service. PAWC St. No. 3WW p. 16.

### **Customer Notice**

50. PAWC provided a non-binding estimate of the possible rate impacts of the Water Application for existing PAWC customers and Valley customers. PAWC Exhibit KEG-2W Appendix A-18-d. These estimates were prepared in accordance with the Commission’s Order 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 (Opinion and Order entered October 3, 2019)

(“*Steelton Order*”). PAWC St. No. 3W p. 10. Ultimately, any rate impacts of the acquisition will be determined by the Commission in future base rate proceedings. PAWC St. No. 3W p. 13.

51. PAWC provided a non-binding estimate of the possible rate impacts of the Wastewater Application for existing PAWC customers and Valley customers. PAWC Exhibit KEG-2WW Appendix A-18-d. These estimates were prepared in accordance with the *Steelton Order*. PAWC St. No. 3WW p. 10. Ultimately, any rate impacts of the acquisition will be determined by the Commission in future base rate proceedings. PAWC St. No. 3WW p. 14.

### **Municipal Agreements**

52. In the Water Application, PAWC requested that the Commission approve the Water APA. In addition, PAWC requested that the Commission approve the November 16, 1988 Sewer and Water Service Agreement Between West Caln Township, Valley, Valley Township Authority<sup>1</sup> and Highlands Corporate Center, which will be assigned to PAWC at Closing. PAWC St. No. 1W pp. 4-5.

53. In the Wastewater Application, PAWC requested that the Commission approve the Wastewater APA. In addition, PAWC requested that the Commission approve the November 15, 2011 Agreement between Valley and Sadsbury Township, which will be assigned to PAWC at Closing.<sup>2</sup> PAWC St. No. 1WW pp. 4-5.

### **Directed Questions of Commissioner Ralph V. Yanora**

54. Valley is unaware of any Valley-owned or customer-owned lead service lines in the Water System. Valley St. No. 1W-S and 1WW-S p. 3. The engineer’s assessment, PAWC Exhibit KEG-2W, Appendix A-15-a, “Master Asset List,” indicates that many (but not all) service

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<sup>1</sup> Valley Township Authority was subsequently disbanded.

<sup>2</sup> In addition, PAWC again requested that the Commission approve the November 16, 1988 Sewer and Water Service Agreement Between West Caln Township, Valley, Valley Township Authority and Highlands Corporate Center, discussed in Proposed Finding of Fact 52.



lines are copper. The engineer's assessment does not indicate that the Water System has any lead service lines.

55. PAWC has a Commission-approved plan for addressing lead service lines. *Petition of Pennsylvania-American Water Company for Approval of Tariff Changes and Accounting and Rate Treatment Related to Replacement of Lead Customer-owned Service Pipes*, Docket No. P-2017-2606100 (Final Order entered October 3, 2019). This plan is reflected in PAWC's tariff, *see, e.g.*, Tariff Pa. P.U.C. No. 5, Rule 4.9.1 ("Replacement of Lead Service Pipes"), which will apply to Valley's customers after closing on the Transaction. Tr. \_\_\_. Since no customer-owned lead service lines are known to exist in the Water System, the cost of implementing this plan in Valley after closing is expected to be minimal. Tr. \_\_\_.

56. After closing on the Transaction, PAWC will incorporate the Water System's customer-owned service lines into PAWC's inventory process, and will incorporate customer-owned lead service lines (if any) into PAWC's lead service line replacement plan. PAWC St. No. 2W-S and 2WW-S p. 2.

57. PAWC's Commission-approved tariff includes rules prohibiting cross-connections. *See, e.g.*, Tariff Pa. P.U.C. No. 5, Rule 22 ("Prohibition of Cross-Connection"). These rules will apply to Valley's customers after closing on the Transaction. Tr. \_\_\_. PAWC already has the personnel and systems in place to implement these provisions in Valley. Tr. \_\_\_.

58. The number of commercial and industrial customers in the Water System with testable backflow prevention devices is not known to Valley. No backflow prevention devices were tested in calendar year 2020. Valley St. No. 1W-S and 1WW-S p. 3.

59. PAWC's Commission-approved tariff includes rules requiring that residential customers have a check valve, and that commercial and industrial customers have an approved

backflow prevention device. *See, e.g.*, Tariff Pa. P.U.C. No. 5, Rule 4.6 (“Check Valve, Backflow Prevention Device and Service Pipe Strainers”). These rules will apply to Valley’s customers after closing on the Transaction. Tr. \_\_\_\_\_. PAWC already has the personnel and systems in place to implement these provisions in Valley. Tr. \_\_\_\_\_.

60. PAWC has a plan in place for the inspection and testing of fire hydrants in the Water System after closing on the Transaction. After acquiring a system, PAWC develops a calibrated hydraulic model for the system, including hydrants. Additionally, PAWC regularly inspects and exercises valves and hydrants. PAWC plans to integrate the Water System into PAWC’s standard practices after closing. PAWC St. No. 2W-S and 2WW-S, p.7; Tr. \_\_\_\_\_. PAWC already has the personnel and systems in place to perform these tasks. Tr. \_\_\_\_\_.

## APPENDIX B

### PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, these application proceedings. 66 Pa. C.S. §§ 1102, 1103 and 1329.

2. Pennsylvania-American Water Company has the burden of proof in these proceedings. 66 Pa. C.S. § 332(a).

3. Commission policy promotes settlements. 52 Pa. Code § 5.231.

4. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. 52 Pa. Code § 69.401.

5. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991). The instant settlement is in the public interest.

6. The Commission may issue a certificate of public convenience upon a finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa. C.S. § 1103(a) (“Procedure to obtain certificates of public convenience”).

7. A certificate of public convenience is required for “any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized . . . .” 66 Pa. C.S. § 1102(a)(1).

8. A certificate of public convenience is required for “any public utility . . . to acquire from . . . any person or corporation, including a municipal corporation, by any method or device whatsoever . . . the title to, or possession or use of, any tangible or intangible property used or useful in the public service.” 66 Pa. C.S. § 1102(a)(3).

9. An applicant for a certificate of public convenience must demonstrate that it is technically, financially, and legally fit to own and operate the acquired public utility assets. *Seaboard Tank Lines v. Pa. Pub. Util. Comm'n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Twp. Mun. Auth. v. Pa. Pub. Util. Comm'n*, 138 A.2d 240, 243 (Pa. Super. 1958). PAWC has demonstrated that it is technically, financially and legally fit.

10. The fitness of a currently certificated public utility is presumed. *See e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm'n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992).

11. An applicant for a certificate of public convenience must demonstrate that the transaction will “affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972).

12. In granting a certificate of public convenience, the Commission may impose such conditions as it may deem to be just and reasonable. 66 Pa. C.S. § 1103(a).

13. For an acquisition in which a municipal corporation and the acquiring public utility agree to use the valuation procedure delineated in 66 Pa. C.S. § 1329, the ratemaking rate base of the selling utility shall be the lesser of the purchase price negotiated by the parties or the fair market value of the selling utility. 66 Pa. C.S. § 1329(c)(2).

14. “Fair market value” is defined as “the average of the two utility valuation expert appraisals conducted under subsection (a)(2).” 66 Pa. C.S. § 1329(g).

15. For an acquisition in which a municipal corporation and the acquiring public utility agree to use the valuation procedure delineated in 66 Pa. C.S. § 1329, the application is to contain a tariff equal to the existing rates of the selling utility at the time of the acquisition and a rate stabilization plan, if applicable to the acquisition. 66 Pa. C.S. § 1329(d)(1)(v).

16. During the period that the *pro forma* tariff supplement is in effect, an acquiring public utility may collect a DSIC, as approved by the Commission. 66 Pa. C.S. § 1329(d)(4).

17. A wastewater utility must submit a long-term infrastructure improvement plan to, and receive approval from, the Commission prior to collecting a DSIC. *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012).

18. Section 1329 permits an acquiring public utility's post-acquisition improvements, which are not included in a DSIC, to accrue allowance for funds used during construction after the date the cost was incurred until the asset has been in service for a period of four years or until the asset is included in the acquiring public utility's next base rate case, whichever is earlier. 66 Pa. C.S. § 1329(f)(1).

19. Section 1329 permits an acquiring public utility to defer depreciation on post-acquisition improvements, which are not included in a DSIC. 66 Pa. C.S. § 1329(f)(2).

20. Section 1329 permits an acquiring public utility to include transaction and closing costs in its rate base, during its next base rate proceeding. 66 Pa. C.S. § 1329(d)(2). The Commission will not approve these costs during the 1329 proceeding. *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Final Implementation Order entered October 27, 2016).

21. A contract between a municipality and a public utility (other than a contract to furnish service at regular tariff rates) must be filed with the Commission at least 30 days before the effective date of the contract. The Commission may approve it by issuing a certificate of filing or institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract. 66 Pa. C.S. § 507.

22. A tariff is all of the schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service. 66 Pa. C.S. § 102 ("Definitions").

23. Public utility tariffs have the force and effect of law, and are binding on the customer as well as the utility. *Penn. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281, 284 (Pa. Cmwlth.1995).

24. The settlement and its proposed terms and conditions are in the public interest and, therefore, should be approved without modification.

## APPENDIX C

### PROPOSED ORDERING PARAGRAPHS

1. That the Honorable Administrative Law Judges Conrad A. Johnson and Emily I. DeVoe recommend approval of, and the Commission approve, this Settlement as submitted, including all terms and conditions thereof, without modification.

2. That the Water Application and the Wastewater Application filed by PAWC on October 9, 2020, be approved.

3. That the Commission issue Certificates of Public Convenience under 66 Pa. C.S. §§ 1102(a) and 1103(a) evidencing Commission approval of: (i) the transfer, by sale, of Valley Township's assets, properties and rights related to its Water System and its Wastewater System to PAWC as provided in the Applications, and (ii) PAWC's right to begin to offer, render, furnish and supply water and wastewater service in the areas served by Valley as indicated in the Applications.

4. That, upon the day of Closing of the Transaction, PAWC be permitted to issue compliance tariff supplements, consistent with the *pro forma* tariff supplement submitted as **Amended Appendix A-12** for Valley's Water System, and the *pro forma* tariff supplement submitted as **Second Amended Appendix A-12** for Valley's Wastewater System, to be effective upon the day of Closing of the Transaction.

5. That the Commission approve, under 66 Pa. C.S. § 1329(c), a rate base addition of \$13,950,000 associated with the acquisition of the Wastewater System, and \$7,325,000 associated with the acquisition of the Water System, effective as of the day of Closing.

6. That, in future acquisitions by PAWC under 66 Pa. C.S. § 1329, filed subsequent to the Commission's approval of this Settlement without modification, PAWC shall clearly

document the date on which it engaged or otherwise authorized its utility valuation expert to perform the fair market value appraisal of the system.

7. That PAWC be directed to ensure that, in any future Section 1329 applications it submits, the engineering assessment required under 66 Pa. C.S. § 1329(a)(4) will designate the condition of the inventory and assets appraised. Such designation of condition shall be limited to whether the categories of system assets appraised are in poor, fair, good, or very good condition.

8. That PAWC and Valley Township be directed to continue to work to achieve the transfer of the Real Property Rights. However, PAWC shall be permitted, in its discretion, to close without the transfer of all of the Real Property Rights, provided that an escrow is established from the Purchase Price to be used to obtain any post-Closing transfers of the Real Property Rights. PAWC will provide an update to I&E, OCA, and OSBA approximately 30 days in advance of the anticipated day of Closing and a final update before Closing regarding the status of the transfer of the Real Property Rights.

9. That PAWC be directed to complete an infiltration and inflow study of the Valley Wastewater System following Closing and provide the results of that study to I&E, OCA and OSBA upon completion. The costs of the I&I study will be subject to prudence review when they are claimed for recovery in base rates.

10. That, in the first base rate case that includes Valley's Wastewater System:

A. PAWC will propose to move Valley's Wastewater System to 1.25x the current Valley wastewater rate or PAWC's proposed Rate Zone 1 system-average wastewater rates, whichever is lower.

B. PAWC may propose an effective date for new rates for Valley wastewater customers that is different from the effective date of new rates for other customers, and PAWC

may agree to rates other than those proposed for Valley wastewater customers in the context of a settlement of the base rate case. OCA, I&E and OSBA reserve their rights to address PAWC's rate proposals fully, and to make other rate proposals.

11. That, in the first base rate case that includes Valley's Water System:

A. PAWC will propose to move Valley's Water System to 2.0x the current Valley water rate or PAWC's proposed Rate Zone 1 system-average water rates, whichever is lower.

B. PAWC may propose an effective date for new rates for Valley water customers that is different from the effective date of new rates for other customers, and PAWC may agree to rates other than those proposed for Valley water customers in the context of a settlement of the base rate case. OCA, I&E and OSBA reserve their rights to address PAWC's rate proposals fully, and to make other rate proposals.

12. That, pursuant to 66 Pa. C.S. § 1329, PAWC shall be permitted to collect a DSIC prior to the first base rate case in which the Valley water or wastewater service area plant-in-service is incorporated into rate base; provided, however, that such permission shall be conditioned upon (i) PAWC's filing of a water or wastewater Amended LTIIP which does not re-prioritize other existing commitments in other service areas, (ii) the Commission's approval of the Amended LTIIP, as may be modified in the discretion of the Commission, and (iii) PAWC's filing of a compliance tariff supplement which incorporates Valley's Water System or Wastewater System into its existing DSIC tariff, including all customer safeguards applicable thereto, after Commission approval of the Amended LTIIP.

13. That PAWC shall be permitted to (a) accrue AFUDC for post-acquisition water and wastewater improvements not recovered through the DSIC for book and ratemaking purposes and



(ii) defer depreciation related to post acquisition water and wastewater improvements not recovered through the DSIC for book and ratemaking purposes. Any claims for AFUDC and deferred depreciation related to post-acquisition water and wastewater improvements not recovered through the DSIC for book and ratemaking purposes will be addressed in PAWC's first base rate case which includes the Water System and Wastewater System. The Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when these issues are ripe for review. The Joint Petitioners' assent to this term should not be construed to operate as their preapproval of PAWC's requests.

14. That PAWC shall be permitted to claim transaction and closing costs associated with the acquisition of the Water System and Wastewater System. The Joint Petitioners reserve their rights to litigate their positions fully in future rate cases when this issue is ripe for review. The Joint Petitioners' assent to this term should not be construed to operate as their preapproval of PAWC's request.

15. That the inclusion of outside legal fees, if any, in PAWC's transaction and closing costs under the Water APA and the Wastewater APA shall be separately identified in PAWC's next base rate case and amounts expended by PAWC on behalf of Valley will be separately identified. The OCA, I&E and OSBA reserve the right to challenge the reasonableness, prudence, and basis for such fees.

16. That, within the first billing cycle following Closing on the Water System and the Wastewater System, PAWC shall include a bill insert to Valley's water and wastewater customers regarding PAWC's low income programs and shall include such information in a welcome letter to Valley's water and wastewater customers. The bill insert and welcome letter shall include, at a minimum, a description of the available low income programs, eligibility requirements for

participation in the programs, and PAWC's contact information. PAWC will also provide ongoing, targeted outreach to PAWC's Valley-area water and wastewater customers regarding PAWC's low income programs.

17. That, in the same welcome packets referenced above, PAWC will explicitly inform acquired customers that they are being converted to monthly billing. PAWC's letter should also direct acquired customers to contact PAWC with any questions about the conversion and/or to discuss low-income programming options that may be available.

18. That, pursuant to 66 Pa. C.S. § 507, the Commission issue Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:

A. The Sanitary Sewer Asset Purchase Agreement By and Between Valley as Seller and PAWC as Buyer, dated as of December 17, 2019;

B. The November 16, 1988 Sewer and Water Service Agreement Between West Caln Township, Valley, Valley Township Authority and Highlands Corporate Center;

C. The Water Asset Purchase Agreement By and Between Valley as Seller and PAWC as Buyer, dated as of December 17, 2019; and

D. The November 15, 2011 Agreement between Valley and Sadsbury Township.<sup>3</sup>

19. That the Commission issue any other approvals or certificates appropriate, customary, or necessary under the Code to carry out the Transaction contemplated in the Applications in a lawful manner.

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<sup>3</sup> The OCA does not join in this paragraph but does not oppose PAWC's request.

**APPENDIX D**

**FORM OF ORDER GRANTING JOINT STIPULATION OF  
PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW  
AND PROPOSED ORDERING PARAGRAPHS**

**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 water treatment and distribution system to : Docket Nos.  
Pennsylvania-American Water Company, and (2) the rights of : A-2020-3019859, *et al.*  
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 assets, properties and rights : Docket Nos.  
related to its wastewater collection and conveyance system to : A-2020-3020178, *et al.*  
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. :

**ORDER GRANTING JOINT STIPULATION  
OF PROPOSED FINDINGS OF FACT,  
PROPOSED CONCLUSIONS OF LAW AND  
PROPOSED ORDERING PARAGRAPHS**

In connection with the Joint Petition for Approval of Unanimous Settlement of All Issues (the “Settlement”), filed on August 3, 2021, Pennsylvania-American Water Company, Valley Township, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (collectively, the “Stipulating Parties”) also filed a Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Ordering Paragraphs (“Stipulation”) in the above-captioned proceedings. Each of the Stipulating Parties agreed that the facts agreed-to in the Stipulation are sufficient to find that the Settlement is in the public interest. The Stipulation is attached to this Order.

As this request is reasonable, it will be granted.

THEREFORE, IT IS ORDERED:

That the Stipulation, filed on August 3, 2021, is APPROVED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Conrad A. Johnson  
Emily I. DeVoe  
Administrative Law Judge