
Devin Ryan

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File #: 176642

August 5, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of The York Water Company, under Sections 507, 1102(a)(1) and 1102(a)(3) of the Public Utility Code, for approval of the right of The York Water Company to (1) enter into a municipal contract to acquire certain public wastewater facilities from West Manheim Township; (2) enter into a municipal contract with Penn Township for wastewater treatment; and (3) begin to offer or furnish wastewater service to the public in a portion of West Manheim Township, York County, Pennsylvania
Docket No. A-2021-3025720

Dear Secretary Chiavetta:

Enclosed for filing are the Responses of The York Water Company to the Bureau of Technical Utility Services' Data Requests Set I in the above-referenced proceeding.

Respectfully submitted,



Devin Ryan

DTR/kl
Attachment

cc: Clinton McKinley (*via email - cmckinley@pa.gov*)

Bureau of Technical Utility Services
Water/Wastewater Division
Data Request Set 1

Application of The York Water Company - Wastewater for Approval of the Right to: (1) Acquire the West Manheim Township Wastewater System; (2) Enter a Municipal Contract with Penn Township, York County; and (3) Provide Wastewater Service to a Portion of West Manheim Township at Docket No. A-2021-3025720

DISCOVERY A-1

The Application at Page 6 indicated West Manheim Township (WMT) maintains a mandatory connection requirement for any improved property adjoining or adjacent to the sewer system. The Application's Exhibit F-2 provided a copy of this ordinance. Please identify whether all applicable properties comply with the ordinance. If there are properties that are not currently in compliance with this ordinance, please quantify the number of non-compliant properties and the estimated costs WMT or The York Water Company-Wastewater (York-WW) would incur to construct the township/company owned portion of a service line to provide service to these properties.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

According to West Manheim Township, all Improved Properties as defined in Section 207-2 of the ordinance (Application Exhibit F-2) are compliant with this ordinance.

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DISCOVERY A-2

The Application, at Page 11, provided a Summary of Tangible Assets table that indicated a quantity of seven collection sewer manholes. However, the West Manheim Proposed Wastewater Certificated Area & Existing Wastewater Assets map provided as the Application's Exhibit D and Engineer's Assessment of Tangible Assets (Engineer's Assessment) provided as the Application's Exhibit D-1 depicted at least 110 manholes. Please quantify the number of WMT wastewater manholes York-WW will acquire as a result of this transaction.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

There is an error on Page 11 of the Application, Summary of Tangible Assets. According to West Manheim's records, York Water will acquire 660 sewer manholes as a result of this transaction.

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DISCOVERY A-3

Please state whether the requested service territory depicted on the map provided as the Application's Exhibit E conforms to the Primary Growth Area depicted on Exhibit II-20 of WMT's 2013 DEP approved Official Sewage Facilities Act 537 Plan (2013 Act 537 Plan) provided as the Application's Exhibit T.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

The requested service territory depicted on the map provided as the Application's Exhibit E conforms to the Primary Growth Area depicted on Exhibit II-20 of WMT's 2013 DEP approved Official Sewage Facilities Act 537 Plan (2013 Act 537 Plan) provided as the Application's Exhibit T.

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DISCOVERY A-4

The Application, at Page 13, identified that York-WW's requested service territory is the same as the Primary Growth Area depicted on Exhibit 1 of WMT's 2021 Act 537 Plan Update Special Study, provided as the Application's Exhibit T-1. The Primary Growth Area depicted on Exhibit 1 encapsulates the majority of the six study areas identified as future growth areas in WMT's 2013 Act 537 Plan, provided as the Application's Exhibit T. The 2013 Act 537 Plan indicated these future growth areas would require approximately 641 additional EDUs. Please provide evidence York-WW's reserved capacity in the Penn Township wastewater treatment plant (WWTP) is adequate to provide service to the territory requested.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

According to West Manheim Township's approved 2020 Chapter 94 Annual Wasteload Management report (Application Exhibit H-5), sufficient treatment capacity exists for township growth projections through 2025, as seen in Attachment B of that report. A copy of that Attachment B is attached hereto as Attachment A-4 for ease of reference. York Water will evaluate its options to address wastewater conveyance and treatment in the future growth areas through its planning process and in accordance with the Company's tariff.

WEST MANHEIM TOWNSHIP CHAPTER 94 ANNUAL WASTELOAD MANAGEMENT REPORT - 2020										
TABLE II. PROJECTED TRIBUTARY WASTEWATER FLOWS TO PENN TWP TREATMENT PLANT										
		EDU definition:	227	gpd		Capacity at WWTP:	550,000	gpd		
	RESERVED	CONNECTIONS	CONNECTIONS	2021	2022	2023	2024	2025	TOTALS	# OF EDUs
	EDUs	THRU 2019	2020							REMAINING
<i>reserved capacity</i>										
HIGH POINTE- PHASE 2B, DEP Code #(A3-67964-194-3)	161	28	8	30	30	30	30	5	125	0
HOMESTEAD ACRES, DEP Code #(A3-67964-211-3)	358	57	73	60	60	60	48	0	228	0
FOX RUN VILLAGE, DEP Code #(A3-67964-198-3)	22	9	8	5	0	0	0	0	5	0
SOUTH HANOVER MEDICAL OFFICE*	*	0	1	0	0	0	0	0	0	0
LEXINGTON (BELMONT RIDGE 2), DEP Code #(A3-67964-209-3)	52	0	45	7	0	0	0	0	7	0
HARPERS HILL, DEP Code #(A3-67964-283-3E)	20	0	1	10	9	0	0	0	19	0
PRINLAND HEIGHTS (executed reservation agreement)	99	0	0	0	24	25	25	25	99	0
BELMONT RIDGE PHASES 3&4 (executed reservation agreement)	303	0	0	0	50	50	50	50	200	103
LEXINGTON PHASE 2A (executed reservation agreement)	24	0	0	0	24	0	0	0	24	0
<i>other miscellaneous connections</i>			3	3	3	3	3	3	15	n/a
CONNECTIONS SUBTOTAL, EDUs			139	115	200	168	156	83		103
Total Township connections:		1859	1,998	2,113	2,313	2,481	2,637	2,720		2,823
CONNECTIONS SUBTOTAL, AS FLOW (gpd)		264,892	31,553	26,105	45,400	38,136	35,412	18,841		23,381
CUMULATIVE TOTAL (gpd)			296,445	322,550	367,950	406,086	441,498	460,339		483,720
REMAINING CAPACITY (gpd), actual			253,555	227,450	182,050	143,914	108,502	89,661		66,280
AVAILABLE EDUS (flow based)			1,117	1,002	802	634	478	395		292
		fill in from previous year								
* Using 14 of the remaining 55 from the 85 purchased from Gregory. Included in previous planning and all fees paid when purchased. Do not include in DGM reimbursement or projection.										
See Townships 3/6/19 letter.										
2019 Connections Subtotal, as Flow is based on the 5 year average flow per EDU times the 2019 total connections.										
		Flow from the past 5 years	2016	2017	2018	2019	2020			
		Flow (gpd)	233315	237045	278675	278850	274260			
		connections	1721	1754	1804	1859	1998			
		Flow per conn.	136	135	154	150	137			
		Five-Year average flow per EDU (gpd)		142						

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DISCOVERY A-5

The Application at Page 6 indicated York-WW is being assigned WMT's reserved wastewater treatment capacity at the Penn Township WWTP. The Application's Exhibit L-1, consisted of an agreement between WMT and Penn Township for the reservation of capacity in the Penn Township WWTP, dated February 20, 1989 (1989 Agreement) and the Application's Exhibits L-2 and L-3 consisted of two subsequent amendments to the 1989 Agreement dated November 20, 1995, and March 4, 2004, respectively. The 1989 Agreement and the amendments identified that WMT reserved treatment capacity at the Penn Township WWTP totaling 402,000 gpd with the option to obtain an additional 148,000 gpd after payment of \$1,700 per EDU, with an EDU defined as 260 gpd. Please provide written evidence that WMT has reserved and remitted the reserve capacity payment to Penn Township for the additional 148,000 gpd or any portions thereof.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

In the new Bulk Sewer Agreement executed by Penn Township and York Water dated April 22, 2021, the parties confirmed West Manheim Township's prior purchases of wastewater treatment capacity at the Penn Township WWTP. (See Application Exhibit L-4.) These purchases are specifically described in Paragraph C of the April 22, 2021 Bulk Sewer Agreement, and pursuant to Paragraph F of that agreement, York Water will assume assignment of West Manheim Township's wastewater treatment capacity as part of its purchase of the West Manheim Township wastewater collection and conveyance system.

As seen in Paragraph C of the April 22, 2021 Bulk Sewer Agreement, West Manheim Township has purchased a total of 550,940 gpd of treatment capacity in the Penn Township system.

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DISCOVERY A-6

The Application's Exhibit L-2 consisted of a November 20, 1995, amendment to the 1989 Agreement between WMT and Penn Township. Section 1. of the November 20, 1995, amendment referenced an amendment dated December 5, 1991. Please provide a copy of the December 5, 1991, amendment to the 1989 Agreement.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Neither signatory to the November 20, 1995 amendment to the 1989 Agreement between West Manheim Township and Penn Township is able to produce a copy of the December 5, 1991 amendment to the 1989 Agreement. Thirty years after the purported execution of the December 5, 1991 amendment, there is no record that the amendment was consummated. York Water is seeking Commission approval to enter into a municipal contract for wastewater treatment with Penn Township, which replaces any prior agreements between Penn Township and West Manheim; and which binds York Water and Penn Township. (*See* Application Exhibit L-4, Paragraph F.) Thus, should the Commission approve York Water's Application, the 1989 agreement between West Manheim Township and Penn Township and its subsequent amendments will be rendered moot.

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DISCOVERY A-7

The Application's Exhibit L-4 consisted of a Bulk Sewer Agreement (BSA) between Penn Township and The York Water Company, dated April 22, 2021. Section C of the BSA identified seven dates on which WMT purchased capacity in the Penn Township WWTP by written agreement. Please identify and provide copies of the written agreements under which WMT purchased capacity in the Penn Township WWTP on January 18, 2006, March 4, 2009, and November 16, 2010.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

After a lengthy search, West Manheim Township was only able to find the November 16, 2010 agreement, which is attached hereto as Attachment A-7. Further, as explained in footnote 1 of the April 22, 2021 Bulk Sewer Agreement (Application Exhibit L-4), the November 16, 2010 agreement was executed by the parties thereto, but the payment was never made by West Manheim Township. Both Penn Township and West Manheim Township have confirmed this fact. Thus, this capacity was never assigned to West Manheim Township and is not included in the current capacity total allocated to York Water under the April 22, 2021 Bulk Sewer Agreement. It is referenced in the Bulk Sewer Agreement merely to clarify the agreed-upon history, as documentation was inconsistent and, in some cases, not always available.

AMENDMENT OF AGREEMENT

THIS AGREEMENT, made this 16th day of November 2010, by and between WEST MANHEIM TOWNSHIP (herein referred to as "West Manheim"), a municipal corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal offices located at 2412 Baltimore Pike, Hanover, Pennsylvania, and PENN TOWNSHIP (hereinafter referred to as Penn), a municipal corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal offices located at 20 Wayne Avenue, Hanover, Pennsylvania, both municipal corporations situate in the County of York, Commonwealth of Pennsylvania, as follows:

WITNESSETH:

WHEREAS, Penn owns a Sanitary Sewage Collection, Conveyance, and Wastewater Treatment facility in Penn Township, York County, Pennsylvania; and

WHEREAS, Penn operates and maintains said facilities and treats sewage generated by its own residential and commercial customers as well as customers from several other local municipalities including West Manheim; and

WHEREAS, the Penn Township Wastewater Treatment Plant (hereinafter referred to as "WWTP") has a total hydraulic capacity of four million two hundred thousand (4,200,000) gallons per day; and

WHEREAS, West Manheim entered into an Agreement with the Penn Township Authority dated February 20, 1989 as amended on November 20, 1995 and March 4, 2009 whereby West Manheim reserved a combined total of five hundred fifty-five thousand (550,000) gallons per day of wastewater capacity at the WWTP, which capacity West Manheim is now using and paying for pursuant to the terms of said Agreement and Addendum; and

WHEREAS, the Penn Township York County Authority was disbanded in 1999, and all responsibility for the financing, maintenance and operation of the WWTP is the responsibility of the Penn Township Board of Commissioners; and

WHEREAS, West Manheim desires to obtain additional wastewater capacity at the WWTP and Penn has agreed to allocate such capacity to West Manheim as West Manheim requires additional capacity pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above-recitals and intending to be legally bound thereby, West Manheim and Penn covenant and agree as follows:

1. The parties acknowledge that West Manheim will provide said capacity to the parties as provided in the Developer's Agreement dated December 31, 2009.
2. The parties agree that West Manheim hereby reserves additional wastewater capacity at the WWTP, and Penn agrees that such reservations shall be 90,800 gallons per day (400 EDU's at 227 gallons per day per EDU).
3. The parties agree that West Manheim shall pay to reserve the above-referenced capacity at \$1,700 per EDU.
4. The parties agree that West Manheim shall have a combined total of six hundred forty thousand eight hundred (640,800) gallons per day of wastewater capacity at the WWTP. For purposes of this agreement, an EDU shall consist of 227 gallon per day usage.
5. The parties agree that West Manheim shall pay for the additional wastewater capacity as follows:
 - a. West Manheim shall pay to Penn the sum of \$1,700 per EDU at the time that developers Joseph A. Myers and Northfield Joint Venture LLP request sewer permits from West Manheim Township; provided, however that all EDU's shall be paid for in full no later than 30 days after the date of Penn's substantial completion of the upgrade to its treatment plant. The 30 days shall not start until West Manheim receives a formal written notice from Penn stating that the WWTP is complete and the remaining payment is due in 30 days. In the event West Manheim has not paid for the remaining EDU's in full within 30 days of the notice, then West Manheim shall not be entitled to any of the remaining EDU's.
6. Invoicing for the conveyance and treatment of wastewater shall be pursuant to the formula set forth in the parties prior agreement and all invoices shall be paid by West Manheim on a lump sum basis and shall be subject to late charges and penalties as provided for in Penn Township Ordinances.
7. All other terms and conditions of the parties agreement dated February 20, 1989, as amended on November 20, 1995 and March 4, 2004 are hereby incorporated herein by reference and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, intending to bind themselves and their respective heirs and assigns, effective the date first written above.

ATTEST:
Nancy C. Smith
Secretary

WEST MANHEIM TOWNSHIP
By: Harold J. Wanda
Chairman

Rush L. Leger
Secretary

PENN TOWNSHIP BOARD OF
COMMISSIONERS
By: Phillip W. Heilman
Vice - President

Bureau of Technical Utility Services
Water/Wastewater Division
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DISCOVERY A-8

The Application's Exhibit L-1, Agreement, Section I, Paragraph H indicated daily flows shall be recorded on a form and the results of same shall be provided to WMT monthly. Please provide copies of the preceding twelve (12) monthly daily flows report provided to WMT as part of this Agreement.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

According to West Manheim Township and confirmed by Penn Township, the monthly reporting procedure provisioned in the 1989 agreement (Application Exhibit L-1, Paragraph I(H)), has been successively modified over the past 31 years as data collection and reporting technologies have improved. Daily flow reports for the preceding 12 months are no longer generated or available. Flow metering and reporting is provided in real time and available in real time at both municipal offices. Should the Commission approve the Company's Application, York Water and Penn Township intend to use similar technology and real time reporting tools as described in Sections 2.01 and 3.01 of the April 22, 2021 Bulk Sewer Agreement (Application Exhibit L-4).

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DISCOVERY A-9

The Application's Exhibit L-3, Amendment of Agreement, Paragraph 6 required Penn Township to update its Act 537 Plan to include WMT's reserved capacity in the collection and conveyance system as well as the WWTP. Please provide a copy of Penn Township's most current DEP-approved Act 537 Plan.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

The Company has been unable to obtain a copy of Penn Township's 37 Plan. PA DEP's file room has limited access due to COVID-19, and that document is typically over 1,000 pages. Also, at this time, York Water is not certain that Penn Township updated its 537 Plan pursuant to the referenced amendment agreement. Moreover, whether or not Penn Township has updated its Plan to reflect all sold or reserved capacity is a matter within the legal jurisdiction of PA DEP. The applicant here, York Water, cannot force this municipal action even if it has not occurred. York Water can only enforce the executed Bulk Sewer Agreement's terms, which have clarified and delineated the capacity status at Penn Township's WWTP.

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DISCOVERY A-10

The Application's Exhibit L-4, BSA, Section C identified that WMT, has not secured 90,800 gpd of the 550,940 gpd reserved treatment capacity as it has not made the payment required per the executed agreement between Penn Township and WMT dated November 16, 2010. However, the BSA does not propose to limit York-WW's acquisition of the full 550,940 gpd. Considering this issue, please:

- a. Indicate how WMT has the right to transfer capacity it does not appear to have purchased;
- b. Identify how this discrepancy is being resolved through this transaction; and
- c. Identify the entity(ies) responsible to remit to Penn Township the reserve capacity payment for the 90,800 gpd at a cost of approximately \$593,692 (90,800 gpd/260 gpd per EDU x \$1,700 per EDU = \$593,692).

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

The April 22, 2021 Bulk Sewer Agreement does not propose nor purport to transfer capacity that was never purchased by West Manheim Township to York Water. Under the agreement, West Manheim Township will be assigning the wastewater treatment capacity that it actually purchased from Penn Township (*i.e.*, 550,940 gpd). The agreement references the November 16, 2010 amendment agreement only to provide a complete summary of the amendment agreements executed by West Manheim Township and Penn Township. The 550,940 gpd of wastewater treatment capacity being assigned to York Water does not include the 90,800 gpd from the November 16, 2010 amendment agreement because West Manheim Township never paid for that capacity and, thus, cannot transfer such reserved capacity to York Water.

- a. Not applicable. As stated above, West Manheim Township is assigning the wastewater treatment capacity that it actually purchased from Penn Township. Therefore, the 90,800 gpd of capacity under the November 16, 2010 amendment agreement is not being transferred by West Manheim Township to York Water.

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- b. Not applicable. See answer to subpart (a).
- c. Any future purchases of treatment capacity by York Water from Penn Township will be negotiated separately. For additional information on the Penn Township WWTP's available wastewater treatment capacity, see the answer to Discovery A-4.

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DISCOVERY A-11

Please provide copies, including all attachments, of Penn Township's quarterly billing for wastewater treatment service to WMT for the preceding four (4) billing quarters.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Copies, including all attachments, of the preceding four (4) billing quarters are provided in Attachment A-11.

**WEST MANHEIM TOWNSHIP
2412 BALTIMORE PIKE
SEWER BREAKDOWN**

52-0951050-0
Sewer billing

RECEIVED

JUL 02 2021

WEST MANHEIM TOWNSHIP

Number of connections on May 31, 2021:	2042
<hr/>	
2042 x \$103.00 per 15,000 gal usage:	\$210,326.00
plus 30% administration fee:	<u>\$ 63,097.80</u>
BILL THIS AMOUNT:	\$273,423.80

	Actual Flow	# connections	gallons per day per EDU
MARCH 2021	10,713,000	2022	171
APRIL 2021	9,326,000	2030	153
MAY 2021	<u>9,438,000</u>	2042	149
TOTAL:	29,477,000 gallons		

29,477,000 minus 7,000 gal minimum = 29,470,000

29,470,000 gals @ \$6.00/1,000 gal = \$176,820.00	+ \$55.00 min	= \$176,875.00
	+ 30% admin fee =	<u>\$ 53,062.50</u>
		\$229,937.50

TOTAL INVOICE: **\$ 273,423.80**

WEST MANHEIM TOWNSHIP
2412 BALTIMORE PIKE
SEWER BREAKDOWN

52-0951050-0

Dec, Jan, Feb 2021 Sewer billing

Number of connections on February 28, 2021: 2016

2016 x \$103 per 15,000 gal usage:	\$207,648.00
plus 30% administration fee:	\$ 62,294.40
BILL THIS AMOUNT:	\$269,942.40

	Actual Flow	# connections	gallons per day per EDU
Dec 20	9,967,000	1998	161
Jan 21	9,849,000	2009	158
Feb 21	9,308,000	2016	165
TOTAL:	29,124,000 gallons		

Less 7,000 gal minimum: =29,117,000

29,117,000 gals @ \$6.00/1000 gal=\$174,702.00+ \$55.00=	\$174,757.00
+30% admin	<u>\$ 52.427.10</u>
	\$227,184.10

TOTAL INVOICE: \$269,942.40

WEST MANHEIM TOWNSHIP
2412 BALTIMORE PIKE
SEWER BREAKDOWN
52-0951050-0
Sewer billing Sept, Oct, Nov 2020

Number of connections on November 30, 2020: 1989

1989 x \$103 per 15,000 gal usage: \$204,867.00
plus 30% administration fee: \$ 61,460.00
BILL THIS AMOUNT: \$266,327.10

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JAN 04 2020
WEST MANHEIM TOWNSHIP

	Actual Flow	# connections	gallons per day per EDU
Sept	7,791,000	1945	134
Oct	8,184,000	1968	134
Nov	8,229,000	1989	138
TOTAL:	24,204,000 gallons		

Less 7,000 gal minimum: = 24,197,000

24,197,000 gals @ \$6.00/1000 gal=\$145,182.00+ \$55.00 \$145,237.00
+30% \$ 43,571.10
\$188,808.10

=====
TOTAL INVOICE: \$266,327.10
=====

**WEST MANHEIM TOWNSHIP
2412 BALTIMORE PIKE
SEWER BREAKDOWN**

52-0951050-0

Jun, Jul, Aug 2020 Sewer billing

Number of connections on August 31, 2020: 1935

1935 x \$103 per 15,000 gal usage: \$ 199,305.00

plus 30% administration fee: \$ 59,791.50

BILL THIS AMOUNT: \$259,096.50

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OCT 02 2020
WEST MANHEIM TOWNSHIP

	Actual Flow	# connections	gallons per day per EDU
June	8,116,000	1910	142
July	8,216,000	1923	138
August	8,814,000	1935	147

TOTAL: 25,146,000 gallons

Less 7,000 gal minimum: 25,139 = \$ 55.00

25,139,000 gals @ \$6.00/1000 gal=\$150,834.00+ \$55.00	\$150,889.00
+30%	<u>\$ 45,266.70</u>
	\$196,155.70

TOTAL INVOICE: \$ 259,096.50

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DISCOVERY A-12

The Application's Exhibit L-4, BSA, Section 3.02 indicated "[...] the daily flows shall be recorded on a form agreed to by the Parties [...]. The recording form acceptable to both Parties is attached hereto as Exhibit C [...]." Exhibit C of the BSA does not appear to be included in the Application's Exhibit L-4. Please provide a copy of the BSA's Exhibit C.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Years ago, the parties installed a joint metering system which reports flow and to which the parties have access. Accordingly, there is no longer a need for daily flow reporting due to this system. However, if the system is inoperable for a period of time, Application Exhibit C can be used and is attached hereto as Attachment A-12 for your reference.

Parameter	22-Jan	22-Feb	22-Mar	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec
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Flow (MGD)
Average
Monthly

Flow (MGD)
Daily Max

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DISCOVERY A-13

The Application's Exhibit L-4, BSA, Section 3.04 indicated that Penn Township shall bill York-WW quarterly for wastewater flows generated by the WMT service area at a rate of 125 percent of the Penn Township's prevailing rate. Please state Penn Township's prevailing rate and quantify York-WW's estimated quarterly bill for this service based upon WMT's most recent quarterly volume of metered sewage broken down by customer class and by the number of EDUs.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Based on the last four quarterly billings provided by West Manheim Township, Penn Township's prevailing rate is \$103.00 per 15,000 gallons of usage, and West Manheim Township's quarterly average number of EDUs over the four quarterly billings was 1,995.5 EDUs (*i.e.*, $(2,042 + 2,016 + 1,989 + 1,935) / 4$). (*See* Attachment A-11 to Discovery A-11.) Using this data, York Water estimates an average quarterly billing on usage of \$205,536.50 (*i.e.*, $1,995 \times \$103.00$) and an average quarterly 25% administration fee of \$51,384.13 (*i.e.*, $0.25\% \times \$205,536.50$), for an estimated quarterly bill of \$256,920.63. Penn Township does not identify customer class on its invoices.

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DISCOVERY A-14

The Application's Exhibit I, APA, Section 1.6 – Retained Rights of Township indicated that WMT shall retain the exclusive right to any existing reserved treatment capacity in Penn Township's WWTP. Please explain how this provision of the APA does not conflict with Section 1.1 – Sale and Purchase of Assets of the APA and Section F of the BSA between York-WW and Penn Township. If there are conflicts in the noted sections, please submit amendments to the Application's Exhibit F and/or I.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Section 1.6 of the Asset Purchase Agreement does not conflict with Section F of the Bulk Sewer Agreement or Section 1.1 of the Asset Purchase Agreement. Under Section 1.6 of the Asset Purchase Agreement, West Manheim Township reserved its right to capacity purchased from Penn Township in part because West Manheim Township was not certain at that time that Penn Township would authorize or agree to the (subsequent) assignment of the capacity to York Water. Therefore, West Manheim Township sought to protect its reserved capacity at that time from being taken away by Penn Township. However, because Penn Township and York Water were able to negotiate and execute in the Bulk Sewer Agreement in 2021, the parties have all agreed and documented that the treatment capacity held by and for West Manheim Township customers is now being assigned to York Water. Thus, there is no conflict between these contractual provisions.

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DISCOVERY A-15

The Application's Exhibit D-1, Engineer's Assessment, included copies of several "Improvement Security Estimates" which provide a cost breakdown for projects completed by developers and then dedicated to WMT. Additionally, Schedule 4.1(r) of the APA included a copy of an Extension Deposit Agreement between WMT and DGM Joint Venture whereby DGM Joint Venture agreed to construct wastewater collection and conveyance facilities and dedicate them to WMT, after which WMT would reimburse DGM Joint Venture for up to 75% of the costs of construction. Please quantify the value of assets dedicated to WMT but not reimbursed to DGM Joint Venture or any other developer.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

The Company believes this is a future ratemaking issue. The Company is not seeking, as a part of this Application, any approval as to the ratemaking treatment of the proposed acquisition, including the value of any unreimbursed amounts. Such ratemaking issues will be addressed in a future base rate proceeding.

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DISCOVERY A-16

The Application's Exhibit I, APA, Schedule 4.1(r) included copies of two Extension Deposit Agreements whereby WMT agreed to reimburse the developer for certain costs for the construction of wastewater facilities based on future connections to the wastewater facilities constructed. Regarding these agreements, please separately quantify in dollars the outstanding reimbursement obligation for which WMT and York-WW will be responsible as a result of this transaction.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Per Paragraph 1.3 of the Asset Purchase Agreement, West Manheim Township retains the liability for such reimbursements. Therefore, York Water is not responsible for this reimbursement obligation.

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DISCOVERY A-17

The Application's Exhibit F-2 provided Section 207-29 of West Manheim Township Ordinance – Sewers and Sewage Disposal indicated an Equivalent Dwelling Unit (EDU) is equal to 400 gallons per day (gpd). York-WW's tariff definition of an EDU indicates 350 gpd is a typical estimated maximum daily wastewater flow from a single-family unit. Please quantify the number of WMT customers whose assigned number of EDU's would increase because of this difference.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

None. By way of further response, the referenced 400 gpd per EDU is a 'planning assumption,' rather than an actual average flow per EDU. Indeed, based upon actual flows in the West Manheim Township system, one EDU averages approximately 149 gpd (May 2021).

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DISCOVERY A-18

Please quantify the number of properties connected to the wastewater collection system by class but not provided water service by The York Water Company and identify how these properties will be billed for wastewater service.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

According to West Manheim Township, a total of six residential class properties are connected to the wastewater system that are not provided water service by York Water. York Water will bill these six residential properties a flat rate of \$55.00/month, which is equivalent to their current West Manheim Township billing rate of \$165/quarter.

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DISCOVERY A-19

The Application's Exhibit I, APA, Section 6.5(b) requires the Purchaser (York-WW) to maintain the rates existing at the effective date of the APA for a period of three full years and Section 6.5(c) of the APA conditions the consummation of the APA upon Pennsylvania Public Utility Commission (PUC) approval of the right of the YWC-WW to adopt WMT's rates at the time of closing and continue those rates for a period of three years. Please explain:

- a. How approval of maintaining the existing rates for a period of three years for the customers in the requested service territory would not adversely impact the rates of York-WW's existing customers; and
- b. How York-WW intends to reconcile this contract commitment if it does not receive PUC approval to maintain the existing rates of the customers within the requested service territory for a period of three years.
- c. If York-WW is seeking approval through this Application to adopt WMT's rates at the time of closing and continue those rates for a period of three years, please amend the Application's Section 10, Rates for Service, to reflect York-WW's requested period for rates.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

To clarify, Paragraph 6.5(c) of the Asset Purchase Agreement requires York Water to maintain West Manheim Township's currently-effective rates "for a period of three (3) full years from the Effective Date." (Application Exhibit I, Paragraph 6.5(c).) The Effective Date of the Asset Purchase Agreement is March 4, 2019. (Application Exhibit I, p. 2.) Thus, the three-year rate freeze period expires on March 4, 2022.

- a. In this proceeding, York Water is not seeking any ratemaking determinations, nor is it proposing to make any changes to its existing wastewater customers' rates. Any such issues and proposals would be determined in the Company's next base rate proceeding. Moreover, the Company observes that its existing wastewater customers' rates would

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only be affected by the three-year rate freeze period if the Company were to file a base rate case and receive Commission approval of a base rate increase during that three-year period. Here, should the Commission approve its Application, York Water would have approximately three to six months until the three-year period of existing rates under this Asset Purchase Agreement concludes on March 4, 2022. Even if York Water were to file a base rate case, the proposed rates likely would not become effective for nine months. *See* 66 Pa. C.S. § 1308(a), (d). Thus, the Company does not project that its existing wastewater customers' rates will be affected by the three-year rate freeze under the Asset Purchase Agreement.

- b. As explained above, York Water is nearing the end of the three-year period.
- c. Not applicable. The start of the three-year rate freeze period is conditioned on the Asset Purchase Agreement's Effective Date, not the date of Closing. (*See* Application Exhibit I, Paragraph 6.5(c).)

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DISCOVERY A-20

The Application's Exhibit I, APA, Section 6.5(b) indicated an exhibit was to be attached to the APA reflecting the schedule of rates to be implemented following the close of the transaction. The referenced exhibit was not included as part of the Application's Exhibit I. Please provide a copy of this exhibit.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Please see Attachment A-20 attached hereto. Please also see the answer to Discovery A-19, which explains when York Water can stop charging West Manheim Township's current rates.

EXHIBIT I – SCHEDULE OF RATES

West Manheim Township's Current Monthly Rate

Base rate of \$55.00 plus \$2.00 per thousand gallons of water for the first 3,500 gallons of metered water

York Water's Projected Monthly Rate

Base rate of \$55.00 plus \$2.00 per thousand gallons of water for the first 3,500 gallons of metered water

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DISCOVERY A-21

The Application's Exhibit I, APA, Article 4.1(o) stated "[...] Schedule 4.1(o) is a complete and correct list of all permits [...] used by Township in the continuing operation of the System and for the Assets." The APA's Schedule 4.1(o) provided a list of Pennsylvania Department of Environmental Protection (DEP) Water Quality Management (WQM) Permit Nos. 6798409 and 6708406. However, the Application's Exhibits Q-1 through Q-5 provided copies of WQM Permit Nos. 6703403, 6703406, 6708406, 6798407, 6798409. Please explain why not all of the permits identified by Exhibits Q-1 through Q-5 are listed on the APA's Schedule 4.1(o) and, if it is determined that additional permits are required for the operation of the WMT wastewater system, submit an amended APA, Schedule 4.1(o) listing all permits required for the operation of the WMT wastewater system.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

West Manheim provided a copy of Schedule 4.1(o) to York Water. York Water did not create the document and has no explanation for West Manheim Township's handwritten notes on the schedule. York Water has completed a thorough review and provided in Exhibits Q-1 through Q-5 of the Application all permits required for the operation of the West Manheim Township wastewater system.

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DISCOVERY A-22

The Application's Exhibits Q-6 and T both referenced a Joshua Hill WWTP and a search of DEP permitted facilities identified a DEP issued a National Pollution Discharge Elimination System Permit (NPDES), Permit No. PA0261343, to Joshua Hill Sewer Company LLC to discharge from a facility known as Joshua Hill WWTP in West Manheim Township. Please verify whether the Joshua Hill WWTP is in operation, or contemplated to be operated, within the proposed service territory. Additionally, confirm Joshua Hill Sewer Company LLC and the transaction contemplated with this Application will not create a competitive condition.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

The Joshua Hill Wastewater Treatment Plant is not a part of this Application and is not in York Water's proposed service territory. Although York Water is aware of the proposed Joshua Hill Wastewater Treatment Plant, the plant has not begun construction as of the date of this response. Furthermore, the planning for this facility indicates it is designed to only serve a new development in a discrete portion of the Township, which also is not in the Company's proposed service territory. Moreover, this new development has yet to begin construction as well. Thus, no competitive condition will be created between York Water and the Joshua Hill Wastewater Treatment Plant.

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DISCOVERY A-23

Please list and quantify the grants, if any, which contributed funding towards the construction of WMT's wastewater system.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

According to West Manheim Township, there were no grants involved with funding the construction of the West Manheim Township wastewater system.

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DISCOVERY A-24

Please indicate whether WMT's wastewater system, in any part, was included in the collateralization of any bonds or loans. If any, please provide a breakdown by obligation and identify the length and terms.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

York Water will not accept obligations nor encumbrances on any assets as part of the proposed acquisition. As a part of the Asset Purchase Agreement and a potential future closing on the acquisition/sale, West Manheim Township will be required to have a clean title on all property and assets, and any bonds or loans will be resolved and removed before settlement.

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DISCOVERY A-25

Please provide a copy of the certified operator's certificate for the operator York-WW intends to assign to the facilities to be acquired.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

A copy of the requested certified operator's certificate is attached as Attachment A-25 hereto.

Commonwealth of Pennsylvania

Department of Environmental Protection

*In accordance with the
State Board for Certification of Water and Wastewater Systems Operators
and the Regulations of the
Department of Environmental Protection*

GROVER E BURACKER

Is Hereby Authorized to Operate
WASTEWATER SYSTEM

Client ID: 317481

Class: A,E, Wastewater
Subclass: 1,2,3,4,5

GROVER E BURACKER
2309 FAIRWAY DR
YORK PA 17408-9454

Issue Date Jan 1, 2021
Expiration Date Dec 31, 2023

Certificate No. S19041


Board Chairman

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DISCOVERY A-26

Please explain how approval of York-WW's Application is in the interest of York Water-WW's existing customers.

RESPONDENT:

Mark A Wheeler
Chief Operating Officer

RESPONSE:

Approval of the proposed Application will benefit the Company's existing wastewater customers because by expanding the Company's customer base, York Water's fixed wastewater costs will be spread over a greater number of customers. Furthermore, the revenues received from these new customers can help pay for system improvements elsewhere on the Company's wastewater system. York Water also maintains that the Commission should take other considerations into account when determining whether the Application is necessary and proper for the service, accommodation, convenience, and safety of the public, including how:

- (a) York Water will bring significant resources to the West Manheim Township wastewater system and keep it in compliance with existing and proposed regulatory requirements; and
- (b) The Commission encourages utilities, such as York Water, to acquire small wastewater systems such as the system owned and operated by West Manheim Township. *See* 52 Pa. Code § 69.711.

VERIFICATION

I, Mark A. Wheeler, Chief Operating Officer of The York Water Company, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: August 5, 2021



Mark A. Wheeler