



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 10, 2021

Via Electronic Filing

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

Re: Application of Pennsylvania-American Water Company Pursuant to
Sections 1102, 1329 and 507 of the Public Utility Code for Approval of its
Acquisition of the York Sewer Authority
Docket No. A-2021-3024681
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of Investigation and Enforcement (I&E)** in the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Carrie B. Wright' with a stylized flourish at the end.

Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
carwright@pa.gov

CBW/ac
Enclosures

cc: Administrative Law Judge Steven K. Haas (*via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American :
Water Company Pursuant to Sections :
1102, 1329 and 507 of the Public Utility : Docket No.: A-2021-3024681
Code for Approval of its Acquisition of :
the York Sewer Authority :

**PREHEARING MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE STEVEN HAAS:

In accordance with the Prehearing Conference Order dated November 22, 2021, the Bureau of Investigation and Enforcement (“I&E”) hereby submits this Prehearing Memorandum. The I&E prosecutor assigned to this proceeding is Carrie B. Wright. Ms. Wright may be contacted as follows:

By Mail¹: Carrie B. Wright
 Pennsylvania Public Utility Commission
 Commonwealth Keystone Building
 400 North Street, 2nd Fl.
 Harrisburg, PA 17120

By E-mail: carwright@pa.gov

Telephone: (717) 783-6156

¹ As a result of the COVID-19 pandemic, Commission physical offices are currently closed. While Commission offices are closed, Ms. Wright should be contacted by e-mail first.

I. BACKGROUND

On July 1, 2021, Pennsylvania-American Water Company (PAWC or Company) filed with the Pennsylvania Public Utility Commission (Commission) its Application pursuant to Sections 1102, 1329, and 507 of the Public Utility Code (Code), for (1) the transfer, by sale, of substantially all of the wastewater system assets, properties and rights related to the wastewater collection and treatment system owned by York City Sewer Authority and operated by the City of York; (2) the right of PAWC-WD to begin to offer or furnish wastewater service to the public in the City of York, Pennsylvania, and to three bulk service interconnection points located in North York Borough, Manchester Township and York Township, York County, Pennsylvania; and (3) The right of PAWC-WD to begin to offer and furnish Industrial Pretreatment Program to qualifying industrial customers in Manchester Township, Spring Garden Township and West Manchester Township, York County, Pennsylvania.

By Secretarial Letter dated August 12, 2021, the Commission indicated that the Application would be accepted for filing only on a conditional basis. The Secretarial Letter, among other things, directed PAWC to ensure notice be provided to all current York Sewer Authority customers.

On October 27, 2021, PAWC served the Commission's Secretary with notice certifying that it fulfilled the conditions outlined in the Secretarial Letter of August 12, 2021; therefore, PAWC requested that its Application be accepted for filing. By way of a Secretarial Letter of October 29, 2021, the Commission informed PAWC that its Application was accepted for filing. On November 27, 2021, the Commission published notice of PAWC's Application in the Pennsylvania Bulletin, and it established a protest deadline of

December 13, 2021. Thereafter, PAWC's Application was assigned to the Office of Administrative Law Judge for establishment of an evidentiary record culminating in a Recommended Decision for the Commission's consideration.

A telephonic Prehearing Conference is now scheduled for December 14, 2021, at 10:00 a.m., before ALJ Steven Haas (the ALJ). In accordance with the Prehearing Conference Order issued by the ALJ on November 22, 2021, I&E now respectfully submits this prehearing memorandum.

II. ISSUES

Based upon a preliminary review of the filing, I&E has identified the following areas of inquiry, representing a listing of potential issues at this time. However, I&E reserves the right to address such other issues when those issues arise:

1. Errors and omissions in the Fair Market Appraisal done by ScottMadden;
2. Errors and omissions in the Fair Market Appraisal done by AUS Consultants, Inc.;
3. Cost of Service Study;
4. Easements and Other Property Rights;
5. Comparison of Rate Base per Customer;
6. Benefits and detriments of the acquisition;
7. Whether the transaction is in the public interest under 66 Pa. C.S. § 1102 of the Public Utility Code; and
8. Evaluation of PAWC's claimed rate base.

I&E notes that this listing of issues is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its issue list, to remove issues from this list, and to reassign issues between witnesses as necessary to facilitate the development of a full record in this case. Additionally, most of the issues raised by I&E will be supported by the Direct Testimony of I&E witnesses. If there are issues of Commission policy or legal interpretation that are not properly the subject of testimony or factual issues that are clear on the record and need not be supported by testimony, I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed in Brief.

III. WITNESSES

It is currently expected that I&E may call the following witnesses without being limited thereto:

- DC Patel, Fixed Utility Financial Analyst
- Ethan H. Cline, Fixed Utility Valuation Engineer

The I&E witnesses may be contacted through the contact information listed above for Ms. Wright. I&E notes that this listing of witnesses is provided without analysis of the positions of all parties to this proceeding and while the discovery process is still underway. Accordingly, I&E necessarily reserves the right to supplement its witness list, and to remove witnesses from this list, as necessary to facilitate the development of a full record in this case. The ALJs and all active parties will be notified of any amendments to the I&E witness list.

IV. SCHEDULE

The schedule as presented by PAWC to the ALJ is acceptable to I&E.

V. DISCOVERY

As directed by the ALJ responses to interrogatories will be due within approximately 5-7 days, with best efforts and cooperation between the parties expected. I&E agrees with this discovery modification and will consider any other modifications proposed by the other parties in this proceeding.

VI. SERVICE OF DOCUMENTS

The Commission's March 20, 2020 Emergency Order,² which was controlling regarding electronic service of documents, expired on September 30, 2021. In anticipation of the expiration of the March 20 Order, the Commission issued a new Order on September 15, 2021 regarding the regulations controlling service requirements.³ Pursuant to the September 15 Order, the Commission recognized, for purposes of satisfying service of documents requirements:

... that some of the measures we implemented significantly benefitted the operational needs of the Commission, the public and the regulated community. Specifically, the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Therefore, in order to maintain that flexibility to respond to operational demands, we will waive certain regulatory service provisions, consistent with our previous actions.⁴

Further, the Commission stated:

... some of the operational restraints occasioned by the pandemic remain. ... Toward this end, we will continue to permit electronic service by the Commission on all parties, regardless of whether a particular party has agreed to electronic service. ... Additionally,

² Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements* ("March 20 Order").

³ Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements* ("September 15 Order").

⁴ September 15 Order, p. 3.

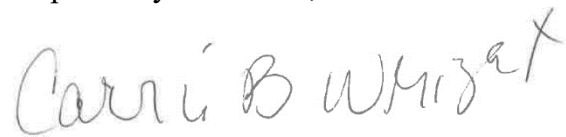
service *on* Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise.⁵

Therefore, for purposes of satisfying in-hand service requirements for discovery responses, prepared testimony, briefs and other documents; while operational restraints continue during this proceeding, and consistent with the Commission's September 15 Order, I&E requests that electronic delivery of documents continue to satisfy the service requirements.

VII. SETTLEMENT

I&E intends to participate in any settlement discussions and is willing to work with the parties in an attempt to reach a resolution of any or all issues. I&E notes that PAWC and York have been proactive in engaging in and scheduling settlement discussions.

Respectfully submitted,



Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
PA Attorney ID No. 208185

Dated: December 10, 2021

⁵ *Id.*, p. 6.

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the York Sewer Authority :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated December 10, 2021, in the manner and upon the persons listed below:

Served via Electronic Mail Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O’Conner
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for
Pennsylvania-American Water Company*

Susan Simms Marsh, Esq.
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
susan.marsh@amwater.com
*Counsel for
Pennsylvania-American Water Company*

Thomas T. Niesen, Esq.
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
tniesen@tnlawfirm.com
Counsel for York City Sewer Authority

Stacey R. MacNeal, Esq.
Barley Snyder
100 East Market Street
York, PA 17401
smacneal@barley.com
Counsel for York City Sewer Authority

Adeolu A. Bakare, Esq.
Vasiliki Karandrikas, Esq.
Jo-Anne Thompson, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
abakare@mcneeslaw.com
vkandrikas@mcneeslaw.com
jthompson@mcneeslaw.com
Counsel for the City of York

Matthew Olesh, Esq.
Obermayer, Rebmann, Maxwell and Hippell LLP
1500 Market Street, Suite 3400
Center Square West
Philadelphia, PA 19102
matthew.olesh@obermayer.com
Counsel for Spring Garden Township

Harrison W. Breitman, Esq.
Erin L. Gannon, Esq.
Office of Consumer Advocate
Forum Place
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
hbreitman@paoca.org
egannon@paoca.org

Erin K. Fure, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
efure@pa.gov



Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
carwright@pa.gov