

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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December 10, 2021

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 507, 1102 and
1329 of the Public Utility Code for Approval
of its Acquisition of the Wastewater System
Assets of York City Sewer Authority
Docket No. A-2021-3024681

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon

Senior Assistant Consumer Advocate

PA Attorney I.D. # 83487

E-Mail: EGannon@paoca.org

Enclosures:

cc: The Honorable Steven K. Haas (**email only**)
Certificate of Service

*320652

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 10th day of December 2021.

SERVICE BY E-MAIL ONLY

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Dated: December 10, 2021
*314794

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Application of Pennsylvania-American :
Water Company Pursuant to Sections 507, :
1102 and 1329 of the Public Utility Code for : Docket No. A-2021-3024681
Approval of its Acquisition of the Wastewater :
Collection and Treatment System Assets :
owned by the York City Sewer Authority and :
Operated by the City of York :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the Prehearing Conference Order issued by Administrative Law Judge Steven K. Haas on November 22, 2021, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On July 1, 2021, Pennsylvania-American Water Company (PAWC or Company) filed an Application under Sections 507, 1102, and 1329 of the Public Utility Code seeking Public Utility Commission (Commission) approval of the acquisition of the City of York’s (York City or City) wastewater collection and treatment system, the right of PAWC to provide wastewater service in the areas served by the City, and approval of the ratemaking rate base of the assets as determined under Section 1329(c)(2) of the Public Utility Code.

On July 12, 2021, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance, Notice of Intervention and Public Statement. On July 21, 2021, the Commission’s

Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance. Also on July 21, York Township, West Manchester Township, North York Borough, and Spring Garden Township filed Protests. The OCA filed a Notice of Appearance, Protest, and Public Statement on July 23, 2021. The York Water Company filed a Protest on December 9, 2021.

By Secretarial Letter dated August 12, 2021, the Commission conditionally accepted the Application. On October 29, 2021, the Commission accepted the Application by Secretarial Letter. On November 22, 2021, a prehearing conference order was issued scheduling a telephonic prehearing conference on Tuesday, December 14, 2021 and directing the parties to submit prehearing conference memoranda by 1:00 p.m. on December 10, 2021.

II. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Erin L. Gannon, and by Assistant Consumer Advocate Harrison W. Breitman. Two copies of all documents should be served on the OCA as follows:

Erin L. Gannon
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
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The OCA respectfully requests that the Presiding Officer permit electronic service without the requirement of a follow-up hard copy. Only to the extent that materials are not available electronically, the OCA requests that one hard copy be served upon Erin L. Gannon at the above mailing address.

III. DISCOVERY

In the Prehearing Order issued November 22, 2021, the ALJ directed certain modifications to the Commission's procedural rules regarding discovery. In order to effectively investigate and adequately develop a record in this matter, the OCA requests some additional modifications of the Commission's procedural rules regarding discovery on a going-forward basis, as set forth below:

1. Answers to on-the-record data requests shall be served in-hand within three (3) calendar days of the requests.
2. Due dates are "in-hand" and electronic service on the due date will satisfy the "in-hand" requirement.

IV. WITNESSES

The OCA intends to present the testimony of Ralph Smith (Financial, Ratemaking, Appraisal and Policy Issues). Mr. Smith's contact information is as follows:

Ralph Smith
Larkin & Associates
15728 Farmington Road
Livonia, MI 48154
OCAPAWCYork@paoca.org

To the extent necessary, the OCA's witness will present testimony regarding the impact of the proposed transaction on PAWC's existing customers and the acquired customers, and other financial, technical and ratemaking issues presented in this proceeding.

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify Your Honor and all parties of record immediately.

V. ISSUES

The OCA is participating in this proceeding to ensure the interests of PAWC's existing customers and acquired customers are protected. Based upon its investigation and review of the applications, the OCA has compiled a list of issues to be addressed. These issues will be presented as appropriate by the OCA with the assistance of its expert witnesses:

(1) **Provision of Safe, Adequate and Reasonable Service at Just and Reasonable Rates:** The asset purchase agreements provide that PAWC will pay \$235,000,000 for the City's wastewater system assets. PAWC seeks to have the purchase price approved for inclusion in rate base under Section 1329, as part of this proceeding. The OCA is examining each appraisal and the requested rate base determination.

(2) **Substantial Affirmative Benefits:** The OCA is reviewing the information provided by PAWC through formal and informal discovery to address the requirement that the transaction will substantially and affirmatively benefit PAWC's existing customers.

(3) **Conditions:** The OCA is considering what conditions should be imposed upon the proposed transfers to ensure that PAWC's customers are treated in a fair and just manner in accord with Pennsylvania law and Commission rules and regulations.

The OCA reserves the right to raise additional issues as the case proceeds.

VI. PUBLIC INPUT HEARINGS

In *McCloskey v. Pa. P.U.C.*, the Commonwealth Court concluded that, in an Application proceeding under Section 1329, individual customer notice of the proposed sale has to be given to all ratepayers as well as an opportunity for them to participate in the proceeding. 195 A.3d 1055 (Pa. Commw. 2018). As such, the OCA respectfully requests that the Commission conduct one,

evening telephonic public input hearing for the PAWC and York City customers impacted by the acquisition. The OCA requests that the phone number and pin be placed on the hearing notice and all advertisements regarding the public input hearings.

VII. SCHEDULE

The OCA proposes the following schedule:

Other Parties Direct Testimony	December 17, 2021
Rebuttal Testimony	January 4, 2022
Surrebuttal Testimony	January 14, 2022
Rejoinder Outline	January 17, 2022
Hearings	January 18 and January 19, 2022
Main Briefs	January 26, 2022
Reply Briefs	February 1, 2022
Recommended Decision	February 28, 2022
Exceptions	March 7, 2022
Reply Exceptions	March 14, 2022
Public Meeting	April 14, 2022

The OCA requests that email distribution will satisfy all in-hand service dates contained in the schedule.

VIII. SETTLEMENT

The OCA is willing to engage in settlement discussions with all parties.

Respectfully submitted,

/s/ Harrison W. Breitman

Harrison W. Breitman

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DATED: December 10, 2021

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