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January 10, 2022

## **VIA ELECTRONIC FILING**

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

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

Dear Secretary Chiavetta:

Enclosed please find Pennsylvania-American Water Company's Answer to 600 Scranton LLC's Motion to Compel in the above-referenced matter. Please feel free to contact me with any questions or concerns.

Best Regards,

STEVENS & LEE



Michael A. Gruin

cc: ALJ Dennis Buckley (via email)  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

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

**VIA ELECTRONIC MAIL**

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January 10, 2022

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Michael A. Gruin

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

600 Scranton, LLC

v.

Pennsylvania-American Water Company

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**PENNSYLVANIA-AMERICAN WATER COMPANY’S  
ANSWER TO MOTION TO COMPEL**

Pennsylvania-American Water Company (“PAWC” or “Company”) hereby submits this Answer to the Motion to Compel (“Motion”) filed by 600 Scranton, LLC (“Complainant”) in the above-referenced matter. For the reasons set forth below, PAWC respectfully requests that the Administrative Law Judge (“ALJ”) Dennis Buckley deny the Complainant’s Motion.

**I. Introduction and Overview of Issues**

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

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

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

On December 8, 2021, 600 Scranton, LLC served its Set I Discovery Requests in the above-referenced matter. On December 17, 2021, PAWC served its Objections to 600 Scranton, LLC's Discovery Requests. PAWC Objected to Interrogatories 2, 3, 8, 9, and 10, and Requests for Production of Documents 1, 6, 7, and 8 on the grounds that they were overly broad, unduly burdensome, not calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. A copy of PAWC Objections are attached hereto as Exhibit 1. The Interrogatories and Requests for Production of Documents to which PAWC has objected shall be collectively referred to as "the Objectable Discovery Requests".

On December 29, 2021, PAWC served its Answers to the remainder of 600 Scranton, LLC's discovery requests.

## **II. Legal Standard**

Under the Commission's regulation at 52 Pa. Code §5.321, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. In order to determine relevance, it must first be determined if the inference sought to be raised by the evidence bears upon the issue in the case, and second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975).

## **III. Argument**

PAWC reiterates its position as articulated in its Supplemental Prehearing Memorandum filed on June 25, 2021 in this matter regarding the appropriate scope of this proceeding. This is a complaint by one customer, relating to the amounts billed to one account for water service, and PAWC's response to a significant customer-side service pipe leak at that customer's Property. Just as PAWC predicted, in order to prolong its delaying tactics to avoid paying its water bill, 600 Scranton, LLC has now attempted to expand this proceeding into a wide-ranging fishing expedition into what PAWC may or may not have done with regards to other customers' accounts or actions at other customers' properties at various points in time over the years. None of this information is relevant to resolving the sole issues framed by the pleadings in this proceeding. Again, the sole issues for disposition in this proceeding are:

1. The parties' respective responsibility for identifying and repairing the service line leak at the Complainant's Property.
2. The appropriate billing for the water consumption at the Complainant's Property, as determined by the meter readings and the application of PAWC's tariff.
3. Whether PAWC's communications and other actions in connection with the service pipe leak at the Complainant's Property were reasonable and appropriate.

Rather than seeking information regarding the events surrounding the service pipe leak under the Complainant's Property, and resulting billings, the Objectonable Discovery Requests instead request information about water pressure complaints from other customers who are not parties to this case, main replacements in a wide ranging area, valve-openings and closings in a similar wide ranging area, and water leaks experienced by customers who are not parties to this proceeding. None of the requested information relates in any way to the events surrounding the service pipe leak at the Complainant's Property, the billings following that leak, or PAWC's actions related to the leak. As such, the information requested is not calculated to lead to the discovery of admissible evidence. The information requested would not be admissible because it does not relate to the facts, events or circumstances associated with the Complainant's Property, and therefore is not relevant to this proceeding in any way.

Each of the Objectonable Discovery Requests is addressed in more detail below. PAWC notes that the Complainant's Motion to Compel appears to offer revisions to several of the discovery requests. In the interest of attempting to resolve the discovery dispute, PAWC is willing to provide answers to all of the revised Interrogatories and one of the revised Requests for Production of Documents, but is maintaining its objections to three of the Requests for Production of Documents (Request Nos. 6, 7, and 8).

## **Interrogatory No. 2**

600 Scranton LLC's Interrogatory No. 2 requested that PAWC :

*Identify any and all PAWC customer complaints concerning the PAWC division and/or adjacent divisions servicing the Property for water line pressure issues for commercial and/or residential properties located in Lackawanna County, Pennsylvania, within a two (2) mile radius of the subject Property between November 1, 2019, and April 30, 2021. If this includes adjacent service divisions, please indicate so. To protect the confidentiality of the customer, please indicate only the name of the street and the block number where the complaint was made (i.e., 100 block of Smith Street).*

PAWC Objected to this Interrogatory, as follows:

*Objection. PAWC objects to Request No. 2 on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information related to complaints from multiple divisions of over multiple years regarding water pressure from customers who are not parties to this proceeding are not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property and the billing for water usage at that property. By seeking this information, the Complainant is improperly attempting to expand the scope of this proceeding and cause unreasonable delay and annoyance.*

This Interrogatory is objectionable for the reasons stated in PAWC's Objection. This is a classic example of a fishing expedition by the Complainant, and an attempt to scrutinize PAWC's action with respect to customers and incidents that are simply not at issue in this proceeding, which relates solely to one customer's complaint about a leak at that customer's Property.

The Complainant's Motion to Compel revised this Interrogatory to limit the time frame to November 1, 2019-January 31, 2020 and December 1, 2020-April 30, 3021. The modified Interrogatory is still overly broad in terms of geography, in that it seeks information for properties within a two-mile radius of the Complainant's Property. Information related to water pressure complaints at properties two miles away from the Complainant's Property have no

relevance whatsoever to a service line leak at the Complainant's Property. However, in the interest of compromise, PAWC is willing to provide the requested information for properties (not including any customer-identifiable information) served by the same water main as the Complainant's in the vicinity of the Complainant's Property, for the reduced time frame offered by the Complainant.

**Interrogatory No. 3**

600 Scranton, LLC has withdrawn this Interrogatory.

**Interrogatory No. 8.**

600 Scranton, LLC Interrogatory No. 8 asked:

*What Records does PAWC have for opening or closing valves closest to the Property in all Lines in all directions within two (2) miles between November 1, 2019, and April 30, 2021?*

PAWC Objected to Interrogatory No. 8 as follows:

**Objection.** *PAWC objects to Request No. 8 on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information related to valve openings in a widespread area over a period of 18 months is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property.*

600 Scranton LLC's Motion to Compel does not articulate any legitimate basis for seeking records relating to valve openings and closings, other than the bald assertion that "If a Valve is opened too fast or closed too fast it can create hydraulic gradients or a pressure wave sometime referred to as a water hammer causing substantial water leak". This passage in the Complainant's Motion to Compel implicitly acknowledges that the information is being sought in order to investigate the underlying cause of the service line leak at the Complainant's Property. The Complainant's Motion to Compel revised this Interrogatory to limit the time frame to November 1,

2019-January 31, 2020 and December 1, 2020-April 30, 2021. While PAWC disputes the Motion's premise that opening or closing valves could have caused the service line leak at the Complainant's Property, in the interest of compromise, PAWC is willing to provide the requested information for the reduced time frame offered by the Complainant.

**Interrogatory No. 9.**

600 Scranton, LLC Interrogatory No. 9 asked:

*Please list those pipes and locations where PAWC pipes and infrastructures have failed and needed repair and/or replacement in the division covering the Property and adjacent thereto within two (2) miles of the Property between November 1, 2019, to April 30, 2021.*

PAWC Objected to the Interrogatory as follows:

**Objection.** *PAWC objects to Request No. 9 on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information related to water main repairs and replacement in a widespread area over a period of 18 months is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property. The Complaint includes no allegations whatsoever regarding issues related to the repair or replacement of PAWC facilities.*

600 Scranton LLC's Motion to Compel asserts that that the information is being sought in order to determine if other customers' service pipes may have been affected by "a pressure wave" during the same time period that the water leaks at the Complainant's Property occurred. The Complainant's Motion to Compel revised this Interrogatory to limit the time frame to November 1, 2019-January 31, 2020 and December 1, 2020-April 30, 2021, but the modified Interrogatory is still overly broad in terms of geography, in that it seeks information for properties up to a mile away from the Complainant's Property. Information related to repair or replacement of Company distribution facilities has no relevance whatsoever to a service line leak at the Complainant's Property, especially information related to such repair or replacement that occurred a mile away

from the Property. While PAWC again disputes the Motion's premise that repair or replacement of PAWC facilities could have in any way caused the service line leak at the Complainant's Property, in the interest of compromise, PAWC is willing to provide the requested information for the Company water main that serves Complainant's Property, for the reduced time frame offered by the Complainant.

**Interrogatory No. 10.**

600 Scranton, LLC Interrogatory No. 10 asked:

*During the November 1, 2019-April 30, 2021, time frame,*

a) *Did PAWC personnel open and/or close valves within the division that services the property and/or adjacent divisions within a 1-mile radius of the meter pit located at 600 Scranton/Carbondale Highway?*

b) *Further, would the opening of such valves have caused pressure changes in the water service delivery systems to the meter pit located at 600 Scranton/Carbondale Highway?*

PAWC Objected to Interrogatory No. 10 as follows:

**Objection.** *PAWC objects to Request No. 10 on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information related to valve openings in a widespread area over a period of 18 months is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at the Complainant's property, and the billing for water usage at that property.*

This Interrogatory continues the Complainant's unsubstantiated premise that opening or closing of valves on the Company's distribution system "may have" caused pressure changes that somehow caused the service pipe at the Complainant's Property to leak. The Complainant's Motion to Compel revised this Interrogatory to limit the time frame to November 1, 2019-January 31, 2020 and December 1, 2020-April 30, 2021, but the modified Interrogatory is still overly broad in terms

of geography, in that it seeks information for properties within a mile of the Complainant's Property. Information related to opening or closing valves on Company mains has no relevance whatsoever to a service line leak at the Complainant's Property, especially information related to openings or closings that occurred a mile away from the Property. While PAWC again disputes the Motion's premise that opening or closing valves on PAWC water mains could have in any way caused the service line leak at the Complainant's Property, in the interest of compromise, PAWC is willing to provide the requested information for the Company water main that serves Complainant's Property, for the reduced time frame offered by the Complainant.

#### **Request for Production of Documents No. 1**

600 Scranton LLC's Request for Production of Documents No. 1 stated:

*Respondent, Pa. American Water Co. will provide a List of all Commercial Customers from Lackawanna and Luzerne Counties who have had a subsurface water line leak of 250,000 gallons or more from November 1, 2019, until April 30, 2021.*

PAWC Objected to this Request, as follows:

***Objection.** PAWC objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information related to customers in a two county area who are not parties to this proceeding is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property. The Complaint makes no allegations whatsoever regarding properties or customers other than the Complainant and the Complainant's property.*

The Complainants' Motion to Compel strains to assert any connection between service line leaks at other customers' properties and the service line leak at the Complainant's Property. The Motion alleges that such information is relevant to PAWC's "awareness of aging water lines and actions taken and timeliness." However, the Complainant appears to be laboring under the incorrect assumption that service pipes on customers' properties are PAWC's responsibility. They clearly

are not. Rule 4.9 of the Company's Commission-approved tariff establishes that the customer has full responsibility for the installation, repair, replacement, and maintenance of all customer-owned service pipes. As such, this Request is not reasonably calculated to lead to the discovery of admissible evidence, but instead is calculated to attempted to expand the scope of the proceeding to include leaks at other customer premises that have no bearing whatsoever on the Complaint. Nevertheless, in the interest of compromise, PAWC is willing to provide summary information related to customer service line leaks that fit the criteria stated in the Request, without providing customer-identifiable information, such as confidential customer names or account numbers.

#### **Request for Production of Documents No. 6**

600 Scranton LLC's Request for Production of Documents No. 6 stated:

*Respondent, Pa. American Water Co. will provide Reports, Studies, other Analyses and related Documents for the Water System that includes any area within one mile from the location of the Property over the last 20 years.*

PAWC Objected to this Request, as follows:

**Objection.** *PAWC objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. The request seeks an almost unlimited amount of data about PAWC's water system going back 20 years. Such information is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property.*

600 Scranton LLC's Motion to Compel narrowed this Request slightly, by reducing the time-frame to 10 years, and removing the term "other Analyses". However, this Request is still objectionable as being wildly overbroad in scope, and the Motion to Compel does not even attempt to explain why such wide-ranging information about all aspects of PAWC's water system for a period of 10 years is a justifiable request in connection with a customer complaint case involving a leak at one customer location for a period of a few months. The Complainant has provided no basis

to allow such an overly broad request that goes beyond even the type of information that is requested in base rate cases. For these reasons, PAWC maintains its objection to this Request.

### **Request for Production of Documents No. 7**

600 Scranton LLC's Request for Production of Documents No. 7 stated:

*Respondent, Pa. American Water Co. will provide Inspections, Reports and related Documents over the last five-year period within one mile of the Property for all Users and/or Customers.*

PAWC Objected to this Request, as follows:

**Objection.** *PAWC objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. The requested information is not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property.*

600 Scranton LLC's Motion to Compel narrowed this Request slightly, by limiting it to "Reports of Water Leaks". However, this Request is still objectionable as being overbroad in scope, in that it seeks information about other customers' water leaks going back five years for properties as far as a mile away from the Complainant's Property. As drafted, this Request would ask PAWC to provide information regarding routine toilet leaks at residential properties a mile away, from five years ago. Clearly, such information has no relevance whatsoever to the very narrow and straightforward issues in this proceeding, which involves an underground service line leak at a single customer's premises. Again, Rule 4.9 of the Company's Commission-approved tariff establishes that the customer has full responsibility for the installation, repair, replacement, and maintenance of all customer-owned service pipes. In light of Rule 4.9, the Complainant's Motion to Compel fails to establish the relevance of reports about customer leaks from a mile away that took place years ago to the circumstances of this Complaint regarding the service line leak at

the Complainant's Property. This Request is not reasonably calculated to lead to the discovery of admissible evidence, but instead is calculated to attempted to expand the scope of the proceeding to include leaks at other customer premises that have no bearing whatsoever on the Complaint. The Complainant has provided no basis to allow such an overly broad request and for these reasons, PAWC maintains its objection to this Request.

### **Request for Production of Documents No. 8**

600 Scranton LLC's Request for Production of Documents No. 7 stated:

*Respondent, Pa. American Water Co. will provide Meeting Minutes, Notes or other correspondence over the last five years that include information on the two Leaks on Complainants Property as well as any other Leaks within one mile of the Subject Property.*

PAWC Objected to this Request, as follows:

***Objection.*** PAWC objects to the portion of this Request that seeks information about properties other than the Complainant's, on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and outside the scope of this proceeding. Information regarding "leaks within one mile of the subject property" from five years ago are not relevant to the disposition of this proceeding, which is solely about the service pipe leaks at a single property, and the billing for water usage at that property.

600 Scranton, LLC's Motion to Compel vaguely asserted that the information requested was relevant to "water pressure issues, notice of leak issues, and quality of service issues". Notably, none of these issues were raised in the Complaint and are not included of the scope of this proceeding. PAWC has already responded to this Request with respect to the leaks at the Complainant's Property, and the Complainant fails to provide justification for seeking information about other customers' water leaks going back five years from up to a mile away from the Complainant's Property. For these reasons, PAWC maintains its objection to this Request.

**WHEREFORE**, for the reasons set forth above, Pennsylvania-American Water Company respectfully requests that the Complainant's Motion be denied.

Respectfully submitted,



Dated: January 10, 2022

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