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|  | Public Meeting held February 3, 2022 | |
| Commissioners Present: |  | |
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| Gladys M. Brown, Chairman  John F. Coleman, Jr., Vice Chairman  Ralph V. Yanora | | |
| Application of Columbia Water Company for approval of the right to: (1) acquire, by sale, substantially all the water system assets of East Donegal Township Municipal Authority; and (2) offer, render, furnish or supply water service to the public in additional portions of East Donegal Township, Lancaster County, Pennsylvania | | A-2021-3027134 |
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| Securities Certificate of Columbia Water Company for the issuance of debt via a promissory note in the amount of $2,250,000 | S-2021-3027145 |
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**ORDER**

**BY THE COMMISSION:**

By the application (Application) filed on July 7, 2021, Columbia Water Company (Columbia Water), Utility Code 210540, seeks certificates of public convenience pursuant to Sections 1102(a)(1)(i) and (3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1102(a)(1)(i) and (3), evidencing Pennsylvania Public Utility Commission (Commission) approval of Columbia Water’s right to: (1) acquire, by sale, substantially all the water system assets of East Donegal Township Municipal Authority (EDTMA); and (2) offer, render, furnish or supply water service to the public in additional portions of East Donegal Township, Lancaster County, Pennsylvania. In addition, Columbia Water seeks certificates of filing pursuant to Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, evidencing copies of certain agreements with EDTMA required for the acquisition, as listed in the Application and provided in supplemental information, were filed with the Commission.

Columbia Water also filed for registration pursuant to Chapter 19 of the Public Utility Code, 66 Pa.C.S. §§ 1901, *et. seq.*, the above-captioned securities certificate. Columbia Water requests that the securities certificate be registered concurrent with approval of the Application and waives the 30-day statutory consideration period under Chapter 19, as described in Section V of this Order. The filing was served upon the Office of Small Business Advocate, the Office of Consumer Advocate (OCA), and the Commission’s Bureau of Investigation and Enforcement.

1. **AFFECTED ENTITIES AND BACKGROUND**

Columbia Water is a regulated public utility company, duly organized and existing under the laws of the Commonwealth of Pennsylvania with offices located at 220 Locust Street, Columbia, PA 17512. As of March 31, 2021, Columbia Water furnished water service to approximately 10,528 customers in Columbia, Marietta and Mountville Boroughs and in portions of Manor, East Donegal, West Hempfield and Rapho Townships, all in Lancaster County, and portions of Hellam Township in York County.

EDTMA is a body politic and corporate, duly organized and existing under the Pennsylvania Municipal Authorities Act. EDTMA’s mailing address is 117 South River Road, P.O. Box 82, Maytown, PA 17550. EDTMA owns and operates a water supply, treatment, storage, and distribution system (EDTMA System) that furnishes water service to approximately 1,556 customers within its service area in East Donegal Township comprised of the following classifications: 1,529 residential, 20 commercial, and 7 industrial and farm. In supplemental information filed with the Commission, Columbia Water indicated the EDTMA System also serves approximately 130 fire hydrants, consisting of 110 public and 20 private hydrants, respectively, and seven fire service lines of various sizes. Additionally, Columbia Water indicated that wastewater service within the requested service territory is provided by the Marietta Donegal Joint Sewer Authority (MDJSA) and no change to wastewater service in contemplated with this Application.

Columbia Water submitted proofs of publication and service to the appropriate entities. Notice of the Application was published in the *Pennsylvania Bulletin*, 51 Pa.B. 4041, on Saturday, July 24, 2021. The protest period ended August 9, 2021. On August 9, 2021, OCA filed a protest identifying the following areas that OCA believed required further consideration by the Commission: (1) Proposed Rates and (2) Cost and Funding. Further, OCA stated it filed its protest, in part, to allow the parties time to explore the possibility of resolving OCA’s issues informally and to collect the facts necessary to complete the record before the Commission (OCA Protest at 3). On October 5, 2021, OCA withdrew its protest indicating that, based on the information Columbia Water provided in its filed responses with the Commission to OCA’s informal discovery, the concerns raised in OCA’s protest had been addressed and satisfied. No hearings were held.

1. **LOCATION OF FACILITIES TO BE ACQUIRED**

East Donegal Township is situated in the western portion of Lancaster County and is bounded by Elizabethtown Borough to the north, the Susquehanna River to the south, Conoy Township to the west, and Rapho Township to the east. Specifically, the requested service territory is one contiguous area encompassing a substantial portion of the unincorporated area of Maytown in the southwest portion of East Donegal Township situated north of River Road, including a small area west of Beattys Tollgate Road. A map and a written description, by bearing angles and distances, of the requested water service territory was provided in the Application’s Exhibit 10. In supplemental information filed with the Commission, Columbia Water indicated the requested service territory consists of an area of approximately 1,526 acres of land.

1. **FACILITIES FOR FURNISHING SERVICE**

Columbia Water will acquire substantially all the EDTMA System including: two groundwater wells (Well Nos. 1 and 2) and a spring source (Glatfelter Spring); a nitrate treatment plant; three elevated water storage tanks with capacities of 100,000, 300,000 and 500,000 gallons, respectively; a chlorine booster station; approximately 97,509 linear feet of distribution system piping consisting of 24,732 linear feet of asbestos-cement (AC) pipe, 71,399 linear feet of ductile iron (DI) pipe, and 1,378 feet of polyvinyl chloride (PVC) pipe of various diameters; approximately 11,477 linear feet of raw water piping consisting of 7,230 linear feet of DI pipe and 4,247 linear feet of PVC pipe of various diameters; 130 fire hydrants; and approximately 494 water distribution valves. A more complete summary of the EDTMA System assets by material type, diameter, and quantity was provided in supplemental information filed with the Commission as the Columbia Water Company EDTMA Condition Assessment Report, dated August 2020, prepared by Buchart Horn, Inc. (EDTMA Condition Report).

In supplemental information filed with the Commission, Columbia Water provided copies of Susquehanna River Basin Commission (SRBC) approvals for groundwater withdrawal of 0.324 million gallons per day (MGD)[[1]](#footnote-2) from Well No. 2 and a combined groundwater withdrawal from Well Nos. 1 and 2 of 0.584 MGD.[[2]](#footnote-3) Further, SRBC, in a separate decision, approved a groundwater withdrawal of 0.260 MGD from Well No. 1 with a maximum instantaneous withdrawal rate of 250 gallons per minute (GPM). Additionally, SRBC made a grandfathering determination for the Glatfelter Spring by approving a groundwater withdrawal of 0.351 MGD, establishing a total System withdrawal limit of 0.835 MGD, rescinding SRBC Docket No. 19810309, and superseding SRBC Docket No. 20110305.[[3]](#footnote-4)

Columbia Water averred in supplemental information filed with the Commission that the EDTMA System’s source of supply facilities have design and permitted maximum production capacities of 0.864 MGD. For 2020, EDTMA experienced peak and average daily production values of 0.490 and 0.419 MGD, respectively. Columbia Water also provided copies of EDTMA’s Pennsylvania Department of Environmental Protection (DEP) Public Water Supply (PWS) Permit Nos. 3692502, 3699502, 3689512, and 3610524 MA. DEP PWS Permit No. 3689512 approved the operation of EDTMA’s nitrate water treatment plant (EDTMA WTP) and DEP PWS Permit No. 3610524 MA approved 4-log treatment of viruses for Entry Point 100 treatment facilities (Well Nos. 1 and 2 and the Glatfelter Spring) with the condition the instantaneous maximum flow through the EDTMA WTP shall not exceed 600 GPM or 0.864 MGD (600 GPM x 60 Minutes/Hour x 24 Hours/Day = 0.864 MGD). However, the EDTMA WTP is operated at an average of 0.377 MGD and a maximum of 0.494 MGD, which is below the DEP permitted instantaneous maximum flow.

Raw water from Well Nos. 1 and 2 and the Glatfelter Spring is pumped through pressure ion exchange vessels for nitrate removal and dosed with sodium hypochlorite for disinfection prior to entering the distribution system. Generally, about 12 to 15% of raw water is bypassed around the ion exchange vessels in the EDTMA WTP and blended with treated water to maintain a finished water nitrate concentration of 3 to 6 milligrams per liter. Sodium chloride (salt) is used to regenerate the ion exchange resin. Approximately 6,000 gallons of waste brine is produced per regeneration with typically one ion exchange vessel regenerated per day. The waste brine is discharged into a waste holding tank and subsequently flows by gravity to MDJSA’s wastewater facilities. Columbia Water provided a copy of an agreement between the East Donegal Sewer Authority (now MDJSA) and EDTMA, dated May 21, 1990 (EDTMA Waste Brine Agreement) that allows EDTMA to discharge waste brine from the EDTMA WTP into MDJSA’s wastewater facilities. Columbia Water indicated it will need to maintain this practice as part of the acquisition and confirmed it is seeking a certificate of filing for the EDTMA Waste Brine Agreement pursuant to Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, in addition to the agreements listed in the Application.

In supplemental information filed with the Commission, Columbia Water estimated the average monthly water usage for customers connected to the EDTMA System, by customer class, is as follows: residential – 6.28, commercial – 0.51, industrial – 3.32, and public/agricultural – 0.75, respectively, in millions of gallons. Further, Columbia Water stated the EDTMA System is surrounded by preserved agricultural land and this limits the expansion of the EDTMA System to approximately 116 residential dwellings and 2 commercial buildings that may become customers within the requested service territory over the next five years. Columbia Water averred the EDTMA System has adequate stand-alone water supply, treatment, storage and distribution capacity to meet present and future customer demands and supplemental water supply from Columbia Water’s existing facilities is not needed, anticipated or planned.

1. **PURCHASE AGREEMENT**

On May 7, 2021, Columbia Water and EDTMA entered into a Water Production and Distribution System Sale and Purchase Agreement (APA) that outlined the terms of Columbia Water’s purchase of the EDTMA System assets. A copy of the APA was included in the Application as Appendix 1. The APA specified a purchase price of $2,500,000 provided that the purchase price shall be subject to adjustment increasing the purchase price at the closing of the transaction pursuant to the APA’s Section 2(b), which may increase the purchase price based on: prepaid liabilities that will accrue to Columbia Water’s benefit; EDTMA’s cost for consumable chemicals in inventory and for additional equipment that may be purchased by EDTMA pursuant to the APA’s Section 2(a)(i); EDTMA’s cost to fix any major deficiencies noted by Columbia Water in the EDTMA Condition Report; and amounts expended by EDTMA prior to closing to address certain deficiencies identified in the EDTMA Condition Report pursuant to the APA’s Section 2(c)(iii). In supplemental information filed with the Commission, Columbia Water averred that the purchase price was based on arm’s length negotiations and that Columbia Water and EDTMA are not affiliated.

Columbia Water stated it will finance the acquisition by a combination of a $2,250,000 promissory note to EDTMA with the remaining $250,000 being provided from Columbia Water’s general fund. In conjunction with the Application, Columbia Water also seeks approval of a securities certificate for the Promissory Note and Mortgage and Security Agreement under Chapter 19 of the Public Utility Code. Columbia Water provided copies of the Promissory Note and Mortgage and Security Agreement filed as to form and marked as Exhibits B and C, respectively, in the APA. The Promissory Note and Mortgage and Security Agreement are described later in Section V of this Order.

In supplemental information filed with the Commission, Columbia Water provided the following tentative journal entries to record the transaction in its accounts:

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| **Account Number** | **Description** | **Debit** | **Credit** |
| 301.10-348.50 | Utility Plant in Service | $7,174,286 |  |
| 108.10 | Accumulated Depreciation |  | $3,893,640 |
| 114.00 | Utility Plant Acquisition Adjustment |  | $780,646 |
| 131.20 | Cash |  | $250,000 |
| 235.15 | EDTMA Promissory Note |  | $2,250,000 |
| **Total** | | **$7,174,286** | **$7,174,286** |

The Application’s Appendix 3 included a copy of a statement of EDTMA’s used and useful utility property to be transferred listing original cost and accrued depreciation values by principal account as of December 31, 2020. The EDTMA System assets to be transferred are defined in the APA’s Section 2(a) and generally include all buildings, treatment facilities, mains, piping, real estate, and easements relating to the EDTMA System. The APA’s Schedule 2(a)(i) provided a detailed listing of the buildings, treatment facilities, equipment, and mains to be transferred to Columbia Water. Further, the APA’s Schedules 2(a)(iii) and 2(a)(iv) defined the easements and rights-of-way, and real estate to be included as part of the transaction. In supplemental information filed with the Commission, Columbia Water stated it intends to have an original cost study performed, without prejudice to the position it may take in a future rate case.

Excluded assets are listed in the APA’s Section 2(e) and generally include EDTMA’s water service revenues for the period prior to the date of closing and other such items listed in the APA’s Schedule 2(e), which include various office equipment items, phones, and computers. Further, in the APA’s Section 2(e), EDTMA is entitled to billed and unbilled revenues for water service provided by EDTMA prior to the day of closing, where unbilled revenue is determined by EDTMA and Columbia Water using a ratio of the number of days prior to the day of closing to the number of days in the unbilled quarter. Columbia Water is authorized to act as EDTMA’s collection agent for any of EDTMA’s accounts receivable, although Columbia Water will not attempt to collect EDTMA accounts receivable that are greater than 90 days old as of the closing date.

Regarding this arrangement, we note that any EDTMA charges that may be billed by Columbia Water, must appear after charges for basic services rendered by Columbia Water, pursuant to Commission regulations, and must appear in a separate and distinct manner, and that Columbia Water may not charge its late fees for, or terminate service due to, unpaid EDTMA charges. Further, payments received by Columbia Water without written instructions that they be applied to EDTMA’s charges and which are insufficient to pay the balance due must be applied to Columbia Water’s charges before being applied to EDTMA’s charges.[[4]](#footnote-5) In supplemental information filed with the Commission, Columbia Water confirmed its understanding of the requirements of 52 Pa. Code §§ 56.13, 56.23 and 56.83(3) in its actions as EDTMA’s collection agent for EDTMA’s accounts receivable. Further, Columbia Water averred it will not charge its late fees for unpaid EDTMA charges.

1. **SECURITIES CERTIFICATE**

The securities filing contemplates the issuance of a promissory note, secured by a Mortgage and Security Agreement, to Columbia Water from EDTMA in the principal amount of $2,250,000 (EDTMA Loan). The EDTMA Loan is being made pursuant to the transactions contemplated by the APA and consists of a seven-year term with a fixed interest rate of three percent per annum. The EDTMA Loan will be repaid in the form of 83 monthly payments of principal plus accrued interest on the unpaid principal balance, in addition to one final payment of all outstanding principal, interest, and other charges and fees. Columbia Water in supplemental information filed with the Commission provided a draft amortization schedule, Exhibit A, for the Application’s Appendix 1, Exhibit B titled “Promissory Note.” Real estate acquired from EDTMA and a lien on the assets and revenues of the water system purchased from EDTMA shall act as collateral. The purpose of the EDTMA Loan is for Columbia Water to acquire substantially all EDTMA’s water utility assets, all of which Columbia Water will place into its rate base, pursuant to the Application to which this securities filing is appended.

As a result of the issuance of the EDTMA Loan and without including its Pennsylvania Infrastructure Investment Authority (PENNVEST) debt,[[5]](#footnote-6) Columbia Water estimates that its capital structure will change from 31.95% debt and 68.05% equity to 42.61% debt and 57.39% equity. Columbia Water’s forecasted capital structure appears to be appropriate for a regulated water distribution utility.[[6]](#footnote-7) Columbia Water is not a utility of a sufficient size to garner a rating from any of the credit rating agencies.

1. **ADDITIONAL CAPITAL REQUIREMENTS**

In supplemental information filed with the Commission, Columbia Water stated it anticipates addressing the assets in need of immediate repair or replacement, as identified in the EDTMA Condition Report at an estimated cost of $1,258,000, during the first ten years post-acquisition. The largest project identified in the EDTMA Condition Report involves painting and safety upgrades to the 500,000-gallon elevated water storage tank at an estimated cost of $725,000. Additionally, Columbia Water anticipates replacing all customer water meters during the same ten-year period. Columbia Water averred the capital improvements will be funded through income generated from operating the EDTMA System and borrowed funds, which may include seeking a PENNVEST loan.

1. **PROPOSED RATES**

After closing, Columbia Water will adopt rates equivalent to EDTMA’s existing rates for water service. In supplemental information filed with the Commission, Columbia Water provided copies of a proposed *pro forma* tariff supplement, dated November 1, 2021 (2021 *Pro Forma* Supplement), and EDTMA’s Rate Schedule, effective July 1, 2020 (July 2020 Rates). Columbia Water also provided a copy of EDTMA’s current Rules and Regulations, effective May 1, 2014, which included Attachment 1, Rate Schedule (May 2014 Rules). The Commission notes Attachment 1 of the May 2014 Rules included an EDTMA Rate Schedule for Other Fees and Charges, effective April 15, 2014, which listed a Fire Hydrant Fee and Fire Service Fee as “None,” or a rate of zero dollars. Correspondingly, Columbia Water is proposing rates of “None,” or zero dollars, as its rates for these public fire protection services.

Columbia Water covenanted in the APA’s Section 14(a) not to raise rates for EDTMA customers for a period of three (3) years from the date of closing, except for limited circumstances. The Commission notes this section in the APA amounts to a firm, unqualified guarantee regarding rates by Columbia Water for the stated time period. Thus, Columbia Water, in furtherance of maintaining EDTMA’s existing rates, included language in the 2021 *Pro Forma* Supplement that proposed to exempt or not charge EDTMA customers Columbia Water’s Distribution System Improvement Charge (DSIC) and PENNVEST Surcharge (PVS). In supplemental information filed with the Commission, Columbia Water acknowledged that the Commission has authority under certain circumstances and conditions to set rates that differ from the rates stated in the 2021 *Pro Forma* Supplement.

For Columbia Water’s DSIC, during the period where the DSIC does not apply to EDTMA customers, Columbia Water indicated that it would not include EDTMA System capital improvements in its DSIC and that the transaction would not impact projected quarterly revenues for this period. Correspondingly, it appears that Columbia Water does not intend to include depreciation expenses or accumulated depreciation associated with EDTMA System capital improvements and that, similar to how PENNVEST funding is treated for the purpose of calculating Columbia Water’s pretax rate of return for DSIC purposes, the EDTMA Loan and financing associated with EDTMA System capital improvements would be excluded from Columbia Water’s capital structure for DSIC purposes. Columbia Water must also file a petition to modify its Long-Term Infrastructure Improvement Plan (LTIIP) that includes the necessary information on eligible property and planned expenditures for the EDTMA System before Columbia Water could seek to recover any return on eligible EDTMA System LTIIP expenditures through its DSIC. Alternatively, as Columbia Water’s current LTIIP ends in 2022, Columbia Water may include the EDTMA System eligible property and planned expenditures in its second LTIIP petition.

For Columbia Water’s PVS, it appears that Columbia Water does not intend to include EDTMA customers in its determination of equivalent dwelling units for calculating its PVS. In supplemental information filed with the Commission, Columbia Water provided a revised *Pro Forma* Supplement, dated January 7, 2022 (2022 *Pro Forma* Supplement), that included tariff language addressing changes to its PVS and DSIC calculations to reflect no increase in these rates to both Columbia Water and EDTMA customers resulting from the proposed transaction.

The 2021 *Pro Forma* Supplement specified residential customer rates of $48 per quarter, which includes the first 9,000 gallons of water used per quarter, plus $2.10 for each additional 1,000 gallons of water used. Pursuant to the definition of “Billing Period” provided in Section 56.2 of the Commission’s Regulations, 52 Pa. Code § 56.2 (relating to Definitions), residential customers must be permitted to receive bills monthly. Columbia Water in supplemental information filed with the Commission acknowledged the requirements of Commission Regulations to allow EDTMA customers to elect a monthly billing period and, subsequently, included additional changes in the 2022 *Pro Forma* Supplement reflecting this option by EDTMA customers for a monthly water use rate.

Additionally, the 2021 *Pro Forma* Supplement specified a rate of $8 per quarter for “Late Payment Charge.” However, pursuant to Section 56.22(a) of the Commission’s Regulations, 52 Pa. Code § 56.22(a), public utilities may not levy or assess a late charge or penalty on any overdue public utility bill in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. Also, the 2021 *Pro Forma* Supplement did not specify the late payment charge for customers that are billed monthly. In supplemental information filed with the Commission, Columbia Water revised the “Late Payment Charge” language to 1.5% per month on the overdue balance of the bill not to exceed 18% per annum and included those changes in the 2022 *Pro Forma* Supplement.

Finally, both the 2021 and 2022 *Pro Forma* Supplements do not include private fire protection rates, and, as noted above, lists rates of “None”, or zero dollars, for public fire protection services. In supplemental information filed with the Commission, Columbia Water averred, consistent with 66 Pa.C.S. § 1328, it will seek to address any charges for public fire protection in its next base rate proceeding which it indicated will be at least three years after the closing of the proposed transaction. Columbia Water noted that the Public Utility Code is permissive as to recovery of public fire protection fees, *id.* § 1328(b) and requires timing of changes of fees to be within a base rate case, *id.* § 1328(b)(1). Also, for Columbia Water’s private fire protection rates, it appears that Columbia Water intended for the public fire protection service rate of “None” to apply equally to the 20 private fire hydrants and seven fire service lines as described above in Section I of the Order.

Through this Order, we will direct Columbia Water to amend its 2022 *Pro Forma* Supplement to include tariff language that describes the rates that Columbia Water will charge to EDTMA private fire protection customers, provided that such changes may not increase bills to any Columbia Water or EDTMA customers. Further, Columbia Water will be directed to provide, with its next base rate case that includes EDTMA System customers, testimony that specifies the number of EDTMA System public fire protection customers, private fire protection customers, public fire hydrants, private fire hydrants, public fire services (i.e., sprinkler lines or similar connections), and private fire services. Also, with that base rate case, Columbia Water shall provide notice to the former EDTMA System public and private fire protection customers, respectively, of Columbia Water’s proposed public fire protection and private fire protection rates, in a manner that conforms with notice provided to other customer classes under Section 53.45(b)(1)(i), of the Commission’s regulations, 52 Pa. Code § 53.45(b)(1)(i) (relating to Notice of new tariffs and tariff changes).

Columbia Water provided an estimate of anticipated revenues and expenses in supplemental information filed with the Commission. Columbia Water estimated the annual operating and non-operating revenues for providing water service within the requested territory will be $558,010 and $43,571, respectively, for total estimated annual revenues of $601,581. Columbia Water also estimated that annual expenses will be $197,342 for operating expenses, $206,000 in depreciation, administrative, and general expenses, and $48,159 in other non-operating expenses for total estimated annual expenses of $451,501. The resulting estimated annual net income is $150,080.

1. **PERMITS REQUIRED**

Columbia Water indicated it will seek DEP approval to transfer DEP PWS Permit Nos. 3692502, 3699502, 3689512, and 3610524 MA. Additionally, the APA’s Section 3B(d) provided all licenses and permits necessary to the ownership and operation of the EDTMA System, without limitation, shall be transferable by EDTMA to Columbia Water at the date of closing. Further, Columbia Water indicated in supplemental information filed with the Commission that it will seek any necessary approvals to transfer permits or rights from SRBC.

1. **OPERATIONS UNDER COLUMBIA WATER**

Columbia Water averred in supplemental information filed with the Commission that it intends to operate the EDTMA System as a stand-alone system utilizing the EDTMA System’s sources of supply, distribution and storage to meet customer demand. Further, Columbia Water noted that an emergency interconnection exists between EDTMA System and Columbia Water’s Marietta facilities and indicated the interconnection has been in place for at least 30 years and its use has been rarely required. Columbia Water will continue to use EDTMA’s previous part-time contractors to operate the system after closing and will transition to Columbia Water operators over time.

1. **LAND-USE PLANNING COMPLIANCE**

In supplemental information filed with the Commission, Columbia Water provided a copy of a letter from the Lancaster County Planning Commission (LCPC), dated October 29, 2021, indicating LCPC completed a review of the Application to determine if the sale and acquisition of the EDTMA System is consistent with the Lancaster County Comprehensive Plan and applicable zoning designations. In its letter, LCPC noted the Application is consistent with *places2040*, adopted in 2018 as the Lancaster County Comprehensive Plan, which calls for municipalities and partners to “maintain public infrastructure” and “think beyond boundaries.” Columbia Water also provided a copy of a letter from the East Donegal Township Planning Commission (EDTPC), dated August 18, 2021, that indicated EDTPC concurred with the Application as submitted and noted there does not appear to be any conflict with the Donegal Regional Comprehensive Plan related to current or future water service usage to the community.

1. **OTHER CONSIDERATIONS**

Columbia Water averred in supplemental information filed with the Commission there are no public utilities, municipalities, municipal authorities, cooperatives, or associations providing water service within one mile of the requested service territory and approval of the Application will not result in the creation of a competitive condition. Columbia Water also opined the sale and transfer of EDTMA System assets will have no adverse effect on EDTMA’s customers and over time will affirmatively benefit customers by being part of a larger immediately neighboring and regionalized public water system. Columbia Water noted that it is not a prerequisite for approval of the proposed transaction to find unique, affirmative, or direct benefits for all types of customers.[[7]](#footnote-8) Columbia Water, though, indicated there will be no detriments to its current customers and all customers will now benefit from Columbia Water’s ability to use the system interconnection between EDTMA and Columbia Water at its discretion, as necessary, in a more readily available fashion.

Additionally, Columbia Water has no outstanding fines or assessments due to the Commission. Columbia Water is also current with its annual and quarterly reports and the Commission’s security planning and readiness report filing requirements. Through Commission correspondence with DEP’s Southcentral Regional Office, it was determined that DEP does not have any pending actions or outstanding complaints against Columbia Water or EDTMA.

1. **CONCLUSION**

Based upon the facts that Columbia Water will expand its service territory to customers in compliance with Commission regulations; that the economies of scale of an expanded customer base have a beneficial effect on existing customers; and that Columbia Water has the technical, regulatory, financial and legal fitness to operate and maintain the system assets, the Commission finds that granting approval of Columbia Water’s Application is necessary or proper for the service, accommodation, convenience or safety of the public and in the public interest.

Further, the Commission has determined that Columbia Water’s proposal for the issuance of debt via a promissory note in the amount of $2,250,000 is necessary or proper for the present capital needs of the utility; **THEREFORE,**

**IT IS ORDERED:**

* + 1. That the Application of Columbia Water Company at Docket No. A-2021-3027134, is hereby approved.
    2. That the securities certificate of Columbia Water Company for the issuance of debt via a promissory note in the amount of $2,250,000 is hereby registered.
    3. That within sixty (60) days of the issuance of debt referenced in Ordering Paragraph No. 2, Columbia Water Company shall provide written notification to the Secretary’s Bureau of such issuance, along with a summary of the loan terms at Docket No. S-2021-3027145.
    4. That the registration period of the debt issuance will end on June 30, 2022, if the issuance has not occurred by that date.
    5. That a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the right of Columbia Water Company to acquire, by sale, substantially all the water system assets owned by East Donegal Township Municipal Authority as described in the Application.
    6. That Columbia Water Company will provide written notification to the Secretary’s Bureau within ten (10) days of closing with East Donegal Township Municipal Authority at Docket No. A-2021-3027134.
    7. That following Commission receipt of the notice of closing in Ordering Paragraph No. 6, a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(1)(i) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(1)(i), evidencing Commission approval of the right of Columbia Water Company to begin to offer, render, furnish and supply water service to the public in additional portions of East Donegal Township, Lancaster County, Pennsylvania.
    8. That within ten (10) days following the date of closing, Columbia Water Company shall file a tariff supplement at Docket No. A-2021-3027134 with the Secretary’s Bureau incorporating additional portions of East Donegal Township in its water service territory, consistent with the *pro forma* tariff supplement provided in the Application’s supplemental information, dated January 7, 2022, and including tariff language that describes the rates that Columbia Water Company will charge to private fire protection customers, consistent with this Order, to become effective on one day’s notice.
    9. That Columbia Water Company shall file copies of its original cost study of the water system assets acquired from East Donegal Township Municipal Authority with the Secretary’s Bureau, with copies served upon the Bureau of Technical Utility Services, the Bureau of Audits, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate, upon completion of said study at Docket No. A-2021-3017134.
    10. That, at the time of filing its next base rate case that proposes to include the assets of this acquisition in rate base, Columbia Water Company shall specifically reference Docket No. A-2021-3027134 and provide testimony that: (a) specifies the number of the East Donegal Township Municipal Authority Water System’s public fire protection customers, private fire protection customers, public fire hydrants, private fire hydrants, public fire services (i.e., sprinkler lines or similar connections), and private fire services; and (b) justifies any amount claimed in rate base, in order to evaluate the reasonableness of the original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims pursuant to Section 1327 of the Public Utility Code, 66 Pa.C.S. § 1327.
    11. That Certificates of Filing under Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, shall be issued to Columbia Water Company acknowledging copies of the following agreements have been on file with the Commission since the filing date noted:

1. Water Production and Distribution Sale and Purchase Agreement by and between East Donegal Township Municipal Authority, and Columbia Water Company, dated May 7, 2021, filed July 7, 2021.
2. Wastewater Agreement by and between East Donegal Sewer Authority (now “Marietta Donegal Joint Sewer Authority”) and East Donegal Township Municipal Authority, dated May 21, 1990, filed October 4, 2021.
   * 1. That Columbia Water Company shall file executed copies of the following agreements in substantially the same form as provided in the Application with the Commission’s Secretary’s Bureau whereupon Certificates of Filing under Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, shall be issued to Columbia Water Company acknowledging copies of the following agreements have been on file with the Commission for at least 30 days following the date the executed agreements were filed with the Commission:
3. Promissory Note by and between East Donegal Township Municipal Authority, and Columbia Water Company, filed as to form on July 7, 2021.
4. Open-End Mortgage and Security Agreement made by Columbia Water Company in favor of East Donegal Township Municipal Authority, filed as to form on July 7, 2021.
5. Assignment of Lease by and among East Donegal Township Municipal Authority and Columbia Water Company, filed as to form on July 7, 2021.
   * 1. That if Columbia Water Company determines that the transaction will not occur, it will promptly file notice of such determination with the Secretary’s Bureau and return the Certificate of Public Convenience issued in Ordering Paragraph No. 5.
     2. That nothing herein shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt Columbia Water Company from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.
     3. That consistent with Section 1903(b) of the Public Utility Code, 66 Pa.C.S. § 1903(b), the registration of the subject securities certificate does not represent Commission approval of the proposed projects for rate recovery pursuant to Sections 1301 through 1328 of the Public Utility Code, 66 Pa.C.S. §§ 1301-1328.
     4. That a copy of this Order be served upon Columbia Water Company, the East Donegal Township Municipal Authority, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the East Donegal Township Board of Supervisors, the East Donegal Township Planning Commission, the Lancaster County Commissioners, the Lancaster County Planning Commission, the Pennsylvania Department of Revenue’s Bureau of Corporate Taxes, and the Department of Environmental Protection – Southcentral Regional Office and its Bureau of Regulatory Counsel.
     5. That upon the issuance of the Certificate of Public Convenience as outlined in Ordering Paragraph No. 7, or upon the return of the Certificate of Public Convenience issued in Ordering Paragraph No. 5, the proceeding at Docket No. A-2021-3027134 be closed.
     6. That upon receipt of the written notification as outlined in Ordering Paragraph No. 3, or upon the return of the Certificate of Public Convenience issued in Ordering Paragraph No. 5, the proceeding at Docket No. S-2021-3027145 be closed.

**BY THE COMMISSION,**

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Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 3, 2022

ORDER ENTERED: February 3, 2022

1. Note that all listed SRBC approved groundwater rates are based upon a 30-day average. [↑](#footnote-ref-2)
2. *See Susquehanna River Basin Commission* Decision dated July 8, 1999, at Docket No. 1990702. [↑](#footnote-ref-3)
3. *See Susquehanna River Basin Commission* Decision dated March 18, 2019, at Docket No. 20190314. [↑](#footnote-ref-4)
4. *See* 52 Pa. Code §§ 56.13 (relating to billings for merchandise, appliances and nonrecurring and recurring services), 56.23 (relating to application of partial payments between public utility and other service), and 56.83(3) (relating to unauthorized termination of service). [↑](#footnote-ref-5)
5. The PENNVEST annual debt service is managed through an adjustable surcharge. [↑](#footnote-ref-6)
6. Based on data obtained in *Value Line* Investment Survey, the average capital structure for the Water Utility Industry barometer group companies used in the Commission’s Quarterly Earnings Summary Report is 50.7% long-term debt and 49.3% equity. *See* *Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2021*, at Docket No. M-2021-3030045. [↑](#footnote-ref-7)
7. *Popowsky v. Pa. Pub. Util. Com’n*, 937 A.2d 1040, 1061 (Pa. 2007). [↑](#footnote-ref-8)