



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

June 24, 2022

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission v.  
Pennsylvania-American Water Company  
Docket Nos.: R-2022-3031672  
R-2022-3031673

**I&E Prehearing Memorandum**

Dear Secretary Chiavetta:

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

Consistent with the Pennsylvania Public Utility Commission's order regarding waiver of regulations regarding service requirements, issued at docket M-2021-3028321 on September 15, 2021, I&E is providing only electronic service on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'Gina L. Miller', is written over a light blue horizontal line.

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Bureau of Investigation and Enforcement  
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GLM/cem  
Enclosures

cc: Deputy Chief ALJ Joel H. Cheskis (*via email*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2022-3031672, *et al.*  
: :  
v. : :  
: :  
Pennsylvania-American Water Company :

Pennsylvania Public Utility Commission : R-2022-3031673, *et al.*  
: :  
v. : :  
: :  
Pennsylvania-American Water Company – :  
Wastewater Division :

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

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**To Deputy Chief Administrative Law Judge Joel H. Cheskis:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) hereby submits this Prehearing Memorandum in the above-captioned dockets. The I&E prosecutor assigned to this proceeding is Gina L. Miller.

Ms. Miller may be contacted as follows:

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## **I. BACKGROUND**

On April 29, 2022, Pennsylvania-American Water Company (“PAWC”) filed with the Pennsylvania Public Utility Commission (“Commission”): (1) a water base rate case at Docket No. R-2022-3031672 and (2) a wastewater base rate case at Docket No. R-2022-3031673. The tariff filings that PAWC made on April 29, 2022 are two-fold. First, PAWC’s Supplement No. 35 to Tariff Water – Pa. P.U.C. No. 5 proposes an increase of PAWC’s total annual operating revenues for water service by approximately \$154.4 million, or 21.6%, through rates effective June 28, 2022. Next, PAWC’s Supplement No. 34 to Tariff Wastewater - Pa. P.U.C. No. 16 proposes an increase in PAWC’s total annual operating revenues for wastewater service by approximately \$18.7 million, or 16.1%, through rates effective June 28, 2022.

I&E entered its appearance in the rate dockets referenced above on May 3, 2022. Others who made filings to participate in these proceedings include the following: on May 4, 2022, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance and Rate Complaint in the rate proceedings; on May 11, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene and Answer in the rate proceedings; on May 16, 2022, the Office of Consumer Advocate (“OCA”) filed its Notice of Appearance, Formal Complaint, and a Public Statement in the rate dockets; on May 17, 2022, the Commission on Economic Opportunity filed a Petition to Intervene in the rate dockets; on May 20, 2022, Cleveland-Cliffs Steel filed a Petition to Intervene in the rate dockets; on June 1, 2022, the Borough of St. Lawrence filed a Notice of Appearance; on May 31, 2022, Exeter Township filed a Petition to Intervene; on June 16, 2022, West Norriton Township filed a Notice of Appearance; on June 22, 2022, Pennsylvania-American Water Large Users Group filed a Complaint in both dockets; and on

June 23, 2022, Victory Brewing Company Complaint filed a complaint in both dockets. Additionally, since PAWC made its rate filings on April 29, 2022, multiple Formal Complaints were filed in opposition to the proposed water and wastewater increases.

On June 16, 2022, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of each of the proposed tariff changes until January 28, 2023, unless permitted by Commission Order to become effective at an earlier date. As part of all of its base rate case suspension orders, the Commission directed that PAWC's rate filings be assigned to the Office of Administrative Law Judge for the scheduling of hearings as may be necessary for the Administrative Law Judge to render a recommended decision. Subsequently, I&E received notice that Deputy Chief Administrative Law Judge Joel H. Cheskis ("ALJ Cheskis") would preside.

ALJ Cheskis issued a Prehearing Conference Order on June 17, 2022 that established June 27, 2022 at 11 a.m. as the date and time for a telephonic prehearing conference in this case. The Prehearing Conference Order also established the deadline of June 24, 2022 for submission of a prehearing memorandum. I&E now submits this memorandum in compliance with ALJ Cheskis's Prehearing Conference Order.

## **II. ISSUES**

The following list represents I&E's preliminary determination of the potential issues in this proceeding:

### **Rate of Return**

- 1) Proxy Group
- 2) Capital Structure
- 3) Cost of Long-Term Debt
- 4) Cost of Equity
- 5) Adjustments to the Cost of Equity
- 6) Overall Rate of Return

### **Operating and Maintenance Expenses**

- 7) Rate Case Expense
- 8) Salaries and Wages
- 9) Benefits Expense
- 10) Materials and Supplies
- 11) Contract Services
- 12) Service Company Charges
- 13) Rents
- 14) Transportation Expense
- 15) Purchased Power Expense
- 16) Chemicals Expense
- 17) Miscellaneous Expenses
- 18) Insurance Expense
- 19) Advertising
- 20) Inflation Adjustments
- 21) Taxes Other Than Income
- 22) Income Taxes
- 23) Covid-19 Deferrals
- 24) Cash Working Capital

### **Rate Base, Revenue/Allocation/Rate Structure**

- 25) FPFTY Filing Requirements
- 26) Non-Revenue Water
- 27) Present Rate Revenue
- 28) Cost of Service Studies
- 29) Revenue Allocations
- 30) Rate Design
- 31) Water/Wastewater revenue allocation (Act 11)
- 32) Revenue Stabilization Mechanism
- 33) Tariff Issues
- 34) Scale Back of Rates

The list is as complete as can be made at this time. Additionally, I&E reserves the right to amend and supplement this issue list while discovery is on-going. Finally, I&E reserves the right to further amend and supplement its issue list to address any issues arising in any supplemental testimony and/or information that may be filed by PAWC and to address any currently unforeseen directives or developments in this case.

### **III. WITNESSES**

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

- Anthony Spadaccio, Fixed Utility Financial Analyst: Mr. Spadaccio anticipates addressing issues identified as one through six in the above listing.
- D.C. Patel, Fixed Utility Financial Analyst: Mr. Patel anticipates addressing issues identified as seven through 24 in the above listing.
- Ethan Cline, Fixed Utility Valuation Engineer: Mr. Cline anticipates addressing issues identified as 25 through 34 in the above listing.
- Joseph Kubas, Fixed Utility Valuation Engineer Supervisor: Either in conjunction with Mr. Cline or instead of Mr. Cline (depending on availability and resources) Mr. Kubas may address some or all of the issues identified as 25 through 34 in the above listing.

The I&E witnesses may be contacted through the contact information listed above for Ms. Miller. I&E reserves the right to substitute witnesses or call additional witnesses if warranted.<sup>1</sup> All active parties will be notified of any amendments to the I&E witness list.

### **IV. EVIDENCE**

I&E expects to present all written direct, rebuttal, surrebuttal, and, if necessary, supplemental, testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on PAWC's filing, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports. However, there may be issues of Commission policy or legal representation 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

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<sup>1</sup> The above issues list is provided without analysis of the positions of all parties to this proceeding and without the benefit of completed discovery.

reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed through briefing.

## **V. DISCOVERY**

I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:<sup>2</sup>

1. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
5. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
7. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due dates for any responses.

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<sup>2</sup> At the time that I&E prepared this document on June 24, 2022, I&E understood that there was no opposition to these proposed modifications; however, I&E will defer to parties to indicate any opposition during the prehearing conference for Your Honor's consideration.

## **VI. SCHEDULE**

I&E has been working extensively with PAWC and other interested parties in an attempt to develop a proposed schedule that will be mutually agreeable. I&E offers the following procedural schedule for Your Honor and parties' consideration:

Non-PAWC Direct Testimony	July 29, 2022
Rebuttal Testimony	August 19, 2022
Surrebuttal Testimony	September 1, 2022
Evidentiary Hearings <sup>3</sup>	September 8-9 and 12-14, 2022
Main Briefs	September 29, 2022
Reply Briefs	October 11, 2022

## **VII. SERVICE OF DOCUMENTS**

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony, and briefs, and consistent with the provisions of the Commission's September 15, 2021 Order for Waiver of Regulations Regarding Service Requirements, I&E proposes to both only serve and accept electronic delivery of documents. If ALJ Cheskis and/ or any party prefers to have additional service (or "hard copies") of documents by mail, I&E will certainly provide such service.

## **VIII. PUBLIC INPUT HEARINGS**

I&E intends to fully participate in all public input hearings deemed warranted in this case. Additionally, I&E advocates for the use of telephonic hearings public input hearings where possible.

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<sup>3</sup> At the time that I&E prepared this document on June 24, 2022, I&E was unaware of any opposition to this proposal other than that certain parties would require flexibility of witness and/or issue presentation. I&E also understood that parties agreed that it would be prudent to conduct the hearings telephonically, and I&E agrees. However, I&E will defer to parties to present their position during the prehearing conference on June 27 for Your Honor's consideration.



## IX. SETTLEMENT

I&E is committed to participating in settlement discussions and is willing to work with the parties to reach a resolution of any or all issues. In the event settlement discussions fail to result in a complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding as warranted.

Respectfully submitted,



Gina L. Miller  
Prosecutor  
PA Attorney ID No. 313863

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Date: June 24, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket No. R-2022-3031672
v.	:	R-2022-3031673
	:	
Pennsylvania-American Water Company	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated June 24, 2022, in the manner and upon the persons listed below:

**Served via Electronic Mail Only**

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