

Morgan Lewis

Kenneth M. Kulak

Partner

+1.215.963.5384

ken.kulak@morganlewis.com

June 24, 2022

VIA eFILING

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 and R-2022-3031673**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matters is the **Petition of Pennsylvania-American Water Company for Protective Order** (the "Petition"). Copies of the Petition have been served in accordance with the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

KMK/tp
Enclosures

c: Per Certificate of Service (w/encls.)

Morgan, Lewis & Bockius LLP

1701 Market Street
Philadelphia, PA 19103-2921
United States

T +1.215.963.5000
F +1.215.963.5001

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	DOCKET NOS. R-2022-3031672 R-2022-3031673
	:	
v.	:	
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Petition of Pennsylvania-American Water Company for Protective Order**, on the persons below in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

The Honorable Joel H. Cheskis
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street, Second Floor
Harrisburg, PA 17120
jcheskis@pa.gov

Erin K. Fure
Steven C. Gray
Office of Small Business Advocate
555 Walnut Street
Forum Place – First Floor
Harrisburg, PA 17101
efure@pa.gov
sgray@pa.gov

Gina L. Miller
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
ginmiller@pa.gov

Laura Antinucci
Erin Gannon
Mackenzie C. Battle
Lauren E. Guerra
Pennsylvania Office of Consumer
Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101
ocapawc2022@paoca.org

Joseph L. Vullo
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlullo@bvrrlaw.com
Counsel for CEO

Amee L. Mazzaresse
Dickie, McCamey & Chilcote, P.C.
Attorneys at Law
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
amazzaresse@dmclaw.com
Counsel for Cleveland-Cliffs Steel

Joan E. London
Kozloff Stoudt
Professional Corporation
2640 Westview Drive
Wyomissing, PA 19610
jlondon@kozloffstoudt.com
*Counsel for Borough of St.
Lawrence, Berks County, PA*

Ria M. Pereira
Lauren N. Berman
John W. Sweet
Elizabeth R. Marx
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Kurt J. Boehm
Jody Kyler Cohn
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
Counsel for Cleveland-Cliffs Steel

Tucker R. Hull
J. Chadwick Schnee
Law Office of Tucker R. Hull, LLC
108 West Main Street
P.O. Box 330
Annville, PA 17003
tucker@tucker-hull-law.com
chadwick@tucker-hull-law.com
Counsel for Exeter Township

Adeolu A. Bakare
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
abakare@mcneeslaw.com
Counsel for PAWLUG

Karen O. Moury
Eckert Seamans Cherin & Mellott, LLC
213 Market Street – 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
Counsel for Victory Brewing Company

Lauren M. Burge
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street – 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com
Counsel for Victory Brewing Company

Zachary D. O'Brien
231 Walnut Road
McDonald, PA 15057
obrien1280@gmail.com

Maria Elena Selznick
120 Lost Lantern Lane
East Stroudsburg, PA 18301
mseznick@yahoo.com

Mark Henderson
5425 East Lorane Road
Reading, PA 19606
markwh24@ptd.net

Jeff Henry
4621 Hillside Road
Reading, PA 19606
jeffhenry1@me.com

Keith Sauer
4824 Farming Ridge Boulevard
Reading, PA 19606
keith.j.sauer@gmail.com

Simeon Dobrev and Poli Iordanova
4210 Blue Mountain Crossing
East Stroudsburg, PA 18301
sd2734@yahoo.com

Carl E. Meyer
100 Grayhawk Way South
Mechanicsburg, PA 17050
carl.meyer@yahoo.com

Ivan Figueroa
432 Drycove Street
Pittsburgh, PA 15210
ivanfigueroa60@gmail.com

James Pagel
57 Narragansett Lane
Coatesville, PA 19320
J.Pagel47@gmail.com

William H. Rissmiller
1006 Hickory Lane
Reading, PA 19606
Whr19606@ptd.net

Jerome and Sheryl Rodzinak
181 Matson Avenue
Wilkes-Barre, PA 18705
zibadaun@frontiernet.net

Stephen T. Nardi
P.O. Box 224
146 Church Street
Claysville, PA 15323
nardiseast@gmail.com

Ramkrishna Sen
19 Evans Road
Norristown, PA 19403
Rksen1@gmail.com

Earl Knight
835 West Chestnut Street
Coatesville, PA 19320
eknight475@aol.com

Bridget L. Salkowski
4382 Hillside Road
Reading, PA 19606
bridgetlea115@yahoo.com

Sabatini Monatesti
919 Belair Drive
Berwick, PA 18603-2438
smonatesti@verizon.net

Barbara Cetnarowski
138 Butternut Street
Clairton, PA 15025
jmcbac@comcast.net

Tacy Rutherford
60-2 Mint Tier
Reading, PA 19606
scotacy@icloud.com

Trish E. Luberd
31 Whitetail Lane
Reading Station, PA 19606-9490
trish.luberd@gmail.com

Nathan Woodford
6 Okmed Drive
Birdsboro, PA 19606-1166
nathwoodford@gmail.com

Amanda Barto-Ealy
102 Lawrence Avenue
Butler, PA 16001
mandaln79@gmail.com

Sean Seidel
1340 Butter Lane
Reading, PA 19606
sseidel@comcast.net

LeRoy James Watters, III
#1 East Indian Lane
Norristown, PA 19403-3507
ljameswatters3@gmail.com

Latrese Laporte
2309 Snapdragon Street
East Stroudsburg, PA 18301
latrese.laporte@yahoo.com

Kathleen E. Jeffries
944 Mill Court
Bridgeville, PA 15017-1115
kejeffries@hotmail.com

Michael L. Pope
8607 Spruce Mill Drive
Yardley, PA 19067
mloringpope@gmail.com

John Palermo
2828 Dwight Avenue
Pittsburgh, PA 15216
palermojl@yahoo.com

Samantha Maize
16 Freedom Drive South
Bridgeville, PA 15017
samantha.maize@yahoo.com

Jorge Salazar
2328 Snapdragon Point
East Stroudsburg, PA 18301
jorge.m.salazar@gmail.com

Frank and Denise Piccola
284 Eastshore Drive
East Stroudsburg, PA 18301
frankpiccola@live.com

Hao Larry Tang
22 Shelduck Lane
Mechanicsburg, PA 17050
haotang@live.com

Darlene Nychey
5070 Brownsville Road
Pittsburgh, PA 15236
darlene.starfish@gmail.com

Lisa Inmon
4625 Painted Sky Road
Reading, PA 19608
lisainmon@icloud.com

Jessica Weiss
729 Orchard Street
Carnegie, PA 15106
weissjessica22@yahoo.com

Brian Kalcic
Excel Consulting
7330 Dorset Avenue
St. Louis, MO 63130
excel.consulting@sbcglobal.net
Consultant for OSBA

Aaron Rothschild
Edgar Bandera
Rothschild Financial Consulting
ocapawc2022@paoca.org
Consultant for OCA

Barbara Alexander
Barbara Alexander Consulting
ocapawc2022@paoca.org
Consultant for OCA

Jerome Mierzwa
Exeter Associates
ocapawc2022@paoca.org
Consultant for OCA

Ralph Smith
Dawn Bisdorf
Megan Cranston
Mark Dady
Larkin & Associates
ocapawc2022@paoca.org
Consultants for OCA

Roger Colton
Fisher, Sheehan & Colton
ocapawc2022@paoca.org
Consultant for OCA

Terry Fought
ocapawc2022@paoca.org
Consultant for OCA

Ethan Cline
etcline@pa.gov
Consultant for I&E

DC Patel
dupatel@pa.gov
Consultant for I&E

Anthony Spadaccio
aspadaccio@pa.gov
Consultant for I&E

Christine Wilson
cswilson@pa.gov
Consultant for I&E

Joe Kubas
jkubas@pa.gov
Consultant for I&E

Lisa Gumby
lgumby@pa.gov
Consultant for I&E

Richard A. Baudino
J. Kennedy & Associates
1347 Frye Road
Westfield, NC 27053
rbaudino@jkenn.com
Consultant for Cleveland-Cliffs Steel

VIA FIRST CLASS MAIL

Lisa Tunzi
204 Susquehanna Avenue
West Pittston, PA 18643

Meade Buffington
950 Orchard Avenue – Lot 39
Camp Hill, PA 17011

Paul J. Walaski
65 Depot Street
Forest City, PA 18421



Kenneth M. Kulak (Pa. No. 75509)
Catherine G. Vasudevan (Pa. No. 210254)
Brooke E. McGlinn (Pa. No. 204918)
Mark A. Lazaroff (Pa. No. 315407)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
215.963.5384 (bus)
215.963.5001 (fax)
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com
mark.lazaroff@morganlewis.com

Dated: June 24, 2022

*Counsel for
Pennsylvania American Water Company*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	Docket No. R-2022-3031672
	:	Docket No. R-2022-3031673
v.	:	
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	

**PETITION OF PENNSYLVANIA-AMERICAN WATER COMPANY FOR
PROTECTIVE ORDER**

Pennsylvania-American Water Company (“PAWC” or the “Company”) files this Petition pursuant to 52 Pa. Code § 5.423(b) for the entry of a Protective Order, in the form attached hereto as Appendix A, to limit the disclosure of confidential and proprietary information (“Confidential Information”) produced in discovery or submitted for the record by any party in the above-referenced matter, including Confidential Information filed as part of PAWC’s supporting data. In further support of this Petition, PAWC states as follows:

1. On April 29, 2022 filed Supplement No. 35 to Tariff Water — Pa. P.U.C. No. 5 and Supplement No. 34 to Tariff Wastewater — Pa. P.U.C. No. 16 together with the supporting data required by the Commission’s regulations at 52 Pa. Code § 53.52 *et seq.*, requesting a general rate increase under Section 1308(d) of the Public Utility Code (66 Pa. C.S. § 1308(d)).

2. As part of its supporting data, PAWC submitted documents containing Confidential Information directly to Pennsylvania Public Utility Commission (“Commission”) Secretary Rosemary Chiavetta. The documents containing Confidential Information were submitted by PAWC bearing a legend stating that appropriate protection of such Confidential Information had been requested, and pending further action by the Commission, such Confidential Information should not be disclosed to the public. The

Commission's regulations at 52 Pa. Code § 5.365(b) provide that the Commission will not disclose such documents or the information contained therein pending its decision on a Petition for Protective Order.

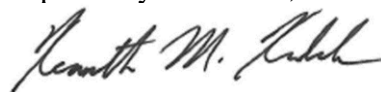
3. PAWC has received, and expects to continue to receive, interrogatories that may require the production of Confidential Information or documents containing Confidential Information. Additionally, in the course of this proceeding, parties other than PAWC may be requested to produce information and documents they consider confidential. Accordingly, the entry of a Protective Order covering Confidential Information produced by any party in response to discovery and Confidential Information that parties may seek to introduce in evidence will facilitate the orderly and efficient progress of this proceeding.

4. The form of Protective Order attached as Appendix A is the same or similar to Protective Orders entered in other base rate case proceedings involving PAWC.¹

¹ *E.g., Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371, First Interim Order Granting Respondent's Petition for Protective Order (June 26, 2020) (Administrative Law Judge Conrad A. Johnson); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-2017-2595853, Protective Order – Order Granting Protective Order (June 6, 2017) (Administrative Law Judges Dennis J. Buckley and Benjamin J. Myers).

WHEREFORE, for all of the foregoing reasons, this Petition should be granted and a Protective Order in the form attached hereto as Appendix A should be issued.

Respectfully submitted,



Kenneth M. Kulak (PA I.D. No. 75509)
Catherine G. Vasudevan (PA I.D. No. 210254)
Brooke E. McGlinn (PA I.D. No. 204918)
Mark A. Lazaroff (PA I.D. No. 315407)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
215.963.5034 (bus)
215.963.5001 (fax)
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com
mark.lazaroff@morganlewis.com

Susan S. Marsh (PA I.D. No. 44689)
Elizabeth R. Triscari (Pa. I.D. No. 306921)
Teresa K. Harrold (PA I.D. No. 311082)
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
717.550.1570 (bus)
susan.marsh@amwater.com
elizabeth.triscari@amwater.com
teresa.harrold@amwater.com

Dated: June 24, 2022

*Counsel for
Pennsylvania-American Water Company*

APPENDIX A

FORM OF PROTECTIVE ORDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	Docket No. R-2022-3031672
	:	Docket No. R-2022-3031673
v.	:	
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	
	:	

PROTECTIVE ORDER

This Protective Order is hereby GRANTED with respect to all documents and information, as identified below, produced or presented, or hereafter produced or presented in this proceeding. All persons now or hereafter granted access to such documents and/or information shall use and maintain the same only in strict accordance with this Protective Order.

This Protective Order is being entered to facilitate the orderly production of information and documents during discovery and the presentation of evidence at the hearings in this case and to provide adequate protection of Confidential Information without prejudicing the rights of parties to have reasonable access to information that becomes part of the evidentiary record.

THEREFORE, IT IS ORDERED THAT:

1. Any information provided to the Pennsylvania Public Utility Commission (“Commission”) or any parties in connection with the above-captioned proceeding that a producing party claims constitutes or contains Confidential Information shall be specifically identified and marked as Confidential Information. The producing party shall designate data or documents as constituting or containing Confidential Information by affixing a conspicuous “CONFIDENTIAL” stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Confidential Information, the producing party, insofar as reasonably practicable within time constraints

imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Confidential Information and shall serve such documents separately from non-confidential information.

2. Each document and the information contained therein designated as “Confidential Information” shall be used by the recipient solely for purposes relating to the prosecution, review and processing of this proceeding and for no other purpose; and such documents and information shall be maintained in secure files, separate from public information, until returned to the producing party or destroyed pursuant to the terms hereof.

3. With respect to all Confidential Information, it is further ORDERED that:

(a) Access to the documents designated as “Confidential Information,” and to the information contained therein, shall be limited to the parties and their identified attorneys, employees, and consultants whose examination of the Confidential Information is required for the conduct of this proceeding.

(b) Recipients of Confidential Information shall not disclose the contents of the documents produced pursuant to this Protective Order to any person(s) other than their identified employees and any identified witnesses/consultants whom they may retain in connection with this proceeding, irrespective of whether any such expert is retained specially and is not expected to testify, or is called to testify in this proceeding. All employees (except Bureau of Investigation & Enforcement (“BI&E”) witnesses who are full-time employees and shall be entitled to receive documents without individually executing a Certification), consultants or experts of any of the parties bound by this Protective Order who are to receive copies of documents or information produced pursuant to this Protective Order shall have executed a copy of the Certification attached hereto as Appendix A, which executed

Certification shall be forthwith provided to counsel for the producing party with copies to counsel for other parties. The BI&E Prosecutors who enter an appearance in this proceeding shall represent that all BI&E witnesses/employees will be bound by this Protective Order.

(c) No other disclosure of Confidential Information shall be made to any person or entity except with the express written consent of the producing party or upon further order of the Commission or of any Court of competent jurisdiction which may review these matters.

4. The acceptance by the parties of documents or information which has been identified and marked as Confidential Information shall not serve to create a presumption that the material is in fact entitled to any special status in these or any other proceedings. Accordingly, as provided in 52 Pa. Code § 5.365, a party receiving Confidential Information retains the right, either before or after receipt of such Confidential Information, to challenge the legitimacy of the claim that the information is proprietary. Any party may initiate such a challenge by notifying the Commission, with reasonable notice to all other parties, that it wishes to challenge the designation of the material as Confidential Information. In that event, the producing party, as the provider of the Confidential Information, shall have the burden of proving that the material is entitled to protected status. However, notwithstanding such challenge, all parties shall continue to treat the documents and information subject to challenge as Confidential Information in accordance with the terms of this Protective Order, pending resolution by the Commission of the dispute as to its status.

5. The producing party retains the right to seek restrictions on the production, distribution and use by other parties of the Confidential Information beyond the protection expressly afforded such Confidential Information by this Protective Order.

6. This Protective Order shall not operate as a determination, for any purpose, that any documents or information produced pursuant to this Protective Order are either admissible or inadmissible in these or any other proceedings.

7. Documents or other materials containing Confidential Information filed with the Commission in this proceeding, including but not limited to pre-filed testimony and pre-filed exhibits, shall be labeled “CONFIDENTIAL” and shall be deemed filed under seal. During evidentiary hearings, if any, in this proceeding, all persons present for such hearings shall be subject to the terms of this Protective Order and may be required to so affirm for purposes of the record. The portion of the record containing the Confidential Information, including the portions of transcripts of oral testimony discussing Confidential Information, shall be placed under seal.

8. The Commission and any other state agency that may have access to, or receive copies of, the Confidential Information will deem and treat such information as within the exemption from disclosure provided in the Pennsylvania Right-to-Know Act set forth in 65 P.S. § 67.708(b) until such time as the information may be found to be non-proprietary by the Commission or by a court of competent jurisdiction.

9. Confidential Information which is placed on the record of this proceeding under seal shall remain with the Commission under seal after the conclusion of the proceeding. If such Confidential Information is provided to appellate courts for the purposes of appeal(s) from this proceeding, such information shall be provided, and shall remain, under seal.

10. Upon the final resolution of proceedings in which Confidential Information has been provided, which includes the exhaustion of appeals, if any, all documents and other materials containing Confidential Information shall, within thirty (30) days of the producing party’s request, be either: (1) returned to counsel for the producing party; or (2) destroyed. If a

receiving party chooses to destroy the Confidential Information, then it shall, in the case of the BI&E, notify the producing party, and in the case of all other parties, certify to the producing party, that the Confidential Information has been destroyed by it and its employees, consultants, and other representatives, and that the terms of this Protective Order have been satisfied.

Provided, however, that the BI&E, the Office of Consumer Advocate, and the Office of Small Business Advocate may maintain in their official files copies of all pleadings, briefs, statements, exhibits and transcripts in this proceeding and, further provided, that all such pleadings, briefs, statements, exhibits and transcripts containing Confidential Information shall remain subject to the terms of this Protective Order.

11. A single copy of documents returned to the producing party or certified as destroyed upon resolution of this proceeding, as provided in this Protective Order, shall be kept on file at the producing party's offices for two years after the final resolution of this proceeding, as defined previously, for review by the parties under the terms of this Protective Order upon at least twenty days' notice to counsel for the producing party.

12. The issuance of this Protective Order shall not prejudice the producing party's right to challenge the production of any documents or information sought in discovery by any party on the grounds that such documents or information are not properly discoverable.

IT IS HEREBY ORDERED:

Dated: _____, 2022

Deputy Chief Administrative Law Judge Joel H. Cheskis

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	Docket No. R-2022-3031672
	:	Docket No. R-2022-3031673
v.	:	
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	
	:	

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party).

The undersigned has read, and understands that, the Protective Order deals with the treatment of Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE