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June 30, 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 a **Stipulation** entered into by Pennsylvania-American Water Company (“PAWC”) and the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement regarding the PAWC’s Motion for Leave to File Supplemental Direct Testimony filed on June 24, 2022 (the “Stipulation”). Copies of the Stipulation 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.)

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**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 enclosed **Stipulation** on the persons below in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

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Dated: June 30, 2022

Counsel for
Pennsylvania American Water Company

DB1/ 131253266.1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

STIPULATION

This Stipulation is entered into by and between Pennsylvania-American Water Company (“PAWC” or the “Company”) and the Pennsylvania Public Utility Commission (the “Commission”) Bureau of Investigation and Enforcement (“I&E”)¹ to resolve issues raised in the Motion for Leave to File Supplemental Direct Testimony filed by PAWC in this matter.

I. INTRODUCTION

1. This case was initiated on April 29, 2022, when PAWC filed Supplement No. 35 to Tariff Water – PA P.U.C. No. 5 (“Tariff No. 5”) and Supplement No. 34 to Tariff Wastewater PA P.U.C. No. 16 (“Tariff No. 16”) with the Pennsylvania Public Utility Commission (“Commission”). By Orders issued June 16, 2022, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of PAWC’s existing and proposed rates, rules and regulations. Accordingly, Tariff Nos. 5 and 16 were suspended by operation of law until January 28, 2023.²

2. The pension and other post-employment benefit (“OPEB”) expense claims presented in PAWC’s initial water and wastewater rate filing were based on calculations

¹ The Office of Consumer Advocate and Office of Small Business Advocate have authorized the Company to represent that they do not oppose this Stipulation or the Motion with testimony as revised by Exhibit 1.

² *Pa. P.U.C. v. Pennsylvania-American Water Company*, Docket Nos. R-2022-3031672 and R-2022-3031673 (Orders entered June 16, 2022).

prepared by WTW (f/k/a Willis Towers Watson), a national actuarial firm. PAWC's position is that due to rapidly changing market conditions, updated actuarial calculations show a substantial change in these expense categories as compared to the initial filing.

3. On June 24, 2022, after the Commission's close of business, PAWC filed the Motion to file the limited scope Supplemental Direct Testimony of Ashley E. Everette and John R. Popiolek, which was attached to the Motion as Appendix A and B, respectively, to address updated projections of changes in the forecast of PAWC's allocated portion of pension and postretirement welfare plan costs due to rapid declines in global investment returns during 2022. Ms. Everette's Supplemental Direct Testimony included a request for deferral accounting of fluctuations in PAWC's pension and OPEB expense that PAWC avers are caused by extreme volatility in market conditions.

4. At the Prehearing Conference held before Deputy Chief Administrative Law Judge Joel H. Cheskis (the "ALJ") on June 27, 2022, I&E stated its intent to file a written response objecting to PAWC's Motion. I&E also indicated that PAWC has an obligation to supplement discovery responses for any updated claim pursuant to 52 Pa. Code §5.332, and PAWC's counsel agreed that PAWC had such obligation. The ALJ established a deadline of July 1, 2022 for parties to file Answers to PAWC's Motion, and he requested that I&E's counsel include a reference to PAWC's obligation pursuant to 52 Pa. Code §5.332 when I&E submitted its response.

5. Thereafter, the Company engaged in various discussions with I&E. As a result of those discussions, I&E and PAWC have reached the agreement reflected in this Stipulation that resolves all issues with respect to PAWC's Motion as described in Section II below.

II. TERMS OF THE STIPULATION OF SETTLEMENT

6. The Company and I&E stipulate and agree as follows:

A. PAWC agrees to withdraw the Company's request presented in Ms. Everett's Supplemental Direct Testimony (PAWC Statement No. 1 Supplemental) for Commission approval to record any differences in actual pension and OPEB costs from the amounts authorized in rates as a regulatory asset or liability, as appropriate, from the effective date of new rates in this proceeding until PAWC's next base rate case. Accordingly, upon the execution of this Stipulation, the Company will promptly file a revised exhibit to the Motion with updated testimony by Ms. Everett that does not include the Company's request to record differences in pension and OPEB costs as a regulatory asset or liability. A blackline version of Ms. Everett's testimony as revised is attached as Exhibit 1 to this Stipulation.

B. PAWC acknowledges its regulatory obligation, pursuant to 52 Pa. Code §5.332, Supplementing Responses, that it is under a continuing duty to amend prior responses that are now incorrect or incomplete as a result of its Supplemental Direct Testimony that is not withdrawn by this Stipulation.

C. In light of the Company's agreement to withdraw the request as described in the preceding paragraph 6.A, I&E agrees not to oppose the Motion with testimony as revised by Exhibit 1.

D. The Stipulating Parties agree that PAWC reserves the right to file a Petition, in a separate proceeding, for Commission authorization to defer for accounting purposes any alleged fluctuations in the Company's pension and OPEB expenses that it avers are caused by extreme volatility in market conditions. PAWC will retain the burden of proof for all future

claims and this Stipulation cannot be construed as operating as any party's assent that PAWC's claims regarding expenses and market conditions are accurate or preapproved.

Stipulated and agreed this 30th day of June 2022.

PENNSYLVANIA-AMERICAN WATER
COMPANY



By: Susan S. Marsh
Deputy General Counsel for PAWC

BUREAU OF INVESTIGATION AND
ENFORCEMENT



By: Gina L. Miller
Counsel for I&E

EXHIBIT 1

Revised Supplemental Direct Testimony of Ashley E. Everette

PAWC STATEMENT NO. 1 SUPPLEMENTAL

**TESTIMONY
OF
ASHLEY E. EVERETTE**

WITH REGARD TO

**UPDATES TO PENSION AND OTHER POST-RETIREMENT BENEFITS EXPENSE
~~AND REQUEST FOR ACCOUNTING DEFERRAL~~**

**DOCKET NOS.
R-2022-3031672 (WATER)
R-2022-3031673 (WASTEWATER)**

DATE: JUNE 24, 2022

1 **Q. What is your name and business address?**

2 A. My name is Ashley E. Everette. My business address is 852 Wesley Drive,
3 Mechanicsburg, Pennsylvania 17055. I am employed by American Water Works Service
4 Company (“Service Company”) as Senior Director of Rates and Regulatory for
5 Pennsylvania-American Water Company (“PAWC” or the “Company”).

6 **Q. Have you submitted any other testimony in this proceeding?**

7 A. Yes, I submitted PAWC Statement No. 1. I also sponsored portions of PAWC Exhibit 3-
8 A.

9 **Q. What is the purpose of your supplemental direct testimony in this proceeding?**

10 A. The purpose of my supplemental direct testimony is to address PAWC’s updated claim
11 for pension and OPEB expense in the Fully Projected Future Test Year (“FPFTY”). As
12 Company witness John Popiolek explains in Statement No. 15 (Supplemental), due to a
13 significant decline in global investment returns, PAWC’s pension and OPEB expense is
14 projected to increase significantly beyond the level of expense originally forecasted for
15 2023.

16 **Q. What is the revised level of pension expense that the Company is claiming for 2023?**

17 A. The chart below summarizes the Company’s revised pension and OPEB expense claims
18 which are based on actual and projected calculations by Willis Towers Watson. The
19 amounts are shown separately by PAWC’s direct employee costs and PAWC’s expense
20 associated with the Service Company. Please refer to Schedules AEE-3 and AEE-4 for
21 detailed support of the calculations.

1

| | PAWC (As Filed) | PAWC (Revised) | Change |
|--------------|-----------------|----------------|-------------|
| 2023 Pension | (\$6,290,682) | \$774,425 | \$7,065,107 |
| 2023 OPEB | (\$6,648,420) | (\$5,637,157) | \$1,011,263 |

2

| | AWWSC (As Filed) | AWWSC (Revised) | Change |
|--------------|------------------|-----------------|-------------|
| 2023 Pension | (\$417,125) | \$803,223 | \$1,220,348 |
| 2023 OPEB | (\$388,790) | (\$329,005) | \$59,785 |

3

4 **Q. Please summarize the Company’s request with regard to the pension and OPEB**
5 **expense.**

6 A. The Company requests the Commission authorize the revised level of expense identified
7 in the chart above for recovery in this proceeding. ~~Furthermore, given the significant~~
8 ~~fluctuation in this expense, the Company requests that the Commission allow the~~
9 ~~Company to record any amounts above or below the amount authorized in rates to a~~
10 ~~regulatory asset or liability, as appropriate, from the effective date of new rates in this~~
11 ~~proceeding until the Company’s next base rate case.~~

12 ~~Q. Please describe the Company’s request for accounting deferral with respect to this~~
13 ~~expense.~~

14 ~~A. The Company requests that through the conclusion of the Company’s next rate proceeding,~~
15 ~~the Company be permitted to record any amounts above or below the projected level of~~
16 ~~expense into a regulatory asset or liability. At the time of the next rate proceeding, if the~~
17 ~~volatility is continuing, the Company will address any request to continue regulatory asset~~
18 ~~or liability treatment. Q. Please discuss the circumstances under which an~~
19 ~~accounting deferral is appropriate.~~

1 ~~A. Accounting deferral is appropriate when the event is extraordinary, nonrecurring,~~
2 ~~unanticipated, outside the control of the Company, and will have a significant financial~~
3 ~~impact on the Company. The standard which a utility must meet when seeking Commission~~
4 ~~authorization for deferral accounting is whether, based on Commission precedent, the~~
5 ~~financial impact appears to be within the scope of the type of items that the Commission~~
6 ~~has allowed as an exception to the general rule against retroactive recovery of past expenses~~
7 ~~in order to provide the utility an opportunity to claim the expenses for recovery in a future~~
8 ~~proceeding.~~

9 ~~**Q. Why is it appropriate that the Company be permitted to record the amount of**~~
10 ~~**pension and OPEB expense above or below the amount authorized in rates to a**~~
11 ~~**regulatory asset or liability?**~~

12 ~~A. The pension and OPEB expense increase is extraordinary, as discussed in more detail by~~
13 ~~Mr. Popiolek. The level of fluctuation in this expense from year to year can change~~
14 ~~drastically based on market fluctuations and the factors that Mr. Popiolek discusses in his~~
15 ~~testimony. Finally, the \$9 million¹ fluctuation in these expenses is a significant impact for~~
16 ~~the Company, representing more than 3% of total O&M expenses in the historic test year.~~
17 ~~In addition, counsel has advised me that the significant fluctuation in the pension and~~
18 ~~OPEB expense is within the scope of the type of items that the Commission has allowed~~
19 ~~as an exception to the general rule against retroactive recovery.~~

20 ~~As described above and in the testimony of Mr. Popiolek, the Company is seeing~~
21 ~~extreme volatility in this expense. This fluctuation is outside of the Company's control~~
22 ~~and is a significant expense for PAWC. At this point, the Company cannot predict if the~~

¹ \$7.1 million PAWC pension + \$1.0 million PAWC OPEB + \$1.2 million Service Company pension + \$0.06 million Service Company OPEB.

1 ~~market will continue to fluctuate in this manner. The extreme volatility of these expenses~~
2 ~~is not within the Company's control. The purpose of the Company's request for deferral~~
3 ~~is to both protect the Company's customers if the expense were to significantly decrease~~
4 ~~in the future, as well as to allow the Company the opportunity to claim in a future~~
5 ~~proceeding the increased levels of cost, without assertions that such costs are out of test-~~
6 ~~year items.~~

7 **Q. Will this increased level of expense change the amount of additional revenue**
8 **requirement that the Company is requesting the Commission approve in this**
9 **proceeding?**

10 A. With this additional expense, the Company can support a higher level of revenue
11 requirement than was originally requested in this proceeding. However, the Company is
12 not requesting approval for more than the \$173.2 million initially requested in this case
13 and noticed to customers.

14 **Q. Does that conclude your supplemental direct testimony at this time?**

15 A. Yes, it does.