

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
HARRISBURG, PA 17120**

Public Meeting held July 14, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
John F. Coleman, Jr., Vice Chairman  
Ralph V. Yanora

Application of The York Water Company –  
Wastewater for approval of the rights to: (1) acquire  
certain wastewater system assets from Country View  
Manor Community, LLC; and (2) offer, render, furnish  
and supply wastewater service to the public in a  
portion of Washington Township, York County

Docket No.  
A-2021-3030076

**ORDER**

**\*\*REDACTED VERSION\*\***

**BY THE COMMISSION:**

By the application (Application) filed on December 15, 2021, The York Water Company – Wastewater (York Water-WW), Utility Code 230087, 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 York Water-WW’s rights to: (1) acquire certain wastewater system assets from Country View Manor Community, LLC (Country View); and (2) offer, render, furnish and supply wastewater service to the public in a portion of Washington Township, York County.

## **I. AFFECTED ENTITIES AND BACKGROUND**

York Water-WW is a regulated public utility company, duly organized and existing under the laws of the Commonwealth with its office located at 130 East Market Street, York, Pennsylvania 17401. As of December 31, 2020, York Water-WW furnished wastewater service to approximately 3,280 customers in all or portions of eight municipalities throughout York, Adams, and Franklin Counties. York Water-WW is a division of The York Water Company (York Water) and York Water furnishes water service to approximately 69,401 customers in portions of York and Adams Counties.

Country View is a Pennsylvania limited liability company, duly organized and existing under the laws of the Commonwealth with a mailing address of 1045 Lake Road, Spring Grove, Pennsylvania 17362, according to Pennsylvania Department of State public records.<sup>1</sup> Country View owns and operates a wastewater collection, conveyance, treatment and disposal system and related assets (Wastewater System). As of November 29, 2021, Country View furnished wastewater service to 53 customers (Proposed Customers), including 52 residential customers located within Country View's mobile home park (Country View's MHP) and one customer located on an adjacent parcel of land (Additional Customer). Country View's MHP currently has a total capacity of 54 residential sites. Water service within Country View's MHP is provided by Country View, whereas water service for the Additional Customer is provided by a separate, on-lot private water well.

As discussed further in Section IV, below, York Water-WW reached an agreement with Country View to acquire the Wastewater System pursuant to the Asset Purchase Agreement between the parties dated May 27, 2020 (APA). York Water proposed to acquire and operate Country View's water assets (Water System) through a separate application at Docket No. A-2021-3029961, which was approved on May 12, 2022.

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<sup>1</sup> See <https://www.corporations.pa.gov/search/corpsearch>, retrieved June 6, 2022.

York Water-WW submitted proofs of publication and service to the appropriate entities. Notice of the Application was published in the *Pennsylvania Bulletin*, 52 Pa.B. 146, on Saturday, January 1, 2022. The protest period ended January 18, 2022. No protests were filed, and no hearings were held.

## **II. LOCATION OF FACILITIES TO BE ACQUIRED**

York Water-WW provided a map and written description of the requested service territory in the Application's Exhibits E and F, respectively. The requested territory is situated in the southwestern portion of Washington Township, near the Adams County border, along the northern side of Roland Road, west of Roland Road's intersection with the Baltimore Pike. The requested territory consists of an area of approximately 25 acres and is comprised of two land parcels containing Country View's MHP and the Additional Customer.

## **III. DESCRIPTION OF FACILITIES FURNISHING SERVICE**

York Water-WW will acquire substantially all the Wastewater System, including: one extended aeration wastewater treatment plant (WWTP); one 1,000-gallon grease interceptor system; two wastewater pumping stations; approximately 850 linear feet of eight-inch diameter polyvinyl chloride (PVC) gravity main; approximately 3,036 linear feet of six-inch diameter PVC gravity main; and approximately 643 linear feet of two-inch diameter PVC force main. An inventory of the Wastewater System's assets was provided in the Application's Exhibit I. In supplemental information filed with the Commission, York Water-WW averred that information regarding the Wastewater System's service laterals, including quantities, lengths, sizes, and material types, is unavailable. York Water-WW committed to completing a detailed Wastewater System inventory as part of an original cost study.

York Water-WW stated that in 2020, the Wastewater System's average daily flow was approximately 8,000 gallons per day (GPD) with a permitted treatment capacity of

12,500 GPD.<sup>2</sup> Also, in supplemental information filed with the Commission, York Water-WW averred that no additional facilities are necessary to provide adequate wastewater collection, conveyance, treatment and disposal capacity for existing customer demands.

#### **IV. ASSET PURCHASE AGREEMENT**

York Water-WW and Country View's APA outlined the terms of York Water-WW's purchase of the Wastewater System. A confidential copy of the APA was included in the Application as Exhibit G. York Water-WW averred that the APA was based on arm's length negotiations and that York Water-WW and Country View are not affiliated. York Water-WW noted the Wastewater System's purchase price is \$3,750, which reflects 50% of a \$7,500 payment to Country View for the purchase of both the Water and Wastewater Systems.

**[BEGIN CONFIDENTIAL]**

**[END**

**CONFIDENTIAL]**

York Water-WW stated that there have been no contributions toward Wastewater System construction and that the Wastewater System has no outstanding PENNVEST

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<sup>2</sup> In supplemental information filed with the Commission, York Water-WW indicated that Country View is unable to provide WWTP design documents, but WWTP planning and permitting documents indicate a capacity of 12,500 GPD.

loans. However, York Water-WW also stated that the Wastewater System’s original cost is not available from Country View and that it will perform an original cost study for the Wastewater System. The following tentative journal entries for booking the transaction in York Water-WW’s accounts were provided in the Application:

<b>Account No.</b>	<b>Description</b>	<b>Debit</b>	<b>Credit</b>
101	Utility Plant in Service	\$100,000	
108	Accumulated Depreciation		\$72,500
114	Utility Plant Acquisition Adjustment	\$6,250	
105	Construction Work in Progress		\$33,750
	<b>Total</b>	<b>\$106,250</b>	<b>\$106,250</b>

In supplemental information filed with the Commission, York Water-WW clarified that its tentative journal entry for Construction Work in Progress included \$30,000 in estimated legal fees and associated costs to complete the transaction, which are in addition to the \$3,750 purchase price. Through this Order, we will direct York Water-WW to file a copy of its original cost study with the Commission upon completion of the study.<sup>3</sup> Also, we direct York Water to provide, at the time of filing its next base rate case that proposes to include the Wastewater System in rate base, testimony, specifically referencing this docket number, justifies any amount claimed in rate base, including capitalized transaction and closing costs, in order to evaluate the reasonableness of original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims pursuant to Section 1327 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1327.<sup>4</sup>

## **V. ADDITIONAL CAPITAL REQUIREMENTS**

In its Application, York Water-WW indicated that the Wastewater System’s purchase price and transaction costs discussed in Section IV above, will be financed by internally generated funds, proceeds from the issuance of common stock under York

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<sup>3</sup> See Ordering Paragraph No. 6.

<sup>4</sup> See Ordering Paragraph No. 7.

Water-WW's dividend reinvestment and direct and employee stock purchase plans, and, if necessary, borrowings against York Water-WW's line of credit.

## **VI. PROPOSED RATES**

York Water-WW will charge its proposed Washington Township Area metered and flat rates for wastewater service within the requested territory. Metered rates were included in a *pro forma* tariff supplement provided in the Application's Exhibit P. However, in supplemental information filed with the Commission, York Water-WW provided a revised *pro forma* tariff supplement to add proposed flat rates that would be charged for the period between York Water-WW's commencement of ownership and installation of individual water meters. York Water-WW provided a copy of a notice sent to Proposed Customers on July 6, 2021, describing the Application and the anticipated effect on rates for wastewater service as the Application's Exhibit K. In this notice, York Water-WW indicated that it would charge Proposed Customers a metered rate for wastewater service, and that a customer using 3,000 gallons of water per month would be charged \$40 per month.

After closing, and until individual water meters are installed, York Water-WW will charge Proposed Customers other than the Additional Customer a flat rate of \$45 per month for wastewater service. In supplemental information filed with the Commission, York Water-WW indicated that this rate is equivalent to the amount that would be charged to a wastewater customer with 4,000 gallons of water usage under proposed metered wastewater rates. Once individual water meters are installed, York Water-WW will charge Proposed Customers other than the Additional Customer a metered rate of \$40, which includes the first 3,000 gallons of water usage per month, plus \$5 per 1,000 gallons of water usage per month above 3,000 gallons.

York Water-WW averred that although Country View does not hold a certificate of public convenience from the Commission to provide public utility wastewater service, Country View charges the Additional Customer \$350 per year for wastewater service. In

supplemental information filed with the Commission, York Water-WW stated that Country View acquired the Wastewater System in September 2019 and was not aware at the time of closing that the Additional Customer was connected to the Wastewater System. The Additional Customer contacted Country View in April 2020 and communicated that they have been paying \$350 each May for annual wastewater service. Country View-WW honored that rate, and payments via checks for \$350 were received by Country View on May 18, 2020, and May 1, 2021. York Water-WW stated that it does not know whether the Additional Customer is paying for wastewater service in advance or arrears, but pursuant to the APA's Section 4.4, Country View will be responsible for any applicable refund or credit due to the Additional Customer. However, in the Application and consistent with the revised *pro forma* tariff supplement, York Water-WW indicated that it would charge the Additional Customer a monthly flat rate of \$50 since the Additional Customer is served by a private water well and, as such, there will be no York Water-owned water meter to measure the Additional Customer's water consumption.

York Water-WW provided an estimate of anticipated revenues and expenses in supplemental information filed with the Commission as a revised Exhibit N. Assuming the 52 Proposed Customers in the requested territory maintain an average water usage of 4,000 gallons per month, plus revenues and expenses from the Additional Customer, York Water-WW estimated that revenues and expenses for providing wastewater service within the requested territory would be \$28,680 and \$16,519, respectively, resulting in an estimated annual net income of \$12,161.

## **VII. PERMITS, EASEMENTS, AND RIGHTS-OF-WAY REQUIRED**

York Water-WW's acquisition of Country View's assets includes all authorizations and permits of or held by Country View. In the Application's Exhibit Q, York Water-WW provided a copy of Country View's Pennsylvania Department of Environmental Protection (DEP) National Pollutant Discharge Elimination System

(NPDES) Permit No. PA0086894, which authorizes Country View to discharge treated wastewater from Country View's WWTP.

On May 27, 2020, Country View and York Water-WW entered into a Permanent Utility and Access Easement agreement (Easement Agreement). A copy of the Easement Agreement was included in the Application as Exhibit G-1. The Easement Agreement provides York Water-WW the ability to construct, install, use, operate, inspect, repair, maintain, replace, enlarge, and remove wastewater facilities, together with rights of ingress, egress, and regress, within Country View's MHP. If Country View decides to terminate the Easement Agreement within 25 years following the grant of easements under the Easement Agreement, Country View may be required to pay York Water-WW an amount equal to the then-current depreciated original cost of York Water and York Water-WW facilities to be abandoned, at a cost not to exceed \$100,000, plus an additional payment of \$50,000. Further, if Country View decides to terminate the Easement Agreement within 10 years following the grant of easements under the Easement Agreement, Country View may be required to pay York Water-WW an amount equal to York Water's system-wide average repumping residential revenue per customer during the preceding calendar year, multiplied by 54, multiplied by the years remaining in the initial 10-year period. The Easement Agreement noted that these payments are intended to compensate York Water-WW for facility investments in the event Country View terminates operation of Country View's MHP.

### **VIII. OPERATIONS UNDER YORK WATER-WW**

In the Application, York Water-WW indicated that it would begin to provide wastewater service in the requested territory upon Commission approval of the Application and consummation of the transaction. York Water-WW averred that it intends to operate the Wastewater System on a standalone basis from its offices in York, Pennsylvania, about 16 miles from the Wastewater System, although its West York and Amblebrook operations are also located about 12 miles from the Wastewater System.

Also, York Water-WW stated that it has the technical, legal, and financial fitness to operate, maintain, and improve the Wastewater System to meet current and future customer needs.

## **IX. ACT 537 OFFICIAL SEWAGE FACILITIES PLANNING**

York Water-WW averred that because the transaction is a private-to-private asset and operations transfer, a special study for Washington Township's Act 537 Official Sewage Facilities Plan (Act 537 Plan) is not required. However, in supplemental information filed with the Commission, York Water-WW provided a copy of a Sewage Facilities Planning Module dated June 1994 (the 1994 Planning Module) regarding the Wastewater System. The 1994 Planning Module was conditionally approved by the Pennsylvania Department of Environmental Resources (DER), now DEP, by a letter dated January 19, 1995. A copy of DER's letter was provided in supplemental information filed with the Commission. Further, York Water-WW stated that its requested territory conforms with the current area served by the Wastewater System.

The 1994 Planning Module and a report dated June 1994 (1994 Report), which accompanied the 1994 Planning Module, described that the Wastewater System was proposed to serve a residential development, Country View's MHP, comprised of 20 existing mobile homes and 30 proposed mobile homes. The 1994 Planning Module identified projected wastewater flows of 12,500 GPD from 50 proposed connections. However, as discussed in Section I above, the Wastewater System serves 53 customers, including the Additional Customer, and only 52 of the 54 lots included in Country View's MHP are connected to the Wastewater System.

In supplemental information filed with the Commission, York Water-WW averred that while the 1994 Report does not clearly indicate the Additional Customer is covered by the 1994 Planning Module approval, it would not be in the public interest for the Additional Customer to be disconnected from the Wastewater System. The forced disconnection of the Additional Customer would require them to undertake the

considerable time and expense of securing a much less desirable alternative to the current wastewater service. Also, York Water-WW requested that it be granted all necessary Commission approvals so that the Additional Customer can continue to receive wastewater service, as they have from the Wastewater System since at least September 2019.

We note our concern as to the potential forced disconnection of any Proposed Customers and the related time and expense of securing desirable alternatives to wastewater service from York Water-WW due to technical and/or legal constraints. However, as a regulated public utility, York Water-WW will be expected to make such repairs, changes, alterations, substitutions, extensions, and improvements in or to wastewater services and/or the Wastewater System as shall be necessary or proper for the accommodation, convenience, and safety of its patrons and the public.<sup>5</sup> Thus, we find it necessary or proper, and in the public interest, to allow York Water-WW to continue to provide wastewater service to the Additional Customer after closing on this proposed transaction.

## **X. LAND-USE PLANNING COMPLIANCE**

York Water-WW provided a copy of a letter from the York County Planning Commission (YCPC), dated June 8, 2020, as the Application's Exhibit J. In this letter, YCPC indicated it believes York Water-WW's operation of the Wastewater System and service to Country View's MHP are consistent with the York County Comprehensive Plan. York Water-WW also provided a copy of a response letter from Washington Township, signed June 15, 2020, as the Application's Exhibit J-1. In this letter, Washington Township concurred the Application is consistent with applicable comprehensive plans and zoning ordinances.

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<sup>5</sup> See 66 Pa.C.S. § 1501.

The Application's Exhibit J included a copy of a map that excluded the parcel of land for the Additional Customer, as discussed in Section II of this Order. Regarding the parcel of land for the Additional Customer, in supplemental information filed with the Commission, York Water-WW specified that YCPC confirmed that wastewater service to this area conforms with applicable comprehensive plans and zoning ordinances. York Water-WW also specified that the point of connection for the Additional Customer falls within the area reviewed and approved by Washington Township.

## **XI. OTHER CONSIDERATIONS**

York Water-WW averred that no corporation or entity, except Country View, is now furnishing or has corporate or franchise rights to furnish wastewater service within the requested territory; that no municipal entities, private entities, or public utilities are providing wastewater service within one mile of the requested territory; and that Application approval would not create a competitive condition. York Water-WW also specified that the proposed transaction will not have an adverse effect on service provided to existing customers. Regarding Proposed Customers, York Water-WW noted that Country View is no longer willing to provide wastewater service to its customers and that York Water-WW will bring significant resources to the Wastewater System to keep it in compliance with regulatory requirements.

York Water-WW has no outstanding fines or assessments due to the Commission. York Water-WW 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 relevant pending actions or outstanding complaints against York Water-WW. By correspondence dated December 29, 2021, DEP identified an open violation against Country View for Country View's failure to pay the annual fee for NPDES Permit PA0086894, due on October 1, 2021. However, by

correspondence dated March 23, 2022, DEP identified that this open violation was resolved on January 21, 2022.

## **XII. CONCLUSION**

Based upon the facts that there is a need to continue to make wastewater service available within the requested territory; that York Water-WW will expand its service territory to customers in compliance with Commission regulations; and that York Water-WW is fit to provide service, the Commission finds that granting approval of York Water-WW's Application is necessary or proper for the service, accommodation, convenience, or safety of the public and in the public interest; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Application of The York Water Company – Wastewater at Docket No. A-2021-3030076, is hereby approved, consistent with this Order.
2. 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 The York Water Company – Wastewater to acquire substantially all the wastewater system assets owned by Country View Manor Community, LLC, as described in the Application.
3. That The York Water Company - Wastewater shall provide written notification to the Secretary's Bureau within ten (10) days of closing with Country View Manor Community, LLC, at Docket No. A-2021-3030076.
4. That following Commission receipt of the notice of closing, 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 The York Water Company – Wastewater to begin to offer, render, furnish and supply

wastewater service to the public in a portion of Washington Township, York County, Pennsylvania.

5. That The York Water Company – Wastewater shall file a tariff supplement with the Secretary’s Bureau within ten (10) days following the date of closing, to become effective on one day’s notice at Docket No. A-2021-3030076, consistent with the revised *pro forma* tariff supplement provided in the Application’s supplemental information.

6. That The York Water Company – Wastewater shall file with the Secretary’s Bureau at Docket No. A-2021-3030076 a copy of its original cost study of the wastewater system assets acquired from Country View Manor Community, LLC, 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 the study.

7. That, at the time of filing its next base rate case that proposes to include the assets of this acquisition in rate base, The York Water Company – Wastewater shall provide testimony, specifically referencing Docket No. A-2021-3030076, that 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.

8. That if The York Water Company - Wastewater determines that the transaction will not occur, it will promptly file notice of such determination with the Secretary’s Bureau at Docket No. A-2021-3030076 and return the Certificate of Public Convenience issued in Ordering Paragraph No. 2.

9. 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 The York Water Company - Wastewater from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

10. That a copy of this Order be served upon The York Water Company - Wastewater, Country View Manor Community, LLC, the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Washington Township Board of Supervisors, the Washington Township Planning Commission, the York County Commissioners, the York 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.

11. That upon the issuance of the Certificate of Public Convenience as outlined in Ordering Paragraph No. 4, or upon the return of the Certificate of Public Convenience issued pursuant to Ordering Paragraph No. 2, the proceeding at Docket No. A-2021-3030076 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: July 14, 2022

ORDER ENTERED: July 14, 2022