

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265**

**Petition for Expedited
Reconsideration of Application
of Pennsylvania-American
Water Company – Wastewater
Division for approval of the right
to: (1) acquire certain
wastewater system assets from
Foster Township; and (2) begin
to offer, render, furnish or
supply wastewater service to the
public in portions of Foster
Township, Luzerne County,
Pennsylvania**

**Public Meeting held September 15, 2022
3028676-LAW
Docket No. A-2021-3028676**

MOTION OF COMMISSIONER RALPH V. YANORA

Before the Pennsylvania Public Utility Commission (Commission or PUC) for consideration and disposition is the Petition for Expedited Reconsideration (Petition) filed by the Pennsylvania-American Water Company (PAWC). The Petition seeks reconsideration of our July 14, 2022 Order (July 14 Order) granting the Application of PAWC for approval of the right to: (1) acquire certain wastewater system assets from Foster Township; and (2) begin to offer, render, furnish or supply wastewater service to the public in portions of Foster Township, Luzerne County, Pennsylvania. In its Petition, PAWC requests that the Commission (1) acknowledge that PAWC had a procedural due process right to be informed of, and an opportunity to respond to, potential approval conditions before the Commission entered its July 14 Order, (2) delete Ordering Paragraph 7 of the July 14 Order, (3) modify Ordering Paragraph 2 of the July 14 Order, (4) clarify the requirements of Ordering Paragraph 10 of the July 14 Order, and (5) issue a certificate of public convenience immediately upon the Commission’s entry of an order on reconsideration.

I note that since the filing of the instant Petition, the Commission issued a Certificate of Public Convenience (CPC) evidencing the right of PAWC to acquire certain wastewater system assets from Foster Township on August 8, 2022. Given that the CPC has been issued to PAWC, PAWC’s request that the Commission issue a CPC immediately upon entry of an order on reconsideration is now moot.

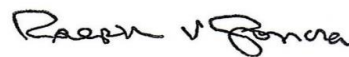
However, regarding PAWC’s request that the Commission modify Ordering Paragraph 2 of our July 14 Order, requiring an updated Act 537 Official Sewage Facilities Plan and a copy of Foster Township’s adopted Ordinance establishing an Industrial Pretreatment Program and Other Rules Controlling Discharges to the Sewer System, to be a condition of closing rather than a

condition of obtaining a certificate of public convenience, I believe that further discussion is warranted. On December 16, 2021, the Commission entered a Notice of Proposed Rulemaking Order regarding the Application of 52 Pa. Code § 3.501 to Certificated Water and Wastewater Utility Acquisitions, Mergers, and Transfers (Proposed Rulemaking Order). The Proposed Rulemaking Order includes amendments to streamline some requirements for established utilities during the process of acquisition of another water or wastewater service provider. Specifically, in the Proposed Rulemaking Order, the Commission proposed to require the submission of Act 537 Plans, *to the extent applicable*, so long as the Commission does not have ready access to this information through other means.¹ Additionally, neither the current language of 52 Pa. Code Section 3.501 nor language in the Proposed Rulemaking Order require the submission of a pretreatment program and discharge ordinance as a condition to receiving a CPC. Given the Commission's goals of regionalization and consolidation,² well-established utility companies should be given flexibility during the acquisition process. As such, Ordering Paragraph 2 of our July 14 Order could have been modified to require PAWC's filing of an Act 537 Plan and Foster Township's pretreatment program and discharge ordinance as a condition to closing rather than as a condition of obtaining a CPC. However, as a CPC has already been issued in this matter, this issue is now moot.

Regarding PAWC's claim that Ordering Paragraph 10 must be modified to reflect that PAWC has already filed a base rate case that includes the assets of this acquisition at Docket Nos. R-2022-3031672 (water) and R-2022-3031673 (wastewater), we find that Ordering Paragraph 10 requires clarification. Ordering Paragraph 10 should apply to PAWC's first base rate case that proposes to include the assets of this acquisition in rate base, rather than its next base rate case and should not include a requirement that further testimony be filed.

THEREFORE, I MOVE THAT:

1. The Petition for Expedited Reconsideration filed by the Pennsylvania-American Water Company is granted in part and denied in part, consistent with this motion.
2. That the Law Bureau prepare an Opinion and Order consistent with this Motion.



DATE: September 15, 2022

Ralph V. Yanora, Commissioner

¹ See Annex Section 3.501(b)(7)(v).

² 52 Pa. Code § 69.701 (Commission's general policy statement on the viability of small water systems).