**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2022-3031672

Office of Consumer Advocate : C-2022-3032485

Office of Small Business Advocate : C-2022-3032331

Pennsylvania-American Large Users Group : C-2022-3033215

Keith Saur : C-2022-3032345

Ivan Figueroa : C-2022-3032376

Carl E. Meyer : C-2022-3032384

Darlene Nychey : C-2022-3032046

Hao Tang : C-2022-3033043

James Pagel : C-2022-3032486

William H. Rissmiller : C-2022-3032500  
Ramkrishna Sen : C-2022-3032501

Barbara Cetnarowski : C-2022-3032659  
Simon Dobrev & Poli Iordanova : C-2022-3032511

Jerome & Sheryl Rodzinak : C-2022-3032623

Zachary O’Brien : C-2022-3032547

Maria Elena Selznick : C-2022-3032569

Earl Knight : C-2022-3032620

Meade Buffington : C-2022-3032670

Michael Pope : C-2022-3032969

Samantha Maize : C-2022-3032970

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Sabatini Montesti : C-2022-3032657

Sean Seidel : C-2022-3032730

Trish E. Luberda : C-2022-3032722

Jorge Salazar : C-2022-3033085

Frank Piccola : C-2022-3033110

Amanda Barto-Ealy : C-2022-3032771

Judith Ann Garofolo : C-2022-3033211

Leroy Waters III : C-2022-3032999

Latrese Laporte : C-2022-3032830

John Palermo : C-2022-3032963

Paul Walaski : C-2022-3033057

Ellen Katz : C-2022-3033080

Walter J. Yourkavitch : C-2022-3033231

Diane Michalowski : C-2022-3033212

Jerome & Sheryl Rodzinak : C-2022-3033222

Victory Brewing Company : C-2022-3032623

: C-2022-3033275

Samantha J. Wesner : C-2022-3033256

West Norriton Township : C-2022-3033271

Xin Xu : C-2022-3033360

Carla Seidel : C-2022-3033316

Christine Nicholson : C-2022-3033377

James Jackson : C-2022-3033593

Jeff Henry : C-2022-3032313

Lisa Tunzi : C-2022-3032317  
 :

v. :

:

Pennsylvania-American Water Company :

Pennsylvania Public Utility Commission : R-2022-3031673

Office of Consumer Advocate : C-2022-3032487

Office of Small Business Advocate : C-2022-3032346

Darlene Nichey : C-2022-3033048

James Pagel : C-2022-3032489

Carla Seidel : C-2022-3032744

Nathan Woodford : C-2022-3032693

Stephen Nardi : C-2022-3032497

Lisa Inmon : C-2022-3033119

Karla Haynes : C-2022-3033586

Mark Henderson : C-2022-3032315

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Latrese Laporte : C-2022-3032819

Walter J. Yourkavitch : C-2022-3033217

Diane Michalowski : C-2022-3033218

Victory Brewing : C-2022-3033282

James Jackson : C-2022-3033594  
 :

v. :

:

Pennsylvania-American Water Company – :

(Wastewater) :

**BRIEFING ORDER #2**

On April 29, 2022, Pennsylvania-American Water Company (PAWC) filed Supplement No. 35 to Tariff Water-PA. P.U.C. No. 5 (Supplement No. 35) with the Pennsylvania Public Utility Commission to become effective June 28, 2022. Supplement No. 35 would increase PAWC’s total annual operating revenues for water service by approximately $154.4 million, or 21.6%.

Also on April 29, 2022, the Pennsylvania-American Water Company – Wastewater Division (PAWC-WD) filed Supplement No. 34 to Tariff Wastewater PA P.U.C. No. 16 (Supplement No. 34) with the Commission to become effective June 28, 2022. Supplement No. 34 would increase PAWC-WD’s total annual operating revenues for wastewater service by approximately $18.7 million, or 16.1%.

On May 3, 2022, the Commission’s Bureau of Investigation and Enforcement (I&E) entered its appearance in both dockets. On May 4, 2022, the Office of Small Business Advocate (OSBA) filed a formal complaint in response to PAWC’s filing, docket number C-2022-3032331 and in response to PAWC-WD’s filing, docket number C-2022-3032346 on May 5, 2022. On May 11, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a petition to intervene in both proceedings. On May 16, 2022, the Office of Consumer Advocate (OCA) filed a formal complaint in response to PAWC’s filing, docket number C-2022-3032485 and in response to PAWC-WD’s filing, docket number C-2022-3032487. On May 17, 2022, the Commission on Economic Opportunity (CEO) filed a Petition to Intervene in both dockets. On May 20, 2022, Cleveland-Cliffs Steel Company (Cleveland-Cliffs) filed a petition to intervene in both dockets. On May 31, 2022, Exeter Township (Exeter) filed a petition to intervene. On June 1, 2022, the Borough of St. Lawrence (St. Lawrence) filed a notice of appearance. On June 22, 2022, the Pennsylvania-American Water Large Users Group (PAWLUG) filed a complaint in both dockets. On June 23, 2022, Victory Brewing Company (Victory Brewing) filed a complaint in both dockets.

In addition, approximately fifty formal complaints were filed by PAWC and PAWC-WD customers in response to both dockets. A list of these formal complaints, and their assigned docket numbers, was admitted into the record on June 27, 2022, as ALJ Exhibit Number 1.

On June 16, 2022, by separate Orders, the Commission suspended both filings by operation of law until January 28, 2023, pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. In both Orders, the Commission stated that investigation and analysis of the proposed tariff supplements and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable and contrary to the public interest. The Commission also determined that consideration should be given to the reasonableness of the companies’ existing rates, rules and regulations. As a result, the Commission ordered that an investigation be instituted in response to both filings to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed tariff filings, as well as a consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations. The Commission assigned the cases to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, and for the prompt scheduling of hearings as may be necessary culminating in the issuance of Recommended Decisions.

A prehearing conference convened on June 27, 2022. The parties exchanged extensive pre-served testimony. Six public input hearings were held telephonically in July. On September 12, 2022, an evidentiary hearing was held in this matter. At the conclusion of the hearing, the parties agreed that main briefs on any disputed issue will be filed on September 29, 2022 and reply briefs will be filed on October 11, 2022. The parties were encouraged to engage in further settlement discussions in an attempt to seek a resolution of all or some of the contested issues, which the parties have done.[[1]](#footnote-1)

As a result of those settlement discussions, on September 23, 2022, counsel for PAWC emailed the presiding officer to indicate that the parties had reached a settlement on several issues and were continuing settlement discussions. The parties requested that the briefing schedule be modified to allow for additional settlement discussions. As a result of the extensive efforts already set forth by the parties which have been fruitful, and in light of the presiding officer’s authority to regulate the course of the proceeding, 52 Pa.Code §5.483(a), it is appropriate to modify the briefing schedule to enable the parties additional time for further discussions. Therefore, the parties were informed by email that the briefing schedule will be modified as follows:

1. If all the active parties reach a full settlement of all the issues, the settlement must be submitted **no later than October 11, 2022**. The parties must include with the settlement statements in support of the settlement as well as joint proposed findings of fact, conclusions of law and ordering paragraphs. The settlement must also be provided to all the consumer complainants in this proceeding who will then have **until October 18, 2022** to file any objection or opposition to the settlement.
2. If all the active parties do not reach a full settlement of all the issues, main briefs and any partial settlements must be submitted **no later than October 3, 2022**. The parties must again submit with their briefs and/or settlements proposed findings of fact, conclusions of law and ordering paragraphs, as well as statements in support of the settlement, as appropriate. The **October 11, 2022** reply brief due date will remain for any responses to the litigated and partially settled issues.[[2]](#footnote-2)

The purpose of this order is to memorialize the revised briefing schedule that was previously informally agreed upon via email.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the briefing order dated September 15, 2022 is hereby modified consistent with the above discussion.
2. That the parties shall file and serve main briefs and any partial settlements **on or before October 3, 2022** and replies to those main briefs and parties’ settlements **on or before October 11, 2022** in conformance with the Commission’s regulations at 52 Pa.Code § 5.501, *et seq*., unless otherwise modified by the Presiding Officer.
3. That any full settlement amongst all the active parties of all the issues must be filed **no later than October 11, 2022**.
4. That the settling parties must provide a copy of any full settlement to all consumers who have filed formal complaints **no later than October 11, 2022**.
5. That any objection or opposition to any full settlement that is filed by a consumer complainant must be provided **no later than October 18, 2022**.
6. That all briefs, and either full or partial settlements, must include proposed findings of fact, conclusions of law, ordering paragraphs and statements in support of settled issues.
7. That all other aspects of the briefing order dated September 15, 2022 remain in effect.
8. That this briefing order will not be modified absent exigent circumstances.

Dated: September 28, 2022 /s/

Joel H. Cheskis

Deputy Chief Administrative Law Judge

**R-2022-3031672 (WATER); R-2022-3031673 (WASTEWATER)** - **PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PENNSYLVANIA-AMERICAN WATER COMPANY** *Revised: September 22, 2022*

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1. A more detailed discussion of the procedural history of this proceeding is articulated in the briefing order issued in this case on September 15, 2022. [↑](#footnote-ref-1)
2. The parties have indicated that a settlement has been reached regarding revenue requirement. Therefore, the rate case tables are no longer necessary. [↑](#footnote-ref-2)