



COMMONWEALTH OF PENNSYLVANIA

December 12, 2022

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Community Utilities of Pennsylvania, Inc. Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Sections 1102(a)(3) and 1103 of the Public Utility Code And All Other Approvals Necessary Under the Public Utility Code for Approval of a Merger of Equals Transaction.
Docket Nos. A-2022-3036744, A-2022-3036745

Dear Secretary Chiavetta:

Enclosed please find the Notice of Intervention and Protest, Public Statement, and Verification, filed electronically today, on behalf of the Office of Small Business Advocate (OSBA), in the above-captioned proceedings.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

/s/ Sharon E. Webb

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures

cc: Mr. Kevin Higgins
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Community Utilities of	:	
Pennsylvania Inc., for Certificates of Public	:	
Convenience Under Sections 1102(1)(3) and	:	
1103 of the Public Utility Code and All Other	:	Docket Nos. A-2022-3036744 (Wastewater)
Approvals Necessary Under the Public Utility	:	A-2022-3036745 (Water)
Code for Approval of a Merger of Equals	:	
Transaction	:	
	:	

**NOTICE OF INTERVENTION AND PROTEST
OF THE OFFICE OF SMALL BUSINESS ADVOCATE**

The Office of Small Business Advocate (“OSBA”) files this Notice of Intervention and Protest with respect to the above-captioned Applications (“*Applications*”) pursuant to Sections 5.51(a) and 5.71(a)(1) of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“Commission”), 52 Pa. Code §§ 5.51(a) and 5.71(a)(1). In support of this Notice of Intervention and Protest, the OSBA avers as follows:

1. The OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interests of small business consumers as a party in proceedings before the Commission.
2. Representing the OSBA in this proceeding is:

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3. The *Applications* were filed by Corix Infrastructure Inc. (US) (“Corix Us”), and SW Merger Acquisition Corp. (“SWMAC”) on November 9, 2022. The *Applications* request (1) approval for a merger of SWNAC and Corix US into newly formed Intermediate NEWCO, which will indirectly own 100% of CUPA, and all of the regulated water and wastewater utilities currently owned by Corix Infrastructure Inc., to create a larger, stronger water and wastewater company. Application at 1.

4. Community Utilities of Pennsylvania Inc., (“CUPA”) is a Pennsylvania corporation engaged in the provision of water and wastewater utility service to the public for compensation that currently provides service that spans four counties in Pennsylvania. Application at 3-4.

5. Corix US is a corporation incorporated under the laws of Delaware and owned by Corix Infrastructure Inc. (“CII”). British Columbia Investment Management Corporation indirectly controls CII. Application at 4.

6. SWMAC is a Delaware corporation that owns 100% of South West Water Company (“SouthWest”). SWMAC, through its operating subsidiaries, owns and operates 18 water and wastewater utility companies in the United States. *Application* at 4.

7. Section 1102(a) of the Public Utility Code, 66 Pa. C.S. § 1102(a), permits a public utility to undertake certain actions only upon Commission approval evidenced by a certificate of public convenience. Among the activities that require Commission approval is the following:

(3) For any public utility or an affiliated interest of a public utility . . . to acquire from, or to transfer to, any person or corporation . . . by any method or device whatsoever, including the

sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.

66 Pa. C.S. § 1102(a)(3).

7. When a certificate of public convenience is required under Section 1102, Section 1103(a) of the Public Utility Code, 66 Pa. C.S. § 1103(a), allows the Commission to issue the certificate only upon a finding or determination that the granting of such certificate is “necessary or proper for the service, accommodation, convenience, or safety of the public.” According to the Pennsylvania Supreme Court, satisfying this standard requires the Commission to find that a proposed acquisition would “affirmatively promote the ‘service, accommodation, convenience, or safety of the public’ in some substantial way.” *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 141, 295 A.2d 825, 828 (Pa. 1972). In addition, Section 1103(a) allows the Commission to impose upon its issuance of a certificate of public convenience “such conditions as it may deem to be just and reasonable.”

8. The OSBA is reviewing the Applications to identify issues of concern that may require the Commission to reject the proposed transaction or to approve it only after imposing conditions. Of particular concern is whether the transaction would negatively impact water and wastewater rates of small business customers.

9. The OSBA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicants.

WHEREFORE, the OSBA respectfully requests that the Commission not approve the *Joint Application* as filed.

Respectfully submitted,

/s/ Sharon E. Webb

Sharon E. Webb
Assistant Small Business Advocate
Attorney I.D. No. 73995

For: NazAarah Sabree
Small Business Advocate


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Date: December 12, 2022

VERIFICATION

I, NazAarah Sabree, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: December 12, 2022



(Signature)

