

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a) and 1329, for approval of (1) the transfer, by sale, to Pennsylvania-American Water Company, of substantially all of the assets, properties and rights related to the wastewater collection and treatment system owned by the Butler Area Sewer Authority, (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the City of Butler, and portions of the Borough of East Butler, and portions of the Townships of Butler, Center, Connoquenessing, Oakland, and Summit, in Butler County, Pennsylvania

Docket No. A-2022-3037047

In re: Application of Pennsylvania-American Water Company under Section 1329 of the Pennsylvania Public Utility Code, 66 Pa C.S. § 1329, for approval of the use for ratemaking purposes of the lesser of the fair market value or the negotiated purchase price of the assets related to the wastewater collection and treatment system owned by the Butler Area Sewer Authority

Docket No. A-2023-

In re: Petition of Pennsylvania-American Water Company, related to its acquisition of the wastewater collection and treatment system owned by the Butler Area Sewer Authority, for approval under Section 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1329, to (i) collect a distribution system improvement charge, (ii) for book and ratemaking purposes, accrue Allowance for Funds Used During Construction for post-acquisition improvements not recovered through the distribution system improvement charge, (iii) for book and ratemaking purposes, defer depreciation related to post-acquisition improvements not recovered through the distribution system improvement charge, and (iv) include, in its next base rate case, a claim for transaction and closing costs.

Docket No. P-2023-

In re: Filing by Pennsylvania-American Water Company under Section 507 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 507, of (i) the Asset Purchase Agreement By and Among Butler Area Sewer

Docket Nos. U-2023-_____, *et al.*

Authority and Pennsylvania-American Water :
 Company, and (ii) four agreements with municipal :
 corporations to be assumed by Pennsylvania-American :
 Water Company upon closing of its acquisition of :
 substantially all of the assets related to the wastewater :
 collection and treatment system owned by the Butler :
 Area Sewer Authority :

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Pennsylvania-American Water Company (“PAWC” or “Applicant”) hereby respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) issue such Certificates of Public Convenience as necessary to evidence its approval under Section 1102(a) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102(a), of: (a) the transfer, by sale of substantially all of the assets, properties and rights related to the wastewater collection and treatment system (the “System”) owned by the Butler Area Sewer Authority (“BASA” or “Authority”) to PAWC; (b) PAWC’s right to begin to offer, render, furnish and supply wastewater service in the areas served by the System in the City of Butler, portions of the Borough of East Butler, and portions of the Townships of Butler, Center, Connoquenessing, Oakland, and Summit, in Butler County, Pennsylvania (hereinafter the “Service Area”) and (c) PAWC’s right to make effective upon closing the *pro forma* tariff supplement attached hereto as **Appendix A-12**.

2. PAWC also respectfully requests that the Commission approve, pursuant to Code Section 1329, 66 Pa. C.S. § 1329: (a) the use for ratemaking purposes of the lesser of the fair market value or the negotiated purchase price of BASA’s assets related to the System;¹ (b) the collection of a distribution system improvement charge (“DSIC”) related to the System prior to the first base rate case in which the System plant-in-service is incorporated into rate base; (c) to record

¹ PAWC reserves its right in future proceedings to make rate base claims related to the acquisition as may otherwise be permitted under the Code.

the acquisition at the net value of the assets, (d) the accrual of Allowance for Funds Used During Construction (“AFUDC”) for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; (e) the deferral of depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; and (f) the inclusion, in its next base rate case, of a claim for transaction and closing costs related to the acquisition. Attached hereto as **Appendix A** is the Commission’s current “66 Pa. C.S. § 1329 Application Filing Checklist - Water/Wastewater (Revised February 28, 2019)” (“Section 1329 Checklist”), Appendix A to the Commission’s Final Supplemental Implementation Order in *Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Order entered February 28, 2019) (“*Final Supplemental Implementation Order*”). For the ease of reference and review, the sub-appendices to **Appendix A** (such as **Appendix A-1**, **Appendix A-2**, etc.) correspond directly with the filing requirements listed in the Commission’s Section 1329 Checklist. Certain appendices contain proprietary information and are, accordingly, labeled as **CONFIDENTIAL** and filed with the Commission’s Secretary under seal.

3. PAWC further requests, pursuant to Code Section 507, 66 Pa. C.S. § 507, the issuance of Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:

- a. Asset Purchase Agreement By and Between Butler Area Sewer Authority, as Seller, and Pennsylvania-American Water Company, as Buyer, Dated as of October 11, 2022 (attached hereto as **Appendix A-24-a**) (the “APA”);
- b. Water Pollution Control Agreement for Central Butler County between City of Butler, Township of Butler, Township of Center, Township of Summit, Borough of East Butler, Deshon Area Sanitary Disposal and Sewer Authority, East Butler Borough Sewer Authority, East Butler Borough Sewer Authority,

Meridian Water and Sewer Authority, Municipal Water and Sewer Authority of Center Township and Butler Area Sewer Authority (“BASA”) dated as of February 20, 1974 (attached hereto as **Appendix A-25.1**);

- c. Service Agreement between The Township of Oakland and Butler Area Sewer Authority for the Service Area along Route 38 dated March 7, 1994 (attached hereto as **Appendix A-25.2**).
- d. Service Agreement between the Township of Connoquenessing and Butler Area Sewer Authority for Cupps Road Service Area dated April 3, 1995 (attached hereto as **Appendix A-25.3**);
- e. Service Agreement between the Township of Connoquenessing and Butler Area Sewer Authority for Winterwood Drive Service Area dated December 14, 2005 (attached hereton as **Appendix A-25.4**).

The aforementioned agreements are referred collectively herein as the “Section 507 Agreements.”

- 4. The name and address of the Applicant is:

Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055

- 5. The names and addresses of PAWC’s attorneys are:

Elizabeth Rose Triscari, Esquire
Erin K. Fure, Esquire
Pennsylvania-American Water Company
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6. PAWC is a regulated public utility corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and is engaged in the business of collecting, treating, storing, supplying, distributing and selling water to the public, and collecting, treating, transporting and disposing of wastewater for the public. Water and wastewater service are furnished by PAWC to the public in a service territory encompassing more than 417 communities in 37 counties across the Commonwealth, including Butler County and the nearby counties of Lawrence, Beaver, Clarion and Allegheny. PAWC serves a combined population of over 2,300,000. A description of PAWC's existing certificated water and wastewater service territory is found in **Appendix B**, along with a detailed corporate history, outlining all of the mergers, acquisitions and consolidations, which have created PAWC as it exists on the date of this Application.

7. BASA is a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act in the Commonwealth of Pennsylvania, with its offices located at 100 Litman Road, Butler, PA 16001. BASA was created by the City of Butler (the "City") and the Township of Butler (the "Township") in 1962 under the Pennsylvania Municipality Authorities Act of 1945. BASA owns and operates the System to provide wastewater service to customers throughout the Service Area.

8. As of January 23, 2023, BASA furnishes wastewater service to 14,792 active residential, commercial, industrial and public customers in the span of its Service Area consisting of approximately 27.4 square miles.

9. As of January 31, 2023, PAWC furnished wastewater service to approximately 97,305 residential, commercial, industrial, municipal and bulk customers in Pennsylvania. As of January 31, 2023, PAWC furnished water service to approximately 679,777 residential,

commercial, industrial, municipal and bulk customers in Pennsylvania.

10. The completion of the below-defined Transaction will confer benefits upon the long-term financial health of the City and the Township, while ensuring that BASA’s existing customers receive safe, adequate, and reliable wastewater service at just and reasonable rates.

A. TRANSFER, BY SALE, OF ALL OF BASA’S ASSETS, PROPERTIES AND RIGHTS RELATED TO THE SYSTEM TO PAWC (OTHER THAN THE EXCLUDED ASSETS)

Summary of the Transaction

11. On October 11, 2022, BASA entered into the APA, along with detailed schedules, with PAWC to sell all of BASA’s assets, properties and rights relating to the System (other than the Excluded Assets, as defined by the APA) (the “Transaction”).

12. The Transaction will be completed in accordance with the APA.

13. Among other things, the APA: (i) requires PAWC and BASA to complete the Transaction after receipt of all governmental approvals (including from this Commission) and the satisfaction of all conditions precedent; (ii) requires PAWC to assume certain contracts; (iii) requires PAWC initially to adopt the rates in effect at the time of closing of the Transaction (“Closing”) (see *pro forma* tariff supplement attached hereto as **Appendix A-12**); and, (iv) sets forth rates for the Service Area that will be fair to both BASA’s current customers and PAWC’s current customers.²

Applicable Legal Standards

14. Under Code Section 1103, the Joint Applicants must demonstrate that PAWC is legally, technically, and financially fit. *Seaboard Tank Lines v. Pa. Pub. Util. Comm’n*, 502 A.2d

² The rate commitments set forth in the APA do not fall within the definition of a “rate stabilization plan” as defined by 66 Pa. C.S. § 1329. See Direct Testimony of Ashley E. Everette, **Appendix A-14-a**, PAWC St. No. 3.

762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. V. Pa. Pub. Util. Comm'n*, 138 A.2d 240, 243 (Pa. Super. 1958). As a currently certificated public utility, PAWC's fitness is presumed by law to be continuing. *See, e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm'n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992).

15. The Commission may issue a certificate of public convenience upon a finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa. C.S. § 1103(a). Ownership and operation of the System by PAWC will “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972). The “substantial public interest” standard is satisfied by a simple preponderance of the evidence of benefits. *Popowsky v. Pa. Pub. Util. Comm'n*, 594 Pa. 583, 611, 937 A.2d 1040, 1057 (2007).

16. Code Section 1329 establishes a voluntary process whereby the acquiring public utility and the selling municipality may choose to have the fair market value of the assets established through independent appraisals conducted by Utility Valuation Experts (“UVEs”). For ratemaking purposes, the valuation will be the lesser of the average of the two appraisals or the negotiated purchase price. 66 Pa. C.S. § 1329.

17. Code Section 1329 also allows, as a matter of law, the acquiring public utility, *inter alia*, (i) to collect a DSIC for the Service Area prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base,³ (ii) to accrue AFUDC for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes, (iii) to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and

³ Before doing so, however, PAWC would need to file and receive Commission approval of, an amended Long Term Infrastructure Improvement Plan and a compliance tariff supplement, which incorporate the Service Area into PAWC's DSIC tariff.

ratemaking purposes, and (iv) to include, in its next base rate case, a claim for transaction and closing costs associated with the acquisition. In order to obtain this ratemaking treatment, the acquiring public utility must produce certain documents and information as required by the Commission in the context of a future base rate proceeding. 66 Pa. C.S. § 1329; *see Final Supplemental Implementation Order*.

18. Code Section 507, 66 Pa. C.S. § 507, requires that contracts between a public utility and a municipal corporation, except for contracts to furnish service at a regular tariffed rate, be filed with the Commission at least 30 days before the effective date of the contract. The Commission acknowledges the contract by issuing a certificate of filing unless it decides to institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract. Should the Commission initiate proceedings, the contract or agreement is not effective until the Commission grants its approval. 66 Pa. C.S. § 507.

Background Financial Information

19. Attached hereto is BASA's balance sheet as of July 31, 2022 (**Appendix C**) and PAWC's audited balance sheet as of December 31, 2021 (**Appendix D**).

20. Attached hereto is BASA's audited income statement for the 12 months ended July 31, 2022 (**Appendix E**), and PAWC's audited income statement for the 12 months ended December 31, 2021 (**Appendix F**).

21. All the annual reports, tariffs, certificates of public convenience, applications, securities certificates and similar documents filed with this Commission by PAWC, and its predecessors are made a part hereof by reference.

Terms and Impact of the Transaction

22. As noted above, this Application seeks, among other things, approval of the transfer

to PAWC of substantially all of the assets, properties and rights related to the System (other than the Excluded Assets, as defined by the APA) (**Appendix A-24-a**).

23. PAWC and BASA are not affiliated with each other.

24. The Transaction is, and was negotiated, at arm's length.

25. Attached hereto as **Appendix G** is a *pro forma* balance sheet of PAWC as of December 31, 2021, giving effect to the transfer.⁴

26. Attached hereto as **Appendix H** is a *pro forma* consolidated income statement of PAWC and BASA for the 12 months as of December 31, 2021.⁵

27. Attached hereto as **Appendix I** is a verification by the Secretary of PAWC verifying that the Board of Directors of PAWC authorized the execution of the APA.

28. Attached hereto as **Appendix J** is a copy of BASA's Board of Directors Resolution No. 10-11-2022 approving the execution of an asset purchase agreement for the sale of the wastewater system assets including the execution of the APA.

29. Attached hereto as **Appendix K** is an estimate of PAWC's revenues and expenses in the new service area during the first year after closing.

Transaction's Effect on Service and Rates and Other Affirmative Benefits

30. The Transaction is in the public interest, will provide affirmative public benefits of a substantial nature, and satisfies the applicable standard of Code Section 1103, 66 Pa. C.S. § 1103, because the benefits of the Transaction outweigh the detriments for all major stakeholder groups: (a) the public-at-large, (b) the Authority, the City and the Township; (c) the existing customers of

⁴ The timing difference in restating the Butler Area Sewer Authority's financial statements to December 31, 2021 is assumed by PAWC to be immaterial.

⁵ The timing difference in restating the Butler Area Sewer Authority's financial statements to December 31, 2021 is assumed by PAWC to be immaterial.

BASA, (d) the existing wastewater customers of PAWC, and (e) the existing water customers of PAWC.

31. The Transaction will benefit the public-at-large, for the following reasons (among others):

- a. The Transaction promotes the Commission’s policy favoring regionalization and consolidation of water and wastewater systems. 52 Pa. Code § 69.721(a).
- b. The Transaction promotes the Legislature’s policy goals when it enacted Section 1329.
- c. Due to its greater financial resources and greater depth of experience in managing wastewater systems, PAWC is in a better position than BASA to address the System’s existing environmental challenges and to maintain environmental compliance in the future. PAWC has a good record of complying with applicable environmental statutes and regulations. Improved environmental compliance will promote the rights of all Pennsylvanians, which are protected by the Environmental Rights Amendment. PA. CONST. Art. 1, § 27.

32. The Transaction will benefit the Authority, the City and the Township for the following reasons (among others):

- a. The Authority will eliminate all of its current debt (approximately \$40.6 million), allowing it to save thousands of dollars in interest payments. The City and the Township will receive the remaining proceeds once BASA’s debt is paid and the Authority is dissolved, affording them: greater financial stability, the opportunity to eliminate debt, flexibility in spending on other public benefits without increasing residents’ taxes, local development opportunities, including reinvigorating the City’s downtown area, and mitigation against the risk of future revenue shortfalls.
- b. PAWC is the water service provider in the area. It will evaluate needed infrastructure upgrades holistically from both the water and wastewater perspectives, and can plan water distribution system improvements and sewer system rehabilitation projects together when feasible, reducing the number of street openings, lessening the inconvenience to the public, and lowering overall construction and restoration costs.
- c. PAWC will retain all active employees of the System. This was important to the City and the Township.

- d. PAWC will award contracts for development projects to local contractors, to the extent feasible, and will maintain an operations center at BASA's current headquarters for at least ten years.
- e. The City and the Township will receive additional tax revenues because the System will be subject to tax after Closing. In addition, PAWC will improve the System, which will promote economic development in the area, further enhancing tax revenues to the City and the Township.

33. The Transaction will benefit the existing customers of BASA for the following reasons (among others):

- a. The existing customers of BASA are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
- b. BASA customers will become part of a very large PAWC customer base. As a stand-alone system, BASA customers would have to bear the complete burden of impending capital improvement needs on their own. As part of a larger customer base, BASA customers will benefit at times but also be required to contribute to other customers at times. The sharing of costs over an extended period of time is a benefit of regionalization and consolidation of wastewater systems in the Commonwealth.
- c. Customers will receive service from a financially, legally and technically fit public utility, subject to the regulatory oversight of the Commission. Customers will now be able to receive assistance from the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement with service and rate issues.
- d. Pursuant to the APA, PAWC will not propose a rate increase for at least one year after Closing.
- e. Pursuant to the APA, PAWC will use commercially reasonable efforts to develop a pilot program for a customer-owned damaged wastewater sewer lateral pilot program, subject to Commission approval.
- f. PAWC has more robust cyber security, physical security, business continuity and emergency plans than does BASA.
- g. Customers can make service calls to PAWC's customer call centers at hours when BASA's office is closed, and can request service via the internet, which BASA does not offer.
- h. In the first base rate case that includes the System, PAWC will request Commission approval to move customers to a metered rate, rather than a flat fee, which encourages conservation.

- i. PAWC has more robust customer assistance programs and customer education programs. PAWC also offers a wider range of bill payment options than does BASA.
 - j. PAWC must comply with the Responsible Utility Customer Protection Act, and the Commission's regulations at 52 Pa. Code Chapter 56, whereas BASA is not subject to this statute and regulations.
 - k. BASA's existing customers will enjoy the economies of scale that come from PAWC's greater size and purchasing power, including its ability to obtain goods and services at lower costs because it buys in large quantities.
34. The Transaction will benefit the existing wastewater customers of PAWC for the following reasons (among others):
- a. PAWC's existing wastewater customers are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
 - b. The Transaction will have no immediate rate impact on PAWC's existing wastewater customers; any impacts on the rates of PAWC's existing customers would occur only upon Commission approval as part of a base rate proceeding.
 - c. The Transaction will add approximately 14,792 wastewater customers to PAWC's existing wastewater customer base of approximately 97,305 customers (or an increase of more than 15%). In the long term, this will benefit existing wastewater customers by spreading the costs of the System among a larger number of customers, allowing all customers to share future infrastructure and other expenses, which permits rates for all customers to remain just and reasonable over time. It also promotes rate stability because ratepayers in any particular wastewater system are unlikely to experience sharp rate spikes when their individual system requires extensive capital investments.
35. The Transaction will benefit the existing water customers of PAWC for the following reasons (among others):
- a. The existing water customers of PAWC are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
 - b. The Transaction will have no immediate rate impact on PAWC's existing water customers.
 - c. In the long term, the Transaction will have no impact at all on the rates of

PAWC's existing water customers unless, in a future rate case, the Commission determines that an allocation of PAWC's wastewater requirement to water customers is in the public interest.

B. THE RIGHTS OF PAWC TO OFFER OR FURNISH WASTEWATER SERVICE TO THE PUBLIC IN THE CITY OF BUTLER, AND PORTIONS OF THE BOROUGH OF EAST BUTLER, AND PORTIONS OF THE TOWNSHIPS OF BUTLER, CENTER, CONNOQUENESSING, OAKLAND, AND SUMMIT, IN BUTLER COUNTY, PENNSYLVANIA

36. BASA provides wastewater service to 14,792 active customers in the Service Area.

37. The System's Service Area is the same as PAWC's applied-for service territory and is shown on the maps in **Appendix A-16-a through A-16-f (Appendix A-16-f is CONFIDENTIAL)** and is further described in that appendix. The applied-for service area will be consistent with the Act 537 Service Area for BASA and the surrounding municipalities when the Act 537 Plan is updated to reflect the change in ownership of the System. This Act 537 Plan Update, including the service area map, will be adopted by all the effected municipalities and approved by DEP prior to Closing.

38. No corporation, partnership or individual other than BASA is now furnishing or has corporate or franchise rights to furnish service similar to that to be rendered by PAWC in the territory covered by this Application, and no competitive condition will be created. As part of this Application, PAWC has requested approval to acquire, by purchase, substantially all of the assets, properties and rights related to the wastewater collection and treatment (other than the Excluded Assets, as set forth in the APA). Upon closing of the Transaction, BASA will permanently discontinue all wastewater service to the public and BASA will be disbanded.

C. FAIR MARKET VALUATION UNDER CODE SECTION 1329

39. **Appendix A** and related Section 1329 Checklist appendices satisfy the filing requirements of Code Section 1329, the *Final Supplemental Implementation Order*, and the Section

1329 Checklist. The Section 1329 appendices correspond directly with the numbered requirements of the Section 1329 Checklist (e.g., **Appendix A-1** (Requirement No. 1), **Appendix A-2** (Requirement No. 2), etc.).

40. The fair market valuation reports of the seller's and buyer's UVEs are contained in **Appendix A-5** (with electronic working documents included at **Appendix A-4** as **Appendix A-4.2 (Weinert Appraisal and Depreciation Service, LLC)** and **Appendix A-4.3 (Gannett Fleming Valuation and Rate Consultants, LLC)**). Buyer's UVE's written direct testimony in support of its report is set forth in **Appendix A-14-b**.⁶

41. PAWC's other written direct testimony in support of this Application can be found in **Appendix A-14-a**.

42. As PAWC has strictly followed the requirements of Code Section 1329, the *Final Supplemental Implementation Order*, and the Section 1329 Checklist, PAWC should be permitted to: (a) use for ratemaking purposes the lesser of the fair market value or the negotiated purchase price of the assets related to the System; (b) collect a DSIC related to the Service Area prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base, (c) accrue AFUDC for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; (d) defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; and, (e) include, in its next base rate case, a claim for transaction and closing costs related to the acquisition.

⁶ PAWC is submitting direct testimony of BASA's UVE and four other pieces of testimony by Paul F. Sybert, Chairman of the Board of BASA, Duane McKee, Executive Director of BASA, Dave Zarnick, President of the Board of Commissioners for the Township of Butler and Robert A. Bandy, Mayor of the City of Butler. These five pieces of Direct Testimony are being submitted as directed by the *Final Supplemental Implementation Order*. PAWC's submission of this testimony should not be considered support for or sponsorship of such testimony. PAWC anticipates that BASA, the City and the Township will intervene in this matter and will sponsor their respective direct testimony and exhibits. PAWC reserves its right to submit rebuttal testimony regarding the testimony of BASA, the City, and the Township as appropriate.

43. PAWC seeks approval to record the \$231,500,000 net value of the assets on its books. Specifically, PAWC requests to record the acquisition on a net basis consistent with generally accepted accounting principles, which advise that property, plant and equipment acquired in a business combination intended to be held and used should be recognized and measured at fair value, and that the accumulated depreciation of the acquiree is not carried forward in a business combination (*i.e.*, net presentation). Recording the acquisition at the net value of the assets is consistent with Section 1329.

D. FILING OF CONTRACTS PURSUANT TO CODE SECTION 507

44. The APA, because it is between PAWC and a municipal corporation, is required to be filed with the Commission under 66 Pa. C.S. § 507. The APA is attached hereto as **Appendix A-24-a**. In addition, contracts between BASA and certain municipal corporations will be assumed by PAWC upon Closing. The Section 507 Agreements are listed on **Appendix A-25** and attached hereto as **Appendices A-25.1 through A-25.4**. The municipal agreements are reasonable and otherwise lawful. Assumption of the agreements by PAWC is necessary for PAWC to abide by the existing contractual arrangements of BASA and in order for PAWC to provide safe, adequate, and reasonable service to the Service Area customers at just and reasonable rates. Assumption of the agreements will also allow PAWC to provide the same treatment services to surrounding municipalities that BASA historically provided. The surrounding municipalities are dependent upon such wastewater treatment service for the convenience of their consumers. Accordingly, the Commission should issue Certificates of Filing or otherwise approve the Section 507 Agreements under 66 Pa. C.S. § 507.

E. NOTICE

45. As evidenced by the Certificate of Service accompanying this Application, PAWC is serving copies of this filing electronically by emailing a One Drive link to the Office of Consumer

Advocate, the Office of Small Business Advocate, and the Commission's Bureau of Investigation and Enforcement. Once the Application is reviewed and conditionally accepted by Commission Staff, PAWC will serve copies of the Application upon the municipal entities required to be provided with copies by the Commission's regulations at 52 Pa. Code § 3.501(f) and by the Section 1329 Checklist and upon the Pennsylvania Department of Environmental Protection ("DEP") Central Office and Northwestern Regional Office. Similarly, notice will be published in local newspapers of general circulation.

46. Upon receiving conditional acceptance of this filing by the Commission, PAWC will provide individual notice to its customers by bill insert or bill onsert and to BASA's customers by direct mail, in substantial compliance with the settlement in *Application of Pennsylvania-American Water Company Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Water System Assets of the Steelton Borough Authority*, Docket No. A-2019-3006889 (Order entered October 3, 2019).⁷ PAWC will verify to the Commission when individual notice to affected customers has been completed and ask that the filing be finally accepted.

47. Upon final acceptance of this filing, PAWC respectfully requests that the Commission publish notice of this filing in the Pennsylvania Bulletin as soon as possible, with a reasonable deadline for the filing of protests, interventions, etc. in this proceeding.

F. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Pennsylvania-American Water Company respectfully requests that the Pennsylvania Public Utility Commission approve the Application and order that:

(a) such Certificates of Public Convenience be issued as necessary to evidence its approval under 66 Pa. C.S. § 1102(a) of (i) the transfer, by sale, of substantially all of the assets,

⁷ See Direct Testimony of Ashley E. Everette, **Appendix A-14-a**, PAWC Statement No. 3. at pp. 12-13

properties and rights related to the wastewater collection and treatment system owned by BASA to Pennsylvania-American Water Company, and (ii) the right of Pennsylvania-American Water Company to begin to offer, render, furnish and supply wastewater service in the areas served by the wastewater collection and treatment system owned by BASA;

(b) the *pro forma* tariff supplement attached hereto as **Appendix A-12**, including all rates, rules and regulations regarding conditions of Pennsylvania-American Water Company's wastewater service as revised herein, be permitted to become effective immediately upon closing of the Transaction;

(c) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to use for ratemaking purposes the lesser of the fair market value or the negotiated purchase price of the assets purchased pursuant to the Transaction;

(d) pursuant to 66 Pa. C.S. § 1702, Pennsylvania-American Water Company be permitted to record the acquisition at the net value of the assets;

(e) pursuant to 66 Pa. C.S. 1329, Pennsylvania-American Water Company be permitted to collect a distribution system improvement charge prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base:

(f) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to accrue Allowance for Funds Used During Construction for post-acquisition improvements not recovered through the distribution system improvement charge for book and ratemaking purposes;

(g) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes;

(h) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be

permitted to include, in its next base rate case, a claim for transaction and closing costs associated with the acquisition of the System;

(i) pursuant to 66 Pa. C.S. § 507, a Certificate of Filing or approvals be issued for the following agreements between Pennsylvania-American Water Company and a municipal corporation:

- i. Asset Purchase Agreement By and Among Butler Area Sewer Authority, as Seller, and Pennsylvania-American Water Company, as Buyer, Dated as of October 11, 2022 (attached hereto as **Appendix A-24-a**);
- ii. Water Pollution Control Agreement for Central Butler County between City of Butler, Township of Butler, Township of Center, Township of Summit, Borough of East Butler, Deshon Area Sanitary Disposal and Sewer Authority, East Butler Borough Sewer Authority, East Butler Borough Sewer Authority, Meridian Water and Sewer Authority, Municipal Water and Sewer Authority of Center Township and Butler Area Sewer Authority dated as of February 20, 1974 (attached hereto as **Appendix A-25.1**);
- iii. Service Agreement between the Township of Oakland and Butler Area Sewer Authority for the Service Area along Route 38 dated March 7, 1994 (attached hereto as **Appendix A-25.2**);
- iv. Service Agreement between the Township of Connoquenessing and Butler Area Sewer Authority for Cupps Road Service Area dated April 3, 1995 (attached hereto as **Appendix A-25.3**);
- v. Service Agreement between the Township of Connoquenessing and Butler Area Sewer Authority for Winterwood Drive Service Area dated December 14, 2005 (attached hereto as **Appendix A-25.4**).

(j) the issuance of any other approvals or certificates appropriate, customary, or necessary under the Code to carry out the Transaction contemplated in this Application in a lawful manner.

Respectfully submitted,



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