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March 13, 2023

VIA PUC SHAREPOINT SITE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

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, the Borough of East Butler, and the Townships of Butler, Center, Connoquenessing, Oakland and Summit, in Butler County, Pennsylvania

Docket No: A-2022-3037047

Dear Secretary Chiavetta:

Enclosed for filing are the Responses of Pennsylvania-American Water Company to the 66 Pa. C.S. Section 1329 Application Completeness Review of Pennsylvania-American Water Company – Wastewater Division Acquisition of the Butler Area Sewer Authority System Assets at Docket No. A-2022-3037047 Missing Application Information, dated March 7, 2023. Please note some responses are **CONFIDENTIAL** and should be treated as such.

Copies are being served upon the statutory advocates in accordance with the attached Certificate of Service and in accordance with the Commission's *Final Supplemental Implementation Order* entered February 28, 2019 at Docket No. M-2016-2543193.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,



Elizabeth Rose Triscari

cc: All Parties on the Attached Certificate of Service (*via OneDrive Link*)
Sean Donnelly (*via OneDrive Link*)

**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, 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 Authority and Pennsylvania-American Water Company, and (ii) three 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

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

and treatment system owned by the Butler Area Sewer Authority

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of March served a true copy of the foregoing Responses of Pennsylvania-American Water Company regarding the acquisition of the Butler Area Sewer Authority's wastewater treatment, transportation, and distribution facilities upon the parties, listed below and in the manner below in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA ELECTRONIC MAIL (ONE DRIVE LINK) ON MARCH 13, 2023

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Respectfully submitted,



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66 Pa. C.S. Section 1329 Application Completeness Review Pennsylvania-American Water Company – Wastewater Division Acquisition of Butler Area Sewer Authority Wastewater System Assets at Docket No. A-2022-3037047

1. Checklist Item Nos. 1, 12, 16.a., 21, and 22.a.-c. – The map provided in the Application’s Appendix A-16-a-e appears to depict a portion of Penn Township between Map Points 294 and 300 as being included within the boundaries of the requested service territory. However, the caption provided in the Application does not identify a request for Commission approval of the right of Pennsylvania-American Water Company – Wastewater Division (PAWC-WD) to begin to offer or furnish wastewater service to the public in a portion of Penn Township, Butler County, Pennsylvania, and Application appendices do not address information requirements for PAWC-WD’s provision of wastewater service in Penn Township. Please either amend the Application’s Appendix A-16-a through f to exclude areas in Penn Township from PAWC-WD’s requested service territory or revise the captioning and all effected aspects of the Application and Appendices (i.e., PAWC-WD’s pro forma tariff supplement, requested territory map, affected persons, etc.) to reflect a portion of Penn Township is being included in the requested service territory.

Response: Please see **Amended Appendix A-16-a through f**. There are no customers served by BASA in Penn Township. Portions of Penn Township are not part of the requested service territory.

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2. Checklist Item No. 4. – The Application’s Appendix A included a copy of a 66 Pa.C.S. § 1329 Application Filing Checklist (Application Checklist) that indicated responses to Checklist Item No. 4., Section 1329 Application Standard Data Requests were included in the Application’s Appendices A-4.1, A-4.2, and A-4.3, respectively. However, Appendices A-4.1 and A-4.3 were not included in the Application. Please provide copies of the Application’s Appendices A-4.1 and A-4.3.

Response: The hard and electronic copy filed with the Pennsylvania-Public Utility Commission did include Appendices A-4.1 and Appendix A-4.3. For your convenience, please find attached **Appendix A-4.1 and Appendix A-4.3**. Please note **Appendix A-4.1** (Attachment 14) **Appendix A-4.3** (Gannett Fleming Workpapers) are **CONFIDENTIAL** and should be treated as such.

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3. Checklist Item No. 12 - The Application's Appendix A-12 consisted of a pro forma tariff supplement showing the rates, proposed rules, and conditions of service. However, the rates identified in the pro forma tariff supplement do not match the rates identified in Sections 100-11.03 and 100-11.04 of Butler Area Sewer Authority's (BASA's) rates, rules, and regulations, provided in the Application as Appendix A-18-b. Specifically, BASA's pollutant loading rates only apply to customers that discharge more than 100,000 gallons per quarter, where average pollutant concentrations for that period are more than 300 mg/L five-day biochemical oxygen demand (BOD5) and 350 mg/L suspended solids (SS), and include rates established by BASA per pound of BOD5 or SS. Please revise the Application's Appendix A-12 to include a pro forma tariff supplement containing rates equal to the existing rates of the selling utility at the time of the acquisition.

Response: The pro forma tariff supplement filed as **Appendix A-12** contains rates equal to the existing rates of the selling utility at the time of the acquisition and does not require revision. First, the pretreatment fees referenced above are miscellaneous fees and charges. They are not "existing rates" for the purposes of Section 1329 that must be adopted at closing of the transaction. After closing, PAWC's Industrial Pretreatment Program ("IPP") and any associated pretreatment fees pursuant to the Commission-approved rules and regulations in PAWC's tariff will apply to BASA customers. IPP is a form of rules and regulations, which PAWC is permitted to apply to BASA customers after closing the transaction. PAWC is not required to adopt or implement BASA's IPP. Second, even if BOD5 and SS surcharges were properly considered to be "existing rates" for the purposes of Section 1329, BASA has never established them in its Schedule of Rates. Please refer to the Response to No. 7.

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4. Checklist Item No. 12 –The Application’s Appendix A-12 consisted of a pro forma tariff supplement showing the rates, proposed rules, and conditions of service. However, the rates identified in the pro forma tariff supplement do not match the rates identified on Schedule 7.04(a)-2 Seller Closing Rates, of the Asset Purchase Agreement provided in the Application as Appendix A-24-a. Specifically, the pro forma tariff supplement does not include the rates identified for Oak Hills Area, Dutchtown Opt 2 and Oak Hills Area, Dutchtown Opt 3. Please revise the Application’s Appendix A-12 to include a pro forma tariff supplement containing rates equal to the existing rates of the selling utility at the time of the acquisition.

Response: Please see **Amended Appendix A-24-a (revising APA Schedule 7.04(a)-2 Seller Closing Rates)**, which is consistent with the pro forma tariff filed as **Appendix A-12**.

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5. Checklist Item No. 14. – The Application’s Appendix A-14-a, PAWC Statement No. 2, included a copy of the direct testimony from Daniel J. Hufton that referenced an Exhibit DJH-3 on Page 21. However, a copy of Exhibit DJH-3 was not included in Appendix-14-a. Please amend Appendix A-14-a, PAWC Statement No. 2, to include a copy of Exhibit DJH3.

Response: Please see **Amended Appendix A-14-a**, PAWC Statement No. 2, Direct Testimony of Daniel J. Hufton, which includes PAWC Exhibit DJH-3.

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6. Checklist Item No. 17.a. – The Application’s Appendix A-17-a indicated 908 future connections to the wastewater system are projected for the years 2023 through 2026. However, Checklist Item No. 17.a, requires a projection of future connections anticipated for the next five years. Please revise Appendix A-17-a to state the number of anticipated connections to the wastewater system for the next five years.

Response: Please see **Amended Appendix A-17-a** and **Amended Appendix A-20-c**. These revised documents reflect BASA’s latest projections of future connections in their 2022 Chapter 94 Report, which are lower than those in the previous year’s report. BASA adjusts their future connection estimates each year by calculating the observed growth/contraction within the existing service area averaged over the prior 5 years and then adding on the potential new EDUs from approved planning modules.

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7. Checklist Item No. 18.a. – The Application’s Appendix A-18-b included a copy of BASA’s rates, rules and regulations. Sections 100-11.03 and 100-11.04 of BASA’s rates, rules and regulations indicated that BOD5 and SS surcharge rates are in BASA’s Schedule of Rates. However, the Application’s Appendix A-18-a does not identify BASA’s BOD5 and SS rates. Please amend the Application’s Appendix A-18-a to include copies of BASA resolutions, tariffs, agreements and/or contracts establishing BASA’s BOD5 and SS surcharge rates.

Response: As explained in response to No. 3, the pretreatment fees referenced above are miscellaneous charges and thus are not part of BASA’s existing rates for the purposes of Section 1329 and will not be applicable post-closing. Furthermore, BASA has never established in its Schedule of Rates either a BOD5 surcharge rate or SS surcharge rate. No customers are charged a BOD5 surcharge and the only customer being charged a SS surcharge is PAWC in the amount of \$0.315/lb pursuant to the attached June 14, 1991 letter. Please see **Amended Appendix A-18-b**, adding the June 14, 1991 letter.

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8. Checklist Item No. 20.b. – The Application’s Appendix A-20-b included a list of water quality management (WQM) and National Pollutant Discharge Elimination System (NPDES) permits for the utility plant and copies of the associated permits. The list of permits identified WQM Permit No. 364S24-T1, dated 5/2/1973, for the Transfer of Sewer Extension for Meadowood Plan, South Butler Township Sewer System Authority. However, Appendix A-20-b did not include a copy of this permit. Please provide a copy of WQM Permit No. 364S24-T1.

Response: Please see **Amended Appendix A-20-b** which includes WQM Permit No. 364S24-T-1 dated 5/2/1973.

9. Checklist Item No. 22.a. – The Act 537 Sewage Facilities Planning Study Update (Act 537 Plan Update) provided as the Application’s Appendix A-22-b included a map depicting BASA’s service area boundaries (BASA Service Area) as Figure II-2. However, the boundaries of the requested service territory, depicted on the map included in the Application’s Appendix A-16-a, do not match, and appear to extend beyond, the boundaries of the BASA Service Area depicted in the Act 537 Plan Update. Additionally, the Application at Page 13 indicated the BASA’s Act 537 Official Sewage Facilities Plan (Act 537 Plan) will be updated to be consistent with the requested service territory and will be adopted by all the effected municipalities and approved by Department of Environmental Protection (DEP) prior to closing. It is not clear that the areas in the requested service territory that extend beyond the boundaries of the BASA Service Area are consistent with the Act 537 Plan Update or any Sewage Facilities Planning Modules or Special Studies completed by the affected municipalities that may have been completed after the DEP approval of the Act 537 Plan Update. Please demonstrate compliance with the DEP approved Act 537 Official Sewage Facilities Plans for the affected municipalities (including the extent of the requested service territory).

Response: Through this transaction, PAWC will adopt BASA’s physical service area which is depicted on the requested service territory map included in **Amended Appendix A-16-a through f**. PAWC is not proposing to expand service in any way beyond the area currently being served by BASA. The requested service territory map differs from the 2009 Act 537 Plan Update map for two reasons. First, the service area boundary shown in the Act 537 Plan did not accurately reflect the physical extent of BASA’s service area at the time. In several locations, BASA was serving customers with existing assets that were not included within the Act 537 service boundary. These areas have been incorporated into PAWC’s requested service territory. Second, there have been several Sewage Facilities Planning Modules approved by PADEP after the August 27, 2009 approval of the Act 537 Plan Update that expanded BASA’s service territory. These areas have also been incorporated into PAWC’s requested service territory. As stated in the Application at Page 13, BASA’s Act 537 Plan will be updated to be consistent with the area BASA currently serves and consistent with the requested service territory, and will be adopted by all the affected municipalities and approved by PADEP prior to closing of the transaction.

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10. Checklist Item No. 22.b. – Page IV-1 of the Act 537 Plan Update provided as the Application’s Appendix A-22-b, indicated that as part of the October 13, 2006, Consent Order and Agreement with the DEP, the communities served by the BASA were required to revise their official sewage facilities plans. However, copies of the DEP-approved Act 537 Official Sewage Facilities Plans for the affected municipalities were not provided in the Application. Please provide copies of the DEP-approved Act 537 Official Sewage Facilities Plans for the Borough of East Butler, and Butler, Center, Connoquenessing, Oakland, and Summit Townships.

Response: Please see **Amended Appendix A-22-b** for the Act 537 Plans for the Borough of East Butler and Butler, Center, Connoquenessing, Oakland and Summit Townships.

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11. Checklist Item No. 22.e. – The Application Checklist indicated the response to Checklist Item No. 22.e. was provided in the Application’s Appendix A-21-e. However, a copy of Appendix A-21-e was not filed with the Commission. Please provide evidence the filing is consistent with the affected municipality and county comprehensive plans.

Response: The Application Checklist incorrectly indicated that the response to Checklist Item No. 22.e was provided in **Appendix A-21-e**. It should have been provided at **Appendix A-22-e**. Please see **Appendix A-22-e**. Pennsylvania-American Water Company is not providing evidence the filing is consistent with the affected municipality and county comprehensive plans because the filing does not propose to expand the wastewater service beyond the existing BASA System wastewater footprint. Please see the **Amended Appendix A Checklist**.