



COMMONWEALTH OF PENNSYLVANIA

March 16, 2023

E-FILED

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

Re: In The Matter Of The Application Of The York Water Company, Under Sections 1102(a)(1)-(3) of the Public Utility Code, for (1) approval of the right to transfer certain public wastewater facilities and rights from Conewago Industrial Park Water & Sewer Company to The York Water Company; (2) the abandonment by Conewago Industrial Park Water & Sewer Company of wastewater service to the public in its service territory in West Donegal Township, Lancaster County; and (3) approval for The York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of West Donegal Township, Lancaster County, Pennsylvania Docket Nos. A-2023-3038862, A-2023-3038864

Dear Secretary Chiavetta:

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

Copies will be served on all known parties in these proceedings, 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 I.D. No. 73995

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of the Application of The York Water Company, Under Sections 1102(a)(1)-(3) of the Public Utility Code, for (1) approval of the right to transfer certain public wastewater facilities and rights from Conewago Industrial Park Water & Sewer Company to The York Water Company; (2) the abandonment by Conewago Industrial Park Water & Sewer Company of wastewater service to the public in its service territory in West Donegal Township, Lancaster County; and (3) approval for The York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of West Donegal Township, Lancaster County, Pennsylvania :

**Docket Nos. A-2023-3038862
A-2023-3038864**

**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 Joint Application (“*Joint Application*”) 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:

Sharon E. Webb
Assistant Small Business Advocate
Office of Small Business Advocate
555 Walnut Street, 1st Floor
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Harrisburg, Pennsylvania 17101
(717) 783-2525
(717) 783-2831 (fax)
swebb@pa.gov

3. The *Joint Application* was filed by The York Water Company (“York Water” or “Company”), and Conewago Industrial Park and Sewer Company (“Conewago”) (collectively “the “Joint Applicants”) on March 7, 2023. The *Joint Application* requests (1) approval for the right to transfer certain public wastewater facilities and rights from Conewago Industrial Park Water & Sewer Company to the York Water Company; (2) the abandonment of Conewago Industrial Park Water & Sewer Company of wastewater service to the public in its service territory in West Donegal Township, Lancaster County; and (3) approval for The York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of West Donegal Township, Lancaster County, Pennsylvania. *Joint Application*, at Paragraph 5, 6 and 11.

4. York Water is a Class “A” public utility regulated by the Pennsylvania Public Utility Commission (“Commission”) organized until the laws of the Commonwealth of Pennsylvania. *Joint Application*, at Paragraph 3(a).

5. Conewago is a Class “C” public utility (Non-Transient; Non-Community) certificated by the Commission to provide wastewater service within its franchised territory in a

portion of West Donegal Township, Lancaster County, Pennsylvania. *Joint Application*, at Paragraph 3(a).

6. 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 Joint Application raises 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 increase 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 reject the *Joint Application* as filed.

In the alternative, the OSBA respectfully requests that the Commission conduct a full investigation, including evidentiary hearings, into the *Joint Application*.

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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Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Date: March 16, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In the Matter of the Application of The	:	
York Water Company, Under Sections	:	
1102(a)(1)-(3) of the Public Utility Code,	:	
for (1) approval of the right to transfer	:	
certain public wastewater facilities and	:	
rights from Conewago Industrial Park	:	
Water & Sewer Company to The York	:	
Water Company; (2) the abandonment by	:	Docket Nos. A-2023-3038862
Conewago Industrial Park Water &	:	A-2023-3038864
Sewer Company of wastewater service to	:	
the public in its service territory in West	:	
Donegal Township, Lancaster County;	:	
and (3) approval for The York Water	:	
Company to begin to offer, render,	:	
furnish or supply wastewater service to	:	
the public in a portion of West Donegal	:	
Township, Lancaster County,	:	
Pennsylvania		

**PUBLIC STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE**

The Small Business Advocate is authorized and directed to represent the interests of small business consumers of utility services in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50 (“the Act”). The Act further provides that the Small Business Advocate issue publicly a written statement setting forth concisely the specific interest of small business consumers to be protected by the initiation of, or intervention in, any proceeding involving those interests before the Pennsylvania Public Utility Commission (“Commission”) or any other agency or court. This public statement relates to the filing today by the Small Business Advocate of a Notice of Intervention and Protest in the above-captioned proceeding.

This proceeding involves a request by The York Water Company (“York Water” or “Company”), and Conewago Industrial Park and Sewer Company (“Conewago”) (collectively “the Joint Applicants”) filed on March 7, 2023. The Joint Application

seeks (1) approval to transfer control of certain public wastewater facilities and rights from Conewago to York Water; (2) the abandonment of Conewago Industrial Park Water & Sewer Company of wastewater service to the public in its service territory in West Donegal Township, Lancaster County; and (3) approval for The York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of West Donegal Township, Lancaster County, Pennsylvania.

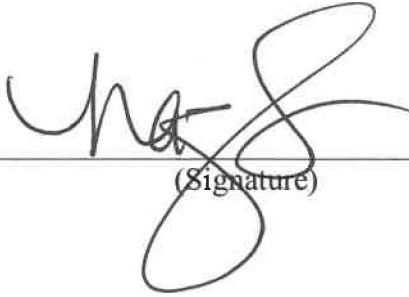
The Small Business Advocate will participate in this proceeding to protect the interests of the Applicants' small business customers.

Dated: March 16, 2023

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: March 16, 2023



(Signature)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In the Matter of the Application of The York
Water Company, Under Sections 1102(a)(1)-
(3) of the Public Utility Code, for (1)
approval of the right to transfer certain
public wastewater facilities and rights from
Conewago Industrial Park Water & Sewer
Company to The York Water Company; (2)
the abandonment by Conewago Industrial
Park Water & Sewer Company of
wastewater service to the public in its service
territory in West Donegal Township,
Lancaster County; and (3) approval for The
York Water Company to begin to offer,
render, furnish or supply wastewater service
to the public in a portion of West Donegal
Township, Lancaster County, Pennsylvania**

**Docket Nos. A-2023-3038862
A-2023-3038864**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant)

The Honorable Charles E. Rainey Jr.
Chief Administrative Law Judge
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DATE: March 16, 2023

/s/ Sharon E. Webb

Sharon E. Webb
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Attorney ID No. 73995