

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 the Towamencin Municipal Authority, the Township of Towamencin and NextEra Water Pennsylvania, LLC, and the First Amendment to the Asset (ii) the Assignment and Assumption Agreement of Asset Purchase Agreement By and Among the Towamencin Municipal Authority, the Township of Towamencin, NextEra Water Pennsylvania, LLC and Pennsylvania-American Water Company, and (ii) seven 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 and operated by Towamencin Township and Towamencin Municipal Authority :

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

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 may be 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, to PAWC, of substantially all of the assets, properties and rights related to the wastewater collection and treatment system (the “System”) owned and operated by the Towamencin Municipal Authority (the “Authority”) and the Township of Towamencin (the “Township”); (b) PAWC’s right to begin to offer, render, furnish and supply wastewater service in the areas served by the System in the Township, portions of Lower Salford, Worcester, and Franconia Townships, and the Borough of Lansdale, Montgomery 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 the Authority's and the Township'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) the recording of 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:

- a. The Asset Purchase Agreement By and Between the Township (as Seller), the Authority, and NextEra, as Buyer, Dated as of June 14, 2022 (attached hereto as **Appendix A-24-a.1**) (the "Original APA");

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.

- b. The First Amendment to Asset Purchase Agreement, dated as of March 23, 2023, by and Between the Township, the Authority and NextEra (the “First Amendment”) (attached hereto as **Appendix A-24-a.2**).
- c. The Assignment and Assumption Agreement of Asset Purchase Agreement, Dated as of March 23, 2023, By and Between the Township, the Authority, NextEra and PAWC (the “Assignment”) (attached hereto as **Appendix A-24-a.3**);
- d. Agreement among Hatfield Township, Hatfield Township Municipal Authority, the Township and Upper Gwynedd-Towamencin Municipal Authority re: Derstine Watershed Area and other areas dated October 13, 2010 which incorporates by reference the 2001 Agreement among the same parties (attached hereto as **Appendix A-25.1**);
- e. Agreement between Borough of Lansdale, Township of Upper Gwynedd, the Township, Lansdale Sewer Authority and the Upper Gwynedd-Towamencin Municipal Authority dated December 29, 1969 (attached hereto as **Appendix A-25.2**);
- f. Transportation and Capacity Agreement between the Township, Upper Gwynedd-Towamencin Municipal Authority, Lower Salford Township Authority and Lower Salford Township dated September 18, 1989 and Modification Agreement dated August 24, 1994 (modifies but does not terminate the 1989 Agreement) and as modified by the Letter dated July 28, 2016 to the Township from LSTA and Emails between the Township and Lower Salford Authority dated October 7, 2016 (attached hereto as **Appendix A-25.3**);

- g. Agreement among the Township, Franconia Township Authority, UGTMA and JDJ Associates (aka Asher’s Chocolates) dated December 17, 1997 (attached hereto as **Appendix A-25.4**);
- h. Customer Service Agreement by and between the Township and Upper Gwynedd Township dated March 2, 2015 (attached hereto as **Appendix A-25.5**);
- i. Worcester Township (no formal contracts but as a result of the settlement of a lawsuit Towamencin Township passed Ordinance No. 89-7 dated July 26, 1989 creating the Hollis Hills Sanitary Sewer District and Ordinance No. 89-12 dated February 22, 1989 creating the Milestone Sanitary Sewer District) (attached hereto as **Appendix A-25.6**); and
- j. an agreement with the North Penn Water Authority (“NPWA”) regarding water meter data for System customers (a *pro forma* draft of this agreement is attached hereto as **Appendix A-25.7**).

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:

Teresa K. Harrold, Esquire
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Telephone: 717-550-1562
Email: teresa.harrold@amwater.com

David P. Zambito Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Telephone: 717-703-5892
Email: dzambito@cozen.com
Email: jnase@cozen.com

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 Montgomery County. 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. The Authority is a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act in the Commonwealth of Pennsylvania, with its offices located at 1090 Troxel Road, Lansdale, PA 19446. The Authority was created by the Township in 1964 under the Pennsylvania Municipality Authorities Act of 1945. The Authority owns the System and leases it to the Township, which operates it.

8. As of April 30, 2023, the System furnished wastewater service directly to 5,886 customers. The System also had five intermunicipal agreements by which it provided service indirectly to additional residential and commercial customers. The System's Service Area spans approximately 8.8 square miles.

9. As of March 31, 2023, PAWC furnished wastewater service to approximately 97,562 residential, commercial, industrial, municipal and bulk customers in Pennsylvania. As of March 31, 2023, PAWC furnished water service to approximately 680,616 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 Township, while ensuring that the System's existing customers receive safe, adequate, and reliable wastewater service at just and reasonable rates.

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

Summary of the Transaction

11. The Township and the Authority entered into the Original APA, along with detailed schedules, to sell all of the System's assets, properties and rights (other than the Excluded Assets, as defined by the APA) to NextEra.

12. The Township, the Authority, and NextEra executed the First Amendment, which modified the purchase price for the System (among other things).

13. The Township, the Authority, NextEra and PAWC executed the Assignment, by which all of NextEra's rights and obligations pursuant to the APA were assigned to and assumed by PAWC.

14. PAWC's acquisition of the System (the "Transaction") will be completed in accordance with the APA, as amended and assigned.

15. Among other things, the APA: (i) requires PAWC, the Authority and the Township 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”)² (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 the System’s current customers and PAWC’s current customers.³

Applicable Legal Standards

16. 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 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).

17. 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).

18. 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.

² The Township expects to increase System rates, effective January 1, 2024.

³ 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(g).

19. 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,⁴ (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 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*.

20. 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

21. Attached hereto is the Township's and the Authority's balance sheet as of December 31, 2021 (**Appendix C**) and PAWC's audited balance sheet as of December 31, 2022 (**Appendix D**).

⁴ 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.

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

23. 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

24. 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).

25. PAWC and the Township are not affiliated with each other, nor are PAWC and the Authority affiliated with each other.

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

27. Attached hereto as **Appendix G** is a *pro forma* balance sheet of PAWC as of December 31, 2022, giving effect to the transfer.

28. Attached hereto as **Appendix H** is a *pro forma* consolidated income statement of PAWC and the Township for the 12 months as of December 31, 2022.

29. 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 Assignment.

30. Attached hereto as **Appendix J** is a copy of the Township's Resolution No. 22-04 (authorizing the sale of the System to NextEra) and a copy of the Township's Resolution No. 23-03 (authorizing the assignment to PAWC).

31. 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

32. 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 and the Township, (c) the existing customers of the System, (d) the existing wastewater customers of PAWC, and (e) the existing water customers of PAWC.

33. 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 the Township and the Authority 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. I, § 27.

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

- a. The Township will dissolve the Authority and obtain control of the System upon Closing. As a result, the Transaction will result in the elimination of all Authority and Township debt relating to the System (approximately \$17 million), which will save thousands of dollars in interest payments. The Township will use the remaining proceeds for public purposes, affording it: greater financial stability, the opportunity to eliminate debt unrelated to the System, flexibility in spending on other public benefits without increasing residents' taxes, and reduced exposure to future revenue shortfalls.
- b. PAWC will offer employment to active employees of the System. This was important to the Township and the Authority.

- c. 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.
- d. By selling the System, Township officials and staff can focus their attention on other governmental programs and projects.

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

- a. The existing System 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. PAWC has extensive local knowledge of Montgomery County, due to its ownership and operation of other water and wastewater systems in the area.
- c. System customers will become part of a large PAWC customer base. As a stand-alone system, System customers have to bear the burden of the System's capital improvement needs on their own. As part of a larger customer base, System 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.
- d. Customers will receive service from a large, financially, legally and technically fit public utility. The System will be able to draw on the statewide resources of PAWC. This includes approximately 1,150 professionals with expertise in all areas of water and wastewater utility operations. In addition, since PAWC is a subsidiary of American Water Works Company, Inc., it has access to additional resources of highly trained professionals who have expertise in various specialized areas. Finally, PAWC has access to equity and other funding sources to which the System does not currently have access (such as a \$400 million line of credit through American Water Capital Corp. ("AWCC")).
- e. Customers will receive service from a 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.
- f. PAWC has more robust cybersecurity, physical security, business continuity and emergency plans than does the Township and the Authority.
- g. Customers can make service calls to PAWC's customer call centers at hours when the Township and Authority offices are closed.

- h. PAWC has more robust customer assistance programs and customer education programs.
 - i. PAWC must comply with the Responsible Utility Customer Protection Act, and the Commission's regulations at 52 Pa. Code Chapter 56, whereas the System is not subject to this statute and regulations.
 - j. The System'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.
36. 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 5,886 wastewater customers to PAWC's existing wastewater customer base of approximately 97,562 customers (or an increase of more than 6%). 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 customers in any particular wastewater system are unlikely to experience sharp rate spikes when their individual system requires extensive capital investments.
37. 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 TOWNSHIP AND PORTIONS OF THE TOWNSHIPS OF LOWER SALFORD, WORCESTER, AND FRANCONIA, AND THE BOROUGH OF LANSDALE, IN MONTGOMERY COUNTY, PENNSYLVANIA

38. The System provides wastewater service to approximately 5,886 direct customers in the Service Area.

39. PAWC's applied-for service territory 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 the System in the Township, Lower Salford Worcester, and Franconia Townships, and the Borough of Lansdale. On or about May 12, 2023, the Township filed an Application for a Certificate of Public Convenience with the Commission because, in preparing for this Transaction, it became apparent that the Township was providing extra-territorial service without a certificate of public convenience. The service area requested by PAWC in this Application includes the System's current service area (both inside the Township and as requested in the Township's Application).

40. No corporation, partnership or individual other than the System 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 wastewater collection and treatment (other than the Excluded Assets, as set forth in the APA). The Authority will be dissolved upon Closing. Upon Closing, the Township and the Authority will permanently discontinue all wastewater service to the public.

C. FAIR MARKET VALUATION UNDER CODE SECTION 1329

41. **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.).

42. 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 (Gannett Fleming Valuation and Rate Consultants, LLC)** and **Appendix A-4.3 (ScottMadden, Inc.)**). Buyer's UVE's written direct testimony in support of its report is set forth in **Appendix A-14-b**.⁵

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

44. 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

⁵ PAWC is submitting direct testimony of the Township's UVE and two other pieces of testimony by: H. Charles Wilson III, Chairman of the Board of Supervisors of the Township, and John Minihan, a member of the Board of Directors of the Authority. These three 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 the Township and the Authority 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 the Township and the Authority, as appropriate.

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.

45. PAWC seeks approval to record the \$104,000,000 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

46. The Assignment, because it is between PAWC and a municipal corporation, is required to be filed with the Commission under 66 Pa. C.S. § 507. The Original APA, the First Amendment, and the Assignment are attached hereto as **Appendix A-24-a.1 through Appendix A-24-a.3**. In addition, the Township's and the Authority's contracts with municipal corporations related to the System will be assumed by PAWC upon Closing. PAWC also intends to execute an agreement with NPWA by which NPWA will provide water meter data to PAWC in order for PAWC to bill System customers. This agreement is currently being negotiated. The Section 507 Agreements are listed on **Appendix A-25** and attached hereto as **Appendices A-25.1 through A-25.7**. 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 the Township and/or the Authority, 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 the System 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

47. 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 Southeastern Regional Office. Similarly, notice will be published in local newspapers of general circulation.

48. Upon receiving conditional acceptance of this filing by the Commission, PAWC will provide individual notice to its customers by bill insert or onsert and to Towamencin’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).⁶ PAWC will verify to the Commission when individual notice to affected customers has been completed and ask that the filing be finally accepted.

49. 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.

⁶ See Direct Testimony of Ashley E. Everette, **Appendix A-14-a**, PAWC Statement No. 3.

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, properties and rights related to the System 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 System in the Township, portions of Franconia, Lower Salford, and Worcester Townships, and the Borough of Lansdale;

(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:

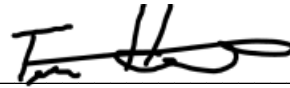
- i. Asset Purchase Agreement Between the Township (as Seller), the Authority, and NextEra, as Buyer, Dated as of June 14, 2022 (attached hereto as **Appendix A-24-a.1**);
- ii. The First Amendment to Asset Purchase Agreement, dated as of March 23, 2023, by and Between the Township, the Authority and NextEra (the “First Amendment”) (attached hereto as **Appendix A-24-a.2**).
- iii. The Assignment and Assumption Agreement of Asset Purchase Agreement, Dated as of March 23, 2023, By and Between the Township, the Authority, NextEra and PAWC (the “Assignment”) (attached hereto as **Appendix A-24-a.3**);
- iv. Agreement among Hatfield Township, Hatfield Township Municipal Authority, the Township and Upper Gwynedd-Towamencin Municipal Authority re: Derstine Watershed Area and other areas dated October 13, 2010 which incorporates by reference the 2001 Agreement among the same parties (attached hereto as **Appendix A-25.1**);

- v. Agreement between Borough of Lansdale, Township of Upper Gwynedd, the Township, Lansdale Sewer Authority and the Upper Gwynedd-Towamencin Municipal Authority dated December 29, 1969 (attached hereto as **Appendix A-25.2**);
- vi. Transportation and Capacity Agreement between the Township, Upper Gwynedd-Towamencin Municipal Authority, Lower Salford Township Authority and Lower Salford Township dated September 18, 1989 and Modification Agreement dated August 24, 1994 (modifies but does not terminate the 1989 Agreement) and as modified by the Letter dated July 28, 2016 to the Township from LSTA and Emails between the Township and Lower Salford Authority dated October 7, 2016 (attached hereto as **Appendix A-25.3**);
- vii. Agreement among the Township, Franconia Township Authority, Upper Gwynedd-Towamencin Municipal Authority, and JDJ Associates (aka Asher's Chocolates) dated December 17, 1997 (attached hereto as **Appendix A-25.4**);
- viii. Customer Service Agreement by and between the Township and Upper Gwynedd Township dated March 2, 2015 (attached hereto as **Appendix A-25.5**);
- ix. Worcester Township (no formal contracts but as a result of the settlement of a lawsuit Towamencin Township passed Ordinance No. 89-7 dated July 26, 1989 creating the Hollis Hills Sanitary Sewer District and Ordinance No. 89-12 dated February 22, 1989 creating the Milestone Sanitary Sewer District) (attached hereto as **Appendix A-25.6**);

x. an agreement with the North Penn Water Authority regarding water meter data for System customers (a *pro forma* draft of this agreement is attached hereto as **Appendix A-25.7**).

(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,



Teresa K. Harrold, Esq. (PA ID # 311082)
Director, Corporate Counsel
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Phone: (717) 550-1562
E-mail: teresa.harrold@amwater.com

David P. Zambito, Esquire (PA ID #80017)
Jonathan P. Nase, Esquire (PA ID #44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
Email: dzambito@cozen.com
Email: jnase@cozen.com

Attorneys for
Pennsylvania-American Water Company

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