COMMONWEALTH OF PENNSYLVANIA

June 1, 2023

E-FILED

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

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 and operated by Towamencin Township and Towamencin Municipal Authority, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Township of Towamencin and portions of the Townships of Franconia, Lower Salford and Worcester and the Borough of Lansdale, all in Montgomery County, Pennsylvania / Docket No. A-2023-3039900

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 proceeding.

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

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

Sincerely,

/s/ Nakea S. Hurdle

Nakea S. Hurdle
Assistant Small Business Advocate
Attorney ID No. 203633

Enclosures
cc: Brian Kalcic
Parties of Record

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 and operated by Towamencin Township and Towamencin Municipal Authority, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Township of Towamencin, portions of the Townships of Lower Salford Worcester, and Franconia, and the Borough of Lansdale, all in Montgomery County, Pennsylvania	:	Docket No. A-2023-3039900

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 Application of the Pennsylvania-American Water Company ("Application") pursuant to the Pennsylvania Public Utility Code, 66 Pa. C.S. §1329. 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:

Nakea Hurdle
Assistant Small Business Advocate
Office of Small Business Advocate
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3. The Application was filed by the Pennsylvania-America Water Company ("PAWC" or "Company") on May 15, 2023, regarding the acquisition subject to the assigned Asset Purchase Agreement between Towamencin Municipal Authority ("Authority") and the Township of Towamencin ("Township"), NextEra Energy (original buyer as reflected on the original June 14, 2022 Asset Purchase Agreement with the Authority and the Township before the assignment from Next Era as purchaser to PAWC as purchaser), and PAWC which was executed on March 23, 2023 ("Assigned APA"). The Application requests approval (1) to acquire the wastewater assets and treatment system owned and operated by the Township and the Authority; (2) approval to begin to offer and furnish wastewater service to the public in the Township and portions of the Townships of Francoania, Lower Salford and Worcester, the Borough of Landsdale and all of Montgomery County, PA ("Service Area"); approval of PAWC's use of the lesser of the fair market value or negotiated purchase price of the assets related to the system owned and operated by the Authority and the Township; (4) approval to collect a distribution system improvement charge, to accrue allowance for funds used during construction for post-acquisition improvements not recovered through the distribution system improvement charge, and to defer depreciation related to post-acquisition improvements not recovered through the distribution system improvement charge; (5) approval to include a claim for transaction and closing costs in the next base rate case; and (6) approval and issuance of

Certificates of filings pursuant to the Pennsylvania Public Utility Code, 66 Pa. C.S. § 507 regarding the original June 14, 2022 Asset Purchase Agreement between the Township (as Seller), the Authority and NextEra Energy (as buyer) ("Original APA"), the assigned APA, and other related agreements.

4. PAWC is a public utility company, duly organized and existing under the laws of the Commonwealth of Pennsylvania and is engaged in the wastewater service business and furnishes wastewater to approximately 2,300,000 customers, as reflected in documents already on file with the Pennsylvania Public Utility Commission ("Commission"). Application, at Paragraph 6.

5. The Authority is a municipal authority organized and existing under the Pennsylvania Municipality Authority Act in the Commonwealth of Pennsylvania and was created by the Township in 1964 under the Pennsylvania Municipality Authorities Act of 1945. The authority owns the wastewater collection and treatment system ("System"). Application, at Paragraph 7. As of April 30, 2023, the System furnished wastewater service directly to 5,886 customers. Application, at Paragraph 8.

6. Section 1329 of the Public Utility Code, 66 Pa. C.S. § 1329, permits a public utility to undertake certain actions only upon Commission approval evidenced by a certificate of public convenience when a wastewater system is being acquired (upon agreement of the acquiring and selling utilities), to establish a fair market value of the selling utility by utilizing the list of utility valuation experts maintained by the Commission, and to require the acquiring utility to submit to the Commission the following information when acquiring a wastewater system prior to the Commission's decision to approve or deny the proposed acquisition of a public utility and issue a certificate of public convenience:

(i) Copies of the two appraisals performed by the utility valuation experts under §1329(a) of the Public Utility Code, 66 Pa.C.S. §1329(a).
(ii) The purchase price of the selling utility as agreed to by the acquiring public that will be included in its rate base.
(iii) The ratemaking rate base determined pursuant to §1329(c) of the Public Utility Code, 66 Pa.C.S. §1329(c).
(iv) The transaction and closing costs incurred by the acquiring public utility that will be included in its rate base.
(v) A tariff containing a rate equal to the existing rates of the selling utility at the time of the acquisition and a rate stabilization plan, if applicable to the acquisition.

§1329(d) of the Public Utility Code, 66 Pa.C.S. §1329(d).

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 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 water rates of small business customers.

9. The OSBA reserves the right to raise additional issues as they arise throughout this proceeding.

WHEREFORE, the OSBA respectfully requests that the Commission reject the Application as filed.

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

Respectfully submitted,

/s/ Nakea Hurdle

Nakea Hurdle
Assistant Small Business Advocate
Attorney I.D. No. 203633

For: NazAarah Sabree
Small Business Advocate

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

Date: June 1, 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: June 1, 2023

(Signature)

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 and operated by Towamencin Township and Towamencin Municipal Authority, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Township of Towamencin, portions of the Townships of Lower Salford Worcester, and Franconia, and the Borough of Lansdale, all in Montgomery County, Pennsylvania	:	Docket No. A-2023-3039900

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
Pennsylvania Public Utility Commission
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teresa.harrold@amwater.com

DATE: June 1, 2023

/s/ Nakea S. Hurdle

Nakea S. Hurdle
Assistant Small Business Advocate
Attorney ID No. 203633