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June 21, 2023

VIA e-filing

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

Re: Application of Towamencin Township

Docket No. A-2023-3040661

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is the Prehearing Memorandum of the Applicant, Towamencin Township in the above-captioned matter.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document.

Respectfully submitted,

*/s/ James J. Rodgers*

James J. Rodgers, Esquire

JJR/vah

Enc.

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: APPLICATION OF  
TOWAMENCIN TOWNSHIP,  
PURSUANT TO 66 PA. C.S. § 1102(A),  
FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE TO OFFER,  
FURNISH, RENDER, AND SUPPLY  
WASTEWATER SERVICE TO THE  
PUBLIC IN CERTAIN PORTIONS OF  
WORCESTER TOWNSHIP, LOWER  
SALFORD TOWNSHIP, FRANCONIA  
TOWNSHIP AND LANSDALE  
BOROUGH, ALL IN MONTGOMERY  
COUNTY, PENNSYLVANIA**

**DOCKET A-2023-3040661**

**PREHEARING MEMORANDUM OF TOWAMENCIN TOWNSHIP IN SUPPORT OF  
APPLICATION OF FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE, *NUNC PRO TUNC***

Applicant Towamencin Township (“Applicant”),<sup>1</sup> by and through its counsel, Dilworth Paxson, LLP, submits this Prehearing Memorandum in Support of its Application for a Certificate of Public Convenience, *Nunc Pro Tunc*, pursuant to 66 Pa. C.S. § 1102(a) (“the Towamencin Application”), seeking approval from the Pennsylvania Public Utility Commission for Applicant to offer, furnish, render, and supply wastewater service to the public in certain portions of Worcester and Lower Salford Townships, Montgomery County, Pennsylvania, as well as to bulk customers that interconnect with the Applicant’s system outside the Applicant’s geographic boundaries.<sup>2</sup> Assuming the application is granted, Applicant also requests a Certificate to Abandon Service upon the closing of a proposed sale by Applicant of substantially all of the assets

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<sup>1</sup> The wastewater system (“the Towamencin System”) is owned by the Towamencin Municipal Authority and leased to Towamencin Township which will be referred to collectively herein as “Towamencin.”

<sup>2</sup> The Applied-for-Service Area and Towamencin’s relationships with neighboring municipalities and customers is described in greater detail in the Towamencin Application.

comprising its wastewater system to Pennsylvania-American Water Company (“PAWC”) as specified further below.

This Prehearing Memorandum is submitted pursuant to the June 12, 2023 Order of Honorable Darlene Heeps in connection with the Prehearing Conference scheduled for June 22, 2023.

## **I. HISTORY OF THE PROCEEDING**

The Application was filed on May 12, 2023. The Application is intended to bring the Township into compliance with PUC regulations regarding the provision of wastewater service to a small number of customers situated on or near to the boundaries of the Township. The Application is related to, and in anticipation of, the PUC’s approval of the Application Under Section 1329 of Pennsylvania American Water Company (PAWC) for the acquisition of the wastewater system owned by Towamencin docketed at No 2023-303990.

The Towamencin Application seeks a certificate of public convenience for the continued provision of wastewater service to existing customers (with abandonment of such service upon closing of the proposed acquisition by PAWC) or, should the acquisition not be consummated, for continuation of such service until abandonment is permitted by the PUC.

At the time of filing, pursuant to 52 Pa. Code §3.501, the Towamencin Application with exhibits was served upon each city, borough, town, township, county and related planning office which is included, in whole or in part, in the requested service territory, a wastewater utility, municipal corporation or authority which provides wastewater collection to the public and whose service area abuts the service area proposed in the application, the statutory advocates, and DEP’s central and regional offices.

The Office of Consumer Advocate and the Office of Small Business Advocate have filed Notices of Intervention with Public Statements. Upper Gwynedd Township has filed a Petition

to Intervene. None of these participants have stated objections to the approval of the Towamencin Application or raised any issues of fact that would require determination before the Towamencin Application can be approved.

## **II. ISSUES TO BE PRESENTED AT HEARING**

In connection with a proposed sale by Applicant of substantially all of the assets comprising the wastewater system to PAWC, and as a predicate to the application to be filed by PAWC under Section 1329 of the Pennsylvania Public Utility Code, Applicant requires a certificate of public convenience for the wastewater service provided to the customers described above in Worcester, Lower Salford, Franconia and Lansdale (collectively the “Applied-for Territory”).

The legal standard for the issuance of a certificate of public convenience is that the certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. 66 Pa. C.S. § 1103(a). A certificate of public convenience *nunc pro tunc* for the Applied-For-Territory will bring Applicant into compliance with the Commission’s interpretation of the requirements of the Pennsylvania Public Utility Code. Compliance will serve as an example to other municipalities that may find themselves in a similar situation to that of Applicant. Moreover, customers in the Applied-For Service Territory will benefit from the protection of the Public Utility Code and Commission oversight. These customers will not experience any type of interruption of service. Continued service in the Applied-For Service Territory by Applicant is appropriate from a technical and cost perspective because Applicant has the technical wherewithal to continue to service the Applied-For Service Territory and can do so cost effectively given the proximity of Applicant’s sewer lines. Further, continuation of service to customers in the Applied-For-Service Territory is necessary for their accommodation, convenience and safety as those

customers do not have access to alternative wastewater service. Thus, the Applicant is providing an important public service.

Given the Township's history of providing service in the Applied-For Service Territory, and the curative purpose of the within Application, the Applicant is requesting that all of the requirements of 52 Pa. Code § 3.501 be waived for purposes of this filing.

**III. TOWAMENCIN'S PROPOSED WITNESSES AND THEIR SUBJECTS OF TESTIMONY**

1. Witness: William Dingman

Mr. Dingman is the township's engineer. He will describe the Towamencin wastewater system, as well as explain the background of Towamencin's provision of wastewater services to customers located in the requested service territory, and the benefits to those customers from continuation of service by Towamencin, both pending the proposed sale of the Towamencin System, and in the event that the sale is not consummated.

2. Witness: Adam Szumski

Mr. Szumski is the township's finance director. He will describe the billing process applicable to the customers located in the Applied-for Territory.

3. Witness: A representative of Worcester Township

The witness will offer testimony regarding the consequences to Worcester Township and its residents who are served directly by Towamencin in the event the Towamencin Application is denied and the asset sale is not consummated.

4. Witness: A representative of Lower Salford Township

The witness will offer testimony regarding the consequences to Lower Salford Township and its residents who are served directly by Towamencin in the event the Towamencin Application is denied, and the asset sale is not consummated.

#### IV. STIPULATIONS AND SCHEDULING

Applicant is willing to explore entering into stipulations of fact to narrow or eliminate factual issues that require determination, and to enter into appropriate settlement of any disputed matters.

The Applicant agrees with the ALJ's proposed schedule for the resolution of this matter.

Respectfully Submitted,

*James J. Rodgers*

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Elizabeth Preate Havey, Esq. (PA ID 80793)  
Marc A. Feller, Esq. (PA ID 19545)

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*Towamencin Township*

**COMMONWEALTH OF PENNSYLVANIA  
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BOROUGH, ALL IN MONTGOMERY  
COUNTY, PENNSYLVANIA**

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**DOCKET A-2023-3040661**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date, June 21, 2023, served a true copy of the foregoing Prehearing Memorandum upon the parties in the case, listed below, in accordance with ¶ 5 of Administrative Law Judge Heep's Order of June 12, 2023:

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