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July 7, 2023

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

**RE: *Application of Pennsylvania-American Water  
Co. under Section 1102(a) and 1329 of the Pennsylvania  
Public Utility Code to acquire the wastewater collection  
and treatment system owned by the Butler Area Sewer  
Authority and to furnish wastewater service to the public  
in Butler County, Pennsylvania  
Docket No.: A-2022-3037047***

Dear Secretary Chiavetta:

Attached for electronic filing please find the Prehearing Memorandum of Summit Township, Butler County, Pennsylvania.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

Michael D. Gallagher, Esquire  
PA I.D. No. 59237  
Sean M. Gallagher, Esquire  
PA I.D. No. 318872  
[attys@gallagher.legal](mailto:attys@gallagher.legal)

MDG:mt  
Enclosure

cc: Summit Township Supervisors (*by email*)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American	:	
Water Co. under Section 1102(a) and	:	
1329 of the Pennsylvania Public Utility	:	
Code to acquire the wastewater collection	:	Docket No. A-2022-3037047
and treatment system owned by the Butler	:	
Area Sewer Authority and to furnish	:	
wastewater service to the public in Butler	:	
County, Pennsylvania	:	

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**PREHEARING MEMORANDUM OF  
SUMMIT TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA**

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In accordance with Administrative Law Judge, Marta Guhl's, Prehearing Conference Order dated June 27, 2023, and 52 Pa. Code § 5.222(d), Summit Township hereby submits this Prehearing Memorandum as follows:

Procedural History: On or about February 3, 2023, Pennsylvania American Water Company ("PAWC") filed an application for the acquisition of Butler Area Sewer Authority's ("BASA") assets, properties and rights. The net result of the purchase would result in a near doubling of water rates paid by the current "typical" users of the BASA system. On June 30, 2023, Summit Township, which comprises 3.2% of the BASA system, filed a Protest seeking for the PUC to deny the sale as detrimental to the public at large, including the residents, industries, and businesses located in Summit Township.

Issues: Summit Township intends to address the following issues.

a. The acquisition of BASA's assets and contracts by PAWC would not provide an affirmative benefit to the public, but rather it would be detrimental to the public including the residents, industries and businesses located within Summit Township, in violation of the standards enunciated by the courts in *City of York v. Pa. PUC*, 295 A.2d 825, 828 (Pa. 1972) (the Public Utility Code "requires that the proponents of a merger demonstrate that the merger will affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way") and *McCloskey v. Pa PUC*, 195 A.3d 1055 (Commw. Ct. 2018), appeal denied, 207 A.3d 290 (Pa. 2019);

b. A future fee increase to the users of the BASA system of nearly 100%, is neither reasonable nor lawful, as set forth in the Protest of the Office of Consumer Advocate, which is adopted by Summit Township, as though set forth herein at length;

c. BASA does not have the contractual right to transfer its assets to PAWC without the advice and consent of Summit Township, which consent has not been given;

d. It is not consistent with the public convenience and necessity for PAWC to acquire the assets of BASA, in violation of 66 Pa. C.S. § 1101, *et seq.*;

e. It is unconscionable to use the sale of BASA's assets as a piggy bank for the sole use of the City of Butler and Butler Township;

f. The currently metered BASA customers have no rate provided for them in the proposed tariff or Asset Purchase Agreement and, as such, their costs will have to be defrayed by the entire system, including Summit Township;

g. The proposed metering of customers constitutes a greater increase in customer rates, potentially beyond the doubling as anticipated by the Office of Consumer Advocate; and

h. The rate will not only increase by double, but over time, will greatly exceed any cost increase that BASA would impose over a similar period of time.

Witnesses: Summit Township intends to provide written direct testimony from the following witnesses:

<u>Witness</u>	<u>Proposed testimony</u>
Willie Adams Summit Township Supervisor 502 Bonniebrook Road Butler, PA 16002	a.-h.*
Donald Pringle Center Township Supervisor 150 Hendricks Road Butler, PA 16001	a.-h.*

\*Issues listed in the preceding subsection.

Proposed Scheduling Order: Summit Township submits the following

Proposed Scheduling Order:

<b>Prehearing Conference</b>	-	<b>July 11, 2023</b>
Direct Testimony	-	July 14, 2023
Rebuttal Testimony	-	July 20, 2023
Surrebuttal Testimony	-	July 25, 2023

Evidentiary Hearings - July 27-28, 2023  
Receipt of Transcript - July 31, 2023  
Main Briefs - August 7, 2023

Service List: Summit Township requests that its entry on the service list should be for its Solicitor, as follows:

GALLAGHER LAW GROUP  
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Butler, Pennsylvania 16001  
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Pursuant to 52 Pa. Code § 1.54(b)(3), counsel consents to the electronic service of all documents at the email address shown above.

Settlement: Summit Township is willing to discuss settlement PAWC, BASA, and the proposed intervenors, Butler Township, and the City of Butler.

Respectfully submitted,

GALLAGHER LAW GROUP



Michael D. Gallagher, Esquire  
PA I.D. No. 59237  
Sean M. Gallagher, Esquire  
PA I.D. No. 318872

*Solicitors for Summit Township,  
Butler County, Pennsylvania*

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American :  
Water Co. under Section 1102(a) and :  
1329 of the Pennsylvania Public Utility :  
Code to acquire the wastewater collection :       Docket No. A-2022-3037047  
and treatment system owned by the Butler :  
Area Sewer Authority and to furnish :  
wastewater service to the public in Butler :  
County, Pennsylvania :

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**CERTIFICATE OF SERVICE**

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I hereby certify that I have this 7<sup>th</sup> day of July, 2023 served a true copy of the foregoing Prehearing Memorandum of Summit Township, Butler County, Pennsylvania upon the parties listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL ON JULY 7, 2023**

Administrative Law Judge Marta Guhl  
Pennsylvania Public Utility Commission  
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**VIA U.S. MAIL, POSTAGE PREPAID AND ELECTRONIC MAIL ON JULY 7, 2023**

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Respectfully submitted,

GALLAGHER LAW GROUP



Michael D. Gallagher, Esquire  
PA I.D. No. 59237  
Sean M. Gallagher, Esquire  
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