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July 20, 2023

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: Docket No. A-2022-3037047 – Application of Pennsylvania-American
Water Company to Acquire the Wastewater System Assets of the Butler
Area Sewer Authority**

Dear Secretary Chiavetta:

We are counsel to the Butler Area Sewer Authority, the City of Butler, and the Township of Butler, in the above matter, and are submitting, via electronic filing with this letter, a Motion to Strike the Rebuttal Testimony of (A) Donald Pringle filed on behalf of Municipal Protestant Center Township and (B) Wilfred Adams filed on behalf of Municipal Protestant Summit Township.

This document is also being served via electronic mail all parties of record, unless otherwise indicated on the Certificate of Service.

Very truly yours,

Sydney N. Melillo

CC: All parties of record
The Honorable Marta Guhl, Administrative Law Judge
Thomas S. Wyatt, Esq.
Matthew S. Olesh, Esq.

CERTIFICATE OF SERVICE

I, Sydney N. Melillo, Esq., hereby certify that I have served a true and correct copy of the foregoing document upon the following parties:

By Electronic Mail:

The Honorable Administrative Law Judge Marta Guhl
Pennsylvania Public Utility Commission
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100 Leo Court
Lewisberry, PA 17339

/s/ Sydney N. Melillo

Dated: July 20, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Pennsylvania-American Water :
Company under Section 1102(a) and 1329 of the :
Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a), : Docket No. A-2022-3037047
for approval of (1) the transfer, by sale, of substantially :
all of the assets, properties and rights related to its :
wastewater collection and treatment system owned by :
the Butler Area Sewer Authority, and (2) the rights of :
Pennsylvania-American Water Company to begin to :
offer or furnish wastewater service to the public in the :
City of Butler, portions of East Butler, and portions of :
the Townships of Butler, Center, Connequenessing, :
Oakland and Summit, in Butler County, Pennsylvania ;

NOTICE

TO: Center Township
Summit Township
c/o Gallagher Law Group
110 East Diamond Street
Suite 101
Butler, PA 16001
attys@gallagher.legal

Pursuant to 52 Pennsylvania Code § 5.103(b) and the directive of presiding officer at the Pre-Hearing Conference, notice is hereby given that an answer to the following motion shall be filed within the time set by the presiding officer.

Date of Service: July 20, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Honorable Marta Guhl, Presiding

In re: Application of Pennsylvania-American Water :
Company under Section 1102(a) and 1329 of the :
Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a), : Docket No. A-2022-3037047
for approval of (1) the transfer, by sale, of substantially :
all of the assets, properties and rights related to its :
wastewater collection and treatment system owned by :
the Butler Area Sewer Authority, and (2) the rights of :
Pennsylvania-American Water Company to begin to :
offer or furnish wastewater service to the public in the :
City of Butler, portions of East Butler, and portions of :
the Townships of Butler, Center, Connequenessing, :
Oakland and Summit, in Butler County, Pennsylvania ;

**MOTION OF BUTLER AREA SEWER AUTHORITY, THE CITY
OF BUTLER AND THE TOWNSHIP OF BUTLER TO STRIKE
REBUTTAL TESTIMONY OF (A) DONALD PRINGLE FILED ON BEHALF
OF MUNICIPAL PROTESTANT CENTER TOWNSHIP AND (B) WILFRED
ADAMS FILED ON BEHALF OF MUNICIPAL PROTESTANT SUMMIT TOWNSHIP**

AND NOW comes, pursuant to 52 Pa. Code 5.103, the Butler Area Sewer Authority (“BASA” or the “Authority”), the City of Butler, and the Township of Butler (collectively, “Movants”) by and through their undersigned counsel, file this Motion to Strike (A) the Rebuttal Testimony of Donald Pringle filed on behalf of Municipal Protestant Center Township and (B) the Rebuttal Testimony of Wilfred Adams filed on behalf of Municipal Protestant Summit Township. In support of their motion, Movants submits as follows:

I. BACKGROUND

1. This proceeding concerns the application of Pennsylvania-American Water Company (“Pennsylvania-American”), filed with the Public Utility Commission (“Commission”) on February 14, 2023, for approval, *inter alia*, of its acquisition of the wastewater system assets

of BASA pursuant to Sections 1102 and 1329 of the Public Utility Code (the “Proposed Transaction”).

2. On June 30, 2023, Center Township (“Center”) and Summit Township (“Summit”) each filed a Protest to the Proposed Transaction (the “Protests”).

3. In accordance with the litigation schedule adopted at the prehearing conference on July 11, 2023, direct written testimony Donald Pringle, the Center Township Supervisor, was served on July 12, 2023 in support of Center’s Protest.

4. In accordance with the litigation schedule adopted at the prehearing conference on July 11, 2023, direct written testimony of Wilfred Adams, the Chairman of the Board of Supervisors of Summit, was served on July 12, 2023 in support of Summit’s Protest.

5. The direct written testimony on behalf of Center Township and Summit Township was submitted with a full opportunity to review all direct testimony submitted in support of the Proposed Transaction, including that submitted by Movants and Pennsylvania-American.

6. Notwithstanding this being the case, on July 18, 2023, Donald Pringle, on behalf of Center Township, and Wilfred Adams, on behalf of Summit Township, *also* submitted rebuttal testimony purporting to rebut Movants’ direct testimony.

7. The submission of this rebuttal testimony was improper.

8. Regulations of the Commission at 52 Pa. Code Section 5.103 allow for the presentation of requests, by motion, for relief desired. A motion may be made, in writing, at any time.

9. Thus, Movants respectfully requests that the Commission strike (a) the July 18, 2023 rebuttal testimony of Donald Pringle, on behalf of Center Township, and (b) the July 18, 2023 rebuttal testimony of Wilfred Adams, on behalf of Summit Township.

II. ARGUMENT

10. 52 Pa. Code §5.243 states that “[a] party will not be permitted to introduce evidence during a rebuttal phase which:

- (1) Is repetitive.
- (2) Should have been included in the party's case-in-chief.
- (3) Substantially varies from the party's case-in-chief.”

52 Pa. Code §5.243(e).

11. The rebuttal testimony of Donald Pringle, on behalf of Center Township, and Wilfred Adams, on behalf of Summit Township, violates 52 Pa. Code §5.243 because it both (a) is repetitive and (b) should have been included in their direct testimony, *i.e.* their case-in-chief.

12. The rebuttal testimony in question was submitted with the parties having had access to the Movants’ direct testimony for weeks, if not months, and certainly since Center Township and Summit Township filed their Protests in this proceeding.

13. Donald Pringle, on behalf of Center Township, and Wilfred Adams, on behalf of Summit Township, had every opportunity to address Movants’ direct testimony in their own direct testimony, and should have done so at that time.

14. Moreover, their rebuttal testimony is largely repetitive of the direct testimony they did submit, dealing with potential uses of the proceeds of the Proposed Transaction and their complaints that they are not receiving any.

15. Accordingly, Movants respectfully request that the Commission strike the rebuttal testimony of Donald Pringle, on behalf of Center Township, and Wilfred Adams, on behalf of Summit Township.

WHEREFORE, Movants the Butler Area Sewer Authority, the City of Butler and the Township of Butler respectfully request that the Honorable Marta Guhl and the Pennsylvania Public Utility Commission grant this motion to strike the rebuttal testimony of Donald Pringle, on behalf of Center Township, and Wilfred Adams, on behalf of Summit Township.

Respectfully submitted,

/s/ Thomas Wyatt

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City of Butler and the Township of Butler*

Dated: July 20, 2023