

October 16, 2023

VIA EFILING

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17101

**Re: Application of Pennsylvania-American Water Company under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of Borough of Brentwood's assets, properties and rights related to its wastewater collection and conveyance system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Borough of Brentwood, Allegheny County, Pennsylvania  
Docket No. A-2021-3024058**

Dear Secretary Chiavetta:

Please find enclosed for filing Allegheny County Sanitary Authority's Prehearing Memorandum for the above-referenced matter. If you have any questions or concerns, please feel free to contact me at the address listed above.

Very Truly Yours,

***SALZMANN HUGHES, P.C.***

/s/ Scott T. Wyland  
Scott T. Wyland

Enclosure

cc: The Honorable Katrina L. Dunderdale (via email to: [kdunderdal@pa.gov](mailto:kdunderdal@pa.gov) and [nmiskanic@pa.gov](mailto:nmiskanic@pa.gov) and first-class mail)  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water :  
Company under Section 1102(a) of the Pennsylvania :  
Public Utility Code, 66 Pa C.S. § 1102(a), for approval of :  
(1) the transfer, by sale, of substantially all of Borough of :  
Brentwood’s assets, properties and rights related to its : Docket No. A-2021-3024058  
wastewater collection and conveyance system to :  
Pennsylvania-American Water Company, and (2) the :  
rights of Pennsylvania-American Water Company to :  
begin to offer or furnish wastewater service to the public :  
in the Borough of Brentwood, Allegheny County :

**PREHEARING CONFERENCE MEMORANDUM  
OF THE ALLEGHENY COUNTY SANITARY AUTHORITY**

Pursuant to the Prehearing Conference Order dated September 15, 2023, the Allegheny County Sanitary Authority (“ALCOSAN”) hereby submits the following Prehearing Conference Memorandum with respect to the above-referenced proceeding.

**I. HISTORY OF THE PROCEEDING**

On March 31, 2023, Pennsylvania-American Water Company (“PAWC”) filed an application for the Pennsylvania Public Utility Commission’s (“Commission”) approval to acquire substantially all of the assets, properties and rights related to the wastewater collection system owned by the Borough of Brentwood (“Brentwood”) as follows: (1) the transfer, by sale, of substantially all of Brentwood’s assets, properties and rights related to its wastewater collection and conveyance system to PAWC, and (2) the rights of PAWC to begin to offer or furnish wastewater service to the public in Brentwood (the “Application”). On May 31, 2023, PAWC filed an Amendment to the Application. Through this Application, PAWC seeks approval of, *inter alia*, the Asset Purchase Agreement and First Amendment to the Asset Purchase Agreement By and Between Brentwood, as Seller, and PAWC, as Buyer, dated as of December 22, 2020, and amended on March 2, 2023 (collectively the “APA”).

Following PAWC and Brentwood executing the APA, ALCOSAN engaged in numerous meetings with PAWC and Brentwood that resulted in the Cooperation and Allocation of Responsibilities Agreement between Brentwood and PAWC dated March 2, 2023 (the “Cooperation Agreement”). PAWC’s Application also seeks the Commission’s approval of the Cooperation Agreement. As set forth in the Cooperation Agreement, ALCOSAN, the City of Pittsburgh (“Pittsburgh”), and Brentwood are parties to The Pittsburgh Zone Project Agreement of December 1, 1949 (the “Z Agreement”). Pursuant to the Z Agreement, ALCOSAN is designated as the “Sewage Agency,” and serves as the exclusive provider for sanitary sewage disposal and treatment for Brentwood, Pittsburgh, and the other 81 customer municipalities.

The Z Agreement serves as the foundational document for ALCOSAN’s entire service area and defines the relationship between and among ALCOSAN, Pittsburgh, and Brentwood. To finance, construct, and maintain its sewage disposal system, ALCOSAN has agreements identical to the Z Agreement with each of its original customer municipalities and agreements substantially similar to the Z Agreement with subsequent customer municipalities, under which ALCOSAN is also designated as their exclusive provider for sanitary sewage disposal and treatment (collectively referred to herein as the “Other Z Agreements”). Further, the Z Agreement is necessary for ALCOSAN to meet its obligations under the Modified Consent Decree entered into among ALCOSAN, the United States Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and the Allegheny County Health Department, including implementation of the four key areas of ALCOSAN’s Clean Water Plan: (1) expanding the wastewater treatment plant, (2) preventing excess water from entering the sewer system by making investments in sewer improvements through the Green Revitalization of Our Waterways (“GROW”) grant program, (3) increasing adaptive management and conveyance capacity through

the addition of pipes, diversion structures, and tunnels, and (4) regionalizing multi-municipal sewers by ALCOSAN making a good faith effort to assume ownership of 200 miles of sewer infrastructure (the “Regionalization Program”). Brentwood’s wastewater collection system includes two multi-municipal trunklines eligible for voluntary transfer to ALCOSAN under the Regionalization Program. Brentwood and PAWC have declined to transfer these trunklines to ALCOSAN and have elected not to participate in the Regionalization Program.

The Cooperation Agreement sets forth the agreements regarding ALCOSAN, the Modified Consent Decree, and the obligations, rights, payment, billing, and other terms of the Z Agreement related to the APA and PAWC’s acquisition of Brentwood’s wastewater collection system. ALCOSAN is a third-party beneficiary of the Cooperation Agreement and therefore has the rights to enforce PAWC and Brentwood’s respective covenants and obligations set forth in the Cooperation Agreement.

By Secretarial Letter dated September 14, 2023, the Commission notified PAWC that it accepted PAWC’s Application for filing. The deadline to file protests and petitions to intervene is October 16, 2023. On October 11, 2023, ALCOSAN filed a Petition to Intervene. An Initial Prehearing Telephonic Conference is scheduled for October 17, 2023.

As set forth in ALCOSAN’s Petition to Intervene, if the Commission approves the Application, in order for ALCOSAN to protect its interests under its various municipal customer agreements and ensure it is able to continue to comply with the Modified Consent Decree, it is necessary for the Commission to require that PAWC and Brentwood honor their obligations under the terms of the Z Agreement and the Cooperation Agreement, and that the terms of the Z Agreement, the Other Z Agreements, and the Cooperation Agreement remain unchanged.

## **II. ISSUES**

Reserving the right to supplement its identification of the issues, ALCOSAN presently identifies the following issues that PAWC must address prior to the Commission granting the Application:

- a. That upon the Commission's approval of the Application, PAWC and Brentwood are required and able to honor their obligations under the terms of the Z Agreement and the Cooperation Agreement.
- b. That upon the Commission's approval of the Application, the terms of the Z Agreement, the Other Z Agreements, and the Cooperation Agreement will remain unchanged.
- c. That upon the Commission's approval of the Application, ALCOSAN will be able to continue to comply with its obligations under the Z Agreement, the Other Z Agreements, and the Modified Consent Decree.

ALCOSAN respectfully reserves the right to identify and address additional issues related to this matter through its continued review and analysis of the filings or issues raised by other parties.

## **III. WITNESSES**

ALCOSAN anticipates that it will present testimony from either or both of the following:

1. Douglas Jackson, P.E.  
ALCOSAN Deputy Executive Director and Director of Operations & Maintenance  
3300 Preble Avenue, Pittsburgh, PA, 15233  
412-734-8355
2. Michelle Buys, P.E.  
ALCOSAN Director of Environmental Compliance  
3300 Preble Avenue, Pittsburgh, PA, 15233  
412-734-6216

The testimony of these witnesses will explain ALCOSAN's rights and obligations relevant to the Application, namely regarding the Z Agreement, the Other Z Agreements, the Cooperation Agreement, and the Modified Consent Decree. It is anticipated that such testimony will include,

but not be limited to, explaining ALCOSAN’s service area, municipal customers and their agreements, industrial customers and their agreements, rates and charges schedules, and billing arrangements.

ALCOSAN reserves the right to identify and present the testimony of additional witnesses, as necessary in direct or rebuttal phases of these proceedings, in accordance with the schedule adopted in this proceeding.

**IV. PROPOSED LITIGATION SCHEDULE**

The parties have negotiated the following proposed litigation schedule:

Event	Date
<b>Prehearing Conference</b>	<b>October 17, 2023</b>
Direct testimony of Other Parties	October 24, 2023
Public input hearings	Afternoon and evening of October 26, 2023
Rebuttal Testimony	October 31, 2023
Surrebuttal Testimony	November 6, 2023
Outline of Oral Rejoinder	Noon on November 8, 2023
Evidentiary hearings	November 8 and November 14, 2023
Receipt of transcript	November 17, 2023
Main Briefs	November 30, 2023
<b>Reply Briefs</b>	<b>December 14, 2023</b>
<b>Recommended Decision</b>	<b>January 19, 2024</b>
<b>Public meeting</b>	<b>March 14, 2024</b>

Respectfully submitted,

Dated: October 16, 2023

/s/ Scott T. Wyland  
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*Attorneys for Allegheny County Sanitary  
Authority*

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

VIA EMAIL AND FIRST-CLASS MAIL ADDRESSED AS FOLLOWS:

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*Counsel for the Borough of Brentwood*

***SALZMANN HUGHES, P.C.***

Dated: October 16, 2023

/s/ Scott T. Wyland  
Scott T. Wyland