



October 16, 2023

VIA E-FILING

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

Re: Application of Pennsylvania-American Water Company Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of the Transfer, by Sale, of Substantially All of the Assets, Properties and Rights Related to the Wastewater Collection and Conveyance System Owned by Borough of Brentwood; and the Rights to Begin to Offer or Furnish Wastewater Service to the Public in the Borough of Brentwood, Allegheny County, Pennsylvania; Docket No. A-2021-3024058, et al.

Prehearing Conference Memorandum of Pennsylvania-American Water Company

Dear Secretary Chiavetta:

Pursuant to Ordering Paragraph 6 of the Prehearing Conference Order in the above-referenced matter, enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the Prehearing Conference Memorandum of Pennsylvania-American Water Company. Copies are being served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. Please contact me if you have any question or concern.

Sincerely,

Cozen O'Connor
Counsel for *Pennsylvania-American Water Company*

DPZ/kmg
Enclosure

cc: Administrative Law Judge Katrina L. Dunderdale
Nicholas Miskanic, Legal Assistant
Per Certificate of Service
Erin Fure, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water Company :
Pursuant to Sections 1102 and 1329 of the Public Utility :
Code for Approval of the Transfer, by Sale, of :
Substantially All of the Assets, Properties and Rights :
Related to the Wastewater Collection and Conveyance : Docket No. A-2021-3024058 *et al.*
System Owned by Borough of Brentwood; and the :
Rights to Begin to Offer or Furnish Wastewater Service :
to the Public in the Borough of Brentwood, Allegheny :
County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this 16th day of October, 2023 served a true copy of the foregoing **Prehearing Conference Memorandum of Pennsylvania-American Water Company** upon the parties, listed below and in the manner described below in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

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Respectfully submitted,



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Counsel for
Pennsylvania-American Water Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Katrina L. Dunderdale

In re: Application of Pennsylvania-American Water :
Company for Approval of the Transfer, by Sale, of :
Substantially all of the assets, properties and rights related :
To the wastewater collection and conveyance system :
Owned by Borough of Brentwood and the rights to begin : Docket Nos. A-2021-3024058
To offer or furnish wastewater service to the public in : *et al.*
The Borough of Brentwood, Allegheny County, :
Pennsylvania :

**PREHEARING CONFERENCE MEMORANDUM OF
PENNSYLVANIA-AMERICAN WATER COMPANY**

AND NOW COMES Pennsylvania-American Water Company (“PAWC”), by and through its counsel, Cozen O’Connor, pursuant to 52 Pa. Code § 5.222(d) and in compliance with the Prehearing Conference Order issued by Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) on September 15, 2023 to file this Prehearing Conference Memorandum in the above-referenced matter. In support thereof, PAWC states as follows:

I. INTRODUCTION AND PROCEDURAL HISTORY

1. PAWC and Brentwood Borough (“Brentwood”) entered into an Asset Purchase Agreement (the “APA”) dated as of December 22, 2020, by which PAWC will purchase the wastewater system (the “System”) presently owned by Brentwood. PAWC and Brentwood executed a First Amendment to the APA on March 2, 2023.

2. On March 31, 2023, PAWC filed an application (the “Application”) at Docket No. A-2021-3024058 asking the Commission to approve its acquisition of the System pursuant to 66 Pa. C.S. §§ 507, 1102 and 1329 (the “Application”). Amendments to the Application were filed on May 31, 2023 and July 5, 2023.

3. On April 7, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention. Sharon E. Webb, Esq., represents the OSBA.

4. On May 5, 2023, the Office of Consumer Advocate (“OCA”) filed a Protest. Aron J. Beatty, Esq. and Mackenzie C. Battle, Esq. represented the OCA. On May 10, 2023, Christine Maloni Hoover, Esq. entered her appearance as additional counsel for the OCA. On July 20, 2023, attorney Battle withdrew her appearance. On August 3, 2023, Andrew J. Zerby, Esq. entered his appearance as additional counsel for the OCA.

5. On May 12, 2023, Carrie B. Wright, Esq. filed a Notice of Appearance on behalf of the Commission’s Bureau of Investigation and Enforcement (“I&E”).

6. On April 18, 2023, staff from the Commission’s Bureau of Technical Utility Services (“TUS”) notified PAWC that they had performed a completeness review of the Application and determined that certain information was missing. TUS staff requested that the information be provided within ten business days (i.e., by May 2, 2023). On May 2, 2023, PAWC filed the information requested by TUS. Updated responses were filed on May 11, 2023. Further updates were filed on June 15, 2023.

7. On June 22, 2023, staff from TUS notified PAWC that they had determined that certain information remained missing. PAWC filed the requested information on July 6, 2023.

8. By Secretarial Letter dated July 20, 2023, the Commission notified PAWC that the Application was conditionally accepted for filing. According to that Secretarial Letter, the

Commission would not finally accept the Application until PAWC complied with certain service and notice requirements.

9. The July 20, 2023 Secretarial Letter did not set a due date for protests and notice of intervention. By letter dated July 20, 2023, PAWC asked the Commission to establish such a due date. By Secretarial Letter dated July 25, 2023, the Commission established a due date of October 16, 2023 for filing protests and notices of intervention.

10. On September 5, 2023, PAWC filed a verification stating that it had complied with all service and notice requirements of the Secretarial Letter of July 20, 2023.

11. On September 14, 2023, the Commission notified PAWC that it had finally accepted the Application. The Commission further notified PAWC that notice of the Application would be published in the Pennsylvania Bulletin on September 30, 2023, with a protest deadline of October 16, 2023.

12. The Commission issued a Call-in Telephonic Pre-Hearing Conference Notice on September 15, 2023. The ALJ issued her Prehearing Conference Order for Telephonic Conference on September 15, 2023.

13. Notice of the Application was filed in the Pennsylvania Bulletin on September 30, 2023. 53 *Pa.B.* 6139.

14. On October 2, 2023, Brentwood filed a Petition to Intervene. No objections have been filed.

15. On October 11, 2023, the Allegheny County Sanitary Authority (“ALCOSAN”) filed a Petition to Intervene. No objections have been filed.

II. COUNSEL

16. Counsel for PAWC are:

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III. SERVICE OF DOCUMENTS

17. PAWC's attorneys are authorized to accept service on behalf of PAWC in this proceeding. PAWC agrees to service by e-mail. The Prehearing Conference Order stated that each party is limited to one entry on the service list. Mr. Zambito should be included on the service list as counsel for PAWC. Additionally, PAWC has established a virtual data room for the proceeding to which the other parties have access.

IV. ISSUES

A. Satisfaction of Section 1102 Standards

18. PAWC submits that the acquisition of the System (the "Transaction") is necessary or proper for the service, accommodation, convenience or safety of the public. PAWC submits that the Transaction provides substantial affirmative public benefits and that the specific benefits of this particular Transaction outweigh the detriments for all relevant stakeholder groups. The

Transaction will promote the Commission's goal of regionalization and consolidation, and Commission approval of the Transaction will open the possibility of further consolidation and regionalization of wastewater services in southwestern Pennsylvania.

19. PAWC, as an existing public utility, is presumed to possess the legal, financial, and technical fitness to own and operate the System. Indeed, PAWC is the largest investor-owned water and wastewater service provider in the Commonwealth.

B. Satisfaction of Section 1329 Standards

20. PAWC submits that it has complied with all of the requirements of Section 1329. The negotiated purchase price for the acquired assets is \$19,364,443 and the average of the appraisals of the buyer's utility valuation expert ("UVE") and the seller's UVE is \$21,827,775 (\$22,721,549 appraisal conclusion by Weinert Appraisal and Depreciation Services, LLC + \$20,934,000 appraisal conclusion by Gannett Fleming Valuation and Rate Consultants, LLC = $\$43,655,549/2 = \$21,827,775$). Accordingly, the negotiated purchase price of \$19,364,443 is the fair market value for ratemaking purposes under Section 1329 (*i.e.*, the lower of the negotiated purchase price and the average of the UVEs' appraisals).

21. The APA does not include a "rate stabilization plan" as defined by Section 1329. As permitted by Section 1329, PAWC has petitioned -- as part of the instant filing -- for approval to implement a Distribution System Improvement Charge with respect to customers in the applied-for service territory prior to the first base rate case in which System plant-in-service is incorporated into rate base. PAWC has also, in accordance with Section 1329, petitioned for approval to accrue and defer certain post-acquisition improvement costs associated with the provision of service in the applied-for territory.

C. Certificates of Filing or Approvals for Section 507 Agreements

22. Section 507 of the Code, 66 Pa. C.S. § 507, generally requires PAWC to file with the Commission any agreement between PAWC and a municipal corporation. PAWC seeks either a Certificate of Filing or approval of:

- (a) the APA and the First Amendment thereto;
- (b) the Agreement between the Borough of Brentwood and the City of Pittsburgh, dated October 14, 1936;
- (c) the Streets Run Sewer Joint Management Agreement between the Boroughs of Brentwood, Baldwin and Whitehall and the Western Mifflin Sanitary Sewer Authority dated July 19, 2000;
- (d) the Cooperation and Allocation of Responsibilities Agreement between the Borough of Brentwood and Pennsylvania-American Water Company dated March 2, 2023, (attached as Exhibit A to this agreement is the Sewage Treatment, Plan Design, Construction and Operation Agreement by and between the Allegheny County Sanitary Authority (“ALCOSAN”), the City of Pittsburgh and the Borough of Brentwood Dated as of December 1, 1949 (“Z Agreement”)); and
- (e) the Bulk Wastewater Conveyance Agreements (The Borough of Brentwood Ordinances No. 188 and 189) for Fairhaven Road, Stewart Avenue, Saw Mill Run between the Borough of Brentwood, Baldwin Township, Carrick Borough and Overbrook Borough Dated as of September 30, 1926; and (f) the Bulk Wastewater Conveyance Agreement (Saw Mill Run) between the City of Pittsburgh, Borough of Brentwood, Carrick Borough, Castle Shannon Borough, Dormont Borough, Knoxville Borough, Mt. Lebanon Township, Mt. Oliver Borough and Overbrook Borough dated October 31, 1925.

V. WITNESSES

23. PAWC has already submitted direct testimony and exhibits sponsored by the following witnesses in written question and answer form:

Mr. Michael Salvo

24. Mr. Salvo is Senior Manager of Business Development for PAWC. His business address is 852 Wesley Drive, Mechanicsburg, PA 17011 and his business phone number is (717) 550-1589. Mr. Salvo provided an overview of the Transaction. He explained why the Transaction is in the public interest and provides affirmative public benefits of a substantial nature. In addition, he explained why the Application should be promptly approved by the Commission. Finally, he explained that PAWC is legally, financially, and technically fit to acquire and operate the System.

Mr. Daniel J. Hufton, P.E.

25. Mr. Hufton is an Engineering Manager with PAWC. His business address is 60 Elrama Avenue, Elrama, PA 15038 and his business phone number is (412) 813-3026. He described the System and explained how it will be integrated into PAWC's existing operations. He also described PAWC's technical fitness to run the System, together with the benefits of the Transaction.

Ms. Ashley E. Everette

26. Ms. Everette is the Senior Director of Rates and Regulatory for American Water Works Service Company ("AWWSC"). Ms. Everette's business address is 852 Wesley Drive, Mechanicsburg, PA 17011 and her business phone number is (717) 550-1536. She testified to PAWC's financial fitness to acquire and operate the System. She also identified the ratemaking rate base, estimated the transaction and closing costs incurred by PAWC, summarized the rate provisions in the APA, described the customer notices associated with the Transaction and

provided a statement regarding PAWC's intentions regarding accrual of certain post-acquisition improvement costs and deferral of related depreciation.

Mr. Jerome Weinert, ASA, PE, CDP

27. Mr. Weinert is a Principal and Director of Weinert Appraisal and Depreciation Services, LLC. Mr. Weinert has a business address of 8555 West Forest Home Avenue, Suite 201, Greenfield, WI 53228. He described the fair market value appraisal of the System that he and his staff performed on behalf of PAWC.

28. If necessary, PAWC will submit rebuttal and rejoinder testimony of these witnesses. PAWC also reserves the right to call additional witnesses and to present testimony on additional issues that may arise during the course of the proceeding.

VI. DISCOVERY

29. The ALJ's Prehearing Conference Order modified the Commission's discovery rules. PAWC has no additional proposed modification to the Commission's discovery rules.

30. It should be noted that, despite having no obligation to do so and in order to facilitate the timely processing of this proceeding, PAWC responded to numerous discovery requests from the public advocates prior to Commission final acceptance of the Application.

VII. PROTECTIVE ORDER

31. PAWC expects to file a Petition for Protective Order shortly.

VIII. PROCEDURAL SCHEDULE

32. In accordance with the Prehearing Conference Order, p. 3, the parties jointly proposed the following litigation schedule prior to the Prehearing Conference.

Event	Parties' Proposed Date
Prehearing Conference	Tuesday, October 17, 2023
Public input hearing	Afternoon of Thursday, October 26 and evening of Thursday, October 26
Direct testimony of Other Parties	Tuesday, October 24, 2023
Rebuttal Testimony	Tuesday, October 31, 2023
Surrebuttal Testimony	Monday, November 6, 2023
Outline of Oral Rejoinder	Noon on Tuesday, November 7, 2023
Evidentiary hearings	Wednesday, November 8 and Tuesday, November 14, 2023
Receipt of transcript	Friday November 17, 2023
Main Briefs	Thursday, November 30, 2023
Reply Briefs	Thursday, December 14, 2023
Recommended Decision	January 19, 2024
Public meeting	March 14, 2024

IX. SETTLEMENT DISCUSSIONS

33. The Parties have already discussed the possibility of settling this case. PAWC is open to reaching a reasonable settlement.

Respectfully submitted,



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Date: October 16, 2023

Counsel for *Pennsylvania-American Water Company*