



October 23, 2023

**VIA E-FILING**

**David P. Zambito**

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North St., Second 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.**

**Motion to Overrule Objections and Compel Answers to Interrogatories**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Pennsylvania-American Water Company's Motion to Overrule Objections and Compel Answers to Interrogatories. 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  
Elizabeth Rose Triscari, Esq.  
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 23<sup>rd</sup> day of October, 2023 served a true copy of the foregoing **Pennsylvania-American Water Company's Motion to Overrule Objections and Compel Answers to Interrogatories** 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  
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**VERIFICATION**

I, Michael Salvo, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/23/2023

  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge Katrina L. Dunderdale

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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 :     Docket Nos. 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 :

**NOTICE TO PLEAD**

TO: Parties at Docket Nos. A-2021-3024058, *et al.*

Pursuant to 52 Pa. Code § 5.342(g) and Prehearing Order #1 issued by Administrative Law Judge Katrina L. Dunderdale on October 18, 2023, you are hereby notified that Pennsylvania-American Water Company (“PAWC”) has filed a Motion to Compel Responsive Answers to Interrogatories at the above-referenced dockets to which you may file an answer within two (2) days. Your failure to answer will allow the Commission to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings such as an Answer to this Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the undersigned counsel for PAWC.



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Counsel for *Pennsylvania-American Water Company*

Dated: October 23, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge Katrina L. Dunderdale

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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 :     Docket Nos. 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 :

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**PENNSYLVANIA-AMERICAN WATER COMPANY’S MOTION TO  
OVERRULE OBJECTIONS AND COMPEL ANSWERS TO INTERROGATORIES**

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AND NOW COMES, Pennsylvania-American Water Company (“PAWC”), pursuant to 52 Pa. Code §§ 5.342, to file this Motion to Overrule Objections and Compel Answers to Interrogatories. PAWC respectfully requests that Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) direct the Office of Consumer Advocate (“OCA”) to answer the challenged Interrogatories.

In support whereof, PAWC states as follows:

**I. BACKGROUND**

1. On March 31, 2023, PAWC filed an application (as subsequently amended, the “Application”) at Docket Nos. A-2021-3024058 *et al.*, asking the Commission to approve its acquisition of the wastewater system (the “System”) presently owned by the Borough of Brentwood (“Brentwood”), pursuant to 66 Pa. C.S. §§ 507, 1102 and 1329.

2. On July 20, 2023, the Commission notified PAWC that the Application had been conditionally accepted for filing.

3. On September 14, 2023, the Commission notified PAWC that the Application had been finally accepted for filing.

4. On October 17, 2023, a Prehearing Conference was held.

5. Throughout the course of this proceeding, PAWC (together with Brentwood) has responded to 10 sets of discovery from OCA, which included more than 110 individual requests (many had multiple subparts). PAWC and Brentwood voluntarily responded to OCA discovery prior to the Commission's official acceptance of the Application. Prior to final acceptance of the Application and commencement of the proceeding, PAWC was under no obligation to respond to the OCA's discovery and Brentwood was not yet even a party to the proceeding. Neither PAWC nor Brentwood objected to any of OCA's discovery requests.

6. On October 17, 2023, PAWC served its "Interrogatories and Requests for Production of Documents Propounded by Pennsylvania-American Water Company on the Office of Consumer Advocate – Set I." A true and correct copy of this discovery is attached as **Appendix A**. It was PAWC's first and only discovery to OCA in this proceeding, to date, and consisted of only 13 requests (including subparts).

7. On October 20, 2023, the OCA served its Objections to Interrogatories and Requests for Production of Documents, Set I, Questions 1(c), 3, 4 7 and 8 (the "Objections") (*i.e.*, OCA objected to almost half of the limited discovery requests made by PAWC in this proceeding). Attached as **Appendix B** is a true and correct copy of the Objections.

## II. LEGAL STANDARD

8. 52 Pa. Code § 5.321(c) sets the standard for permissible discovery in Commission proceedings. That regulation states:

(c) *Scope.* Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

9. The Commission has consistently allowed participants wide latitude in discovery matters. *See, e.g., Pa. Pub. Util. Comm'n v. The Peoples Natural Gas Company*, 62 Pa. PUC 56 (Aug. 26, 1986); *Pa. Pub. Util. Comm'n v. Equitable Gas Company*, 61 Pa. PUC 468 (May 16, 1986).

10. The Commission's regulations limit discovery, however. For example, 52 Pa. Code § 5.361 states:

- (a) Discovery or deposition is not permitted which:
  - (1) Is sought in bad faith.
  - (2) Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party.
  - (3) Relates to matter which is privileged.
  - (4) Would require the making of an unreasonable investigation by the deponent, a party or witness.

**III. THE ALJ SHOULD OVERRULE THE OCA’S OBJECTIONS AND DIRECT THE OCA TO ANSWER THE CHALLENGED INTERROGATORIES**

**A. THE OCA SHOULD BE COMPELLED TO ANSWER INTERROGATORY 1(C)**

11. Interrogatory 1 states:

1. In its rate case at Docket Nos. R-2023-3039920 *et al.*, the Pittsburgh Water and Sewer Authority indicated that it bills customers for treatment service by the Allegheny County Sanitary Authority (“ALCOSAN”) through a contractual billing arrangement with ALCOSAN. PWSA St. No. 2 p. 18.

a. Did OCA object to this contractual billing arrangement in that proceeding?

b. If so, please provide copies of all pertinent OCA testimony.

c. If not, please explain why OCA objects to PAWC’s contractual billing arrangement to collect ALCOSAN’s treatment charges in this proceeding.

12. The OCA objected to Interrogatory 1(c) on the grounds that the interrogatory seeks privileged and confidential information. Specifically, the OCA claims Interrogatory 1(c) seeks information protected by the deliberative process privilege, the attorney-client privilege and the attorney work product privilege. Objections at 3-5. This argument should be rejected.

13. Based on the OCA’s Prehearing Memorandum in this proceeding, PAWC understands that the OCA may challenge a contractual billing arrangement by which PAWC will collect the treatment charge of the Allegheny County Sanitary Authority (“ALCOSAN”) from PAWC’s Brentwood customers after closing on the acquisition. The Pittsburgh Water and Sewer Authority (“PWSA”) rate case identified in Interrogatory 1, in which the OCA was a party, involved a similar arrangement with ALCOSAN: pursuant to a contract with a third party, a regulated utility proposed to collect amounts charged by that third party to the utility’s customers. Interrogatories 1(a) and 1(b) ask if the OCA opposed PWSA’s contractual billing arrangement

and, if so, to produce copies of testimony objecting to it. The OCA did not object to these Interrogatories.

14. If, in contrast, the OCA did not oppose PWSA's proposed contractual billing arrangement, Interrogatory 1(c) asks the OCA to explain why it did not oppose that contractual provision. It is possible that an OCA witness testified as to why that contractual billing arrangement was not objectionable. It is also possible that an OCA pleading explained why that contractual provision was not objectionable. Such a document would be a public document and would not be privileged. It would also be admissible because a witness's prior inconsistent statement may be used to impeach that witness. Pa. R.E. 613(a). Therefore, the Interrogatory is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

15. There is no indication that the OCA has undertaken a search and found pertinent information in a privileged document. The OCA simply asserts that, if there is any document responsive to the Interrogatory, it must be a confidential document. This is not a sufficient response to legitimate discovery. If the OCA locates a document responsive to Interrogatory 1(c), and believes that the document is privileged, the OCA should produce a privilege log that provides information supporting that claim. If necessary, the ALJ could perform an *in camera* review of the document to determine if it is in fact privileged.

**B. THE OCA SHOULD BE COMPELLED TO ANSWER INTERROGATORIES 3 AND 4**

16. Interrogatories 3 and 4 state:

3. Please provide the caption and docket number for every application, rate proceeding or Section 507 proceeding in the last five years in which the OCA has participated in which a water and/or wastewater utility has proposed a contractual billing arrangement to collect amounts due to a third party.

4. For every case listed in response to Interrogatory 3, please indicate whether the OCA opposed the proposed contractual billing arrangement.

17. The OCA objects to these Interrogatories on the grounds that they are overly burdensome. First, the OCA claims that the term “contractual billing arrangement” is vague. Objections at 6. Interrogatory 1 gave a specific example of a “contractual billing arrangement.” PAWC’s arrangement to collect treatment charges due to ALCOSAN is a second example of a “contractual billing arrangement.” Further, when the OCA’s counsel orally objected to the interrogatory, PAWC’s counsel explained the meaning of the term. The ALJ should reject the OCA’s claim that it does not know what is meant by a “contractual billing arrangement.”

18. The OCA also objects to the Interrogatories on the ground that requesting information for a period of five years is burdensome. Objections at 6. The ALJ should reject this argument. First, requesting information for a five year period is not uncommon in a Commission proceeding. The OCA has requested information over a five-year period in this case. *See, e.g.*, OCA Interrogatories Set I Nos. 12, 15, 16 (attached as **Appendix C**). Second, PAWC has reasonably limited its request to cases (a) involving a water and/or wastewater utility, (b) occurring during the last five years, and (c) in which the OCA was a party.

19. The OCA objects on the grounds that the information requested is not relevant to any issue in the case. Objections at 6-7. This argument should be rejected. As explained above, based on the OCA’s Prehearing Memorandum, PAWC understands that the OCA may challenge a contractual billing arrangement by which PAWC will collect the treatment charge of ALCOSAN from PAWC’s Brentwood customers after closing on the acquisition. Interrogatory 1 indicated that PAWC is aware of one other example of such a contractual billing arrangement. The OCA may be aware of other examples of which PAWC is unaware. Requesting information about other examples is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code

§ 5.321(c). *See* Paragraph 19. Significantly, PAWC has only asked the OCA to (a) provide the caption and docket number for every pertinent case, and (b) indicate whether the OCA opposed the proposed contractual billing arrangement. It would then be up to PAWC to dig into the file in every such case for additional information.

20. The information requested by Interrogatories 3 and 4 is reasonably calculated to lead to the discovery of admissible evidence for the same reason as described in Paragraph 13 above. If an OCA witness opposes the contractual billing arrangement in this case, but did not oppose a similar contractual billing arrangement in a prior case, that information could be used to impeach the testimony of the OCA witness in this case. Pa. R.E. 613(a).

21. The OCA complains that it has limited time and resources due to the expedited nature of this proceeding. Objections 6, 10. The expedited time frame for litigating this case is no reason to truncate PAWC's right to seek information that is reasonably calculated to lead to admissible evidence. All the parties have limited time to litigate this proceeding. PAWC has asked the OCA a total of 13 discovery questions (including subparts) but has responded to 10 sets of interrogatories from the OCA, which included more than 110 individual requests, many with multiple subparts. The OCA is in no position to claim that PAWC's discovery requests are unreasonably burdensome. OCA is a litigant to this proceeding and has discovery obligations just like every other party.

**C. THE OCA SHOULD BE COMPELLED TO ANSWER INTERROGATORIES 7 AND 8**

22. Interrogatories 7 and 8 state:

7. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts ("NOPE") and Food & Water Watch, regarding PAWC's

proposed acquisition of the Brentwood System. This request includes communications with leaders and other members of such groups.

8. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts (“NOPE”) and Food & Water Watch, regarding any other proposed Section 1329 acquisition during the last five years. This request includes communications with leaders and other members of such groups.

23. The OCA objects to these interrogatories on the grounds that the term “anti-privatization group” is not defined. Objections at 7. The interrogatory lists two specific examples of anti-privatization groups. Moreover, the term “privatization” is commonly used to describe the sale of a municipal asset to a privately-owned company. The meaning of the term “anti-privatization group” should be self-evident.

24. The OCA also claims that the interrogatory is overly broad because it requests “any” communication between the OCA and an anti-privatization group. Objections at 7. This is incorrect on the facts. PAWC only asked for communications between the OCA and members of these groups (a) regarding PAWC’s proposed acquisition of the Brentwood System, and (b) regarding any other proposed Section 1329 acquisition during the last five years. As stated above, requesting discovery over a five year period is not uncommon in a Commission proceeding.

25. If the OCA was not aware that it was communicating with a member of an anti-privatization group, PAWC expects OCA to answer by saying that it was not aware of any such communication. But PAWC’s experience is that some members of these groups announce that they are members of the group, so OCA should be aware that it is communicating with members of the group.

26. The OCA claims that if PAWC wishes to impeach a witness, it can simply cross-examine the witness. Objections at 8. According to this argument, no party should ever be allowed

to conduct discovery because it can simply cross-examine witnesses. This argument should be summarily rejected.

27. Finally, the OCA argues that questions 7 and 8 are not reasonably calculated to lead to the discovery of admissible evidence. This argument should also be rejected. Communications between the OCA and members of anti-privatization groups will help PAWC prepare for the cross-examination of witnesses at the public input hearing and/or at the evidentiary hearing. This preparation will allow PAWC to obtain admissible evidence through cross-examination that might not be introduced if PAWC cannot adequately prepare for the hearings. In PAWC's experience, ALJs give considerable weight to the testimony introduced at public input hearings. The information disclosed in response to Interrogatories 7 and 8 could reveal that OCA or anti-privatization groups were actively soliciting witnesses to testify at the public input hearings, or were coaching them on what to say. This evidence would go to the credibility of the witness and how much weight the judge should give the witness's testimony.

#### **IV. CONCLUSION AND REQUEST FOR RELIEF**

WHEREFORE, for the foregoing reasons, PAWC respectfully requests that the ALJ:

- (1) grant the instant Motion; and
- (2) overrule the Objections and direct the OCA to answer Interrogatories and Requests

for the Production of Documents Nos. 1(c), 3, 4, 7 and 8 by October 27, 2023.

[Signatures appear on next page.]

Respectfully submitted,



/s/ Elizabeth Rose Triscari

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Date: October 13, 2023

Counsel for *Pennsylvania-American Water Company*

## **Appendix A**

**Interrogatories and Requests for Production of  
Documents Propounded by Pennsylvania-American  
Water Company on the Office of Consumer Advocate  
– Set I (Nos. 1-8)**

**October 17, 2023**



October 17, 2023

**VIA E-MAIL AND FIRST CLASS MAIL**

**David P. Zambito**

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Harrisburg, PA 17101-1923

**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.**

**Interrogatories and Requests for Production of Documents Propounded by Pennsylvania-American Water Company on the Office of Consumer Advocate – Set I**

Dear Mr. Beatty:

Enclosed please find the above-referenced discovery. Pursuant to the Prehearing Order in this case, answers are due within five calendar days. 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: Rosemary Chiavetta, Secretary (*Cover Letter and Certificate of Service Only*)  
Per Certificate of Service  
Elizabeth Rose Triscari, Esq.  
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 :  
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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 17<sup>th</sup> day of October, 2023 served a true copy of the foregoing **Interrogatories and Requests for Production of Documents Propounded by Pennsylvania-American Water Company on the Office of Consumer Advocate – Set I** 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  
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Administrative Law Judge Katrina L. Dunderdale

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Application of Pennsylvania-American Water Company :  
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to the Public in the Borough of Brentwood, Allegheny :  
County, Pennsylvania :

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**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY PENNSYLVANIA-AMERICAN WATER COMPANY ON  
THE OFFICE OF CONSUMER ADVOCATE – SET I**

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Pursuant to 66 Pa. C.S. § 333 and 52 Pa. Code § 5.341 *et seq.*, Pennsylvania-American Water Company (“PAWC”) hereby propounds the following Interrogatories and Requests for Production of Documents on the Office of Consumer Advocate (the “OCA”) – Set I.

**INSTRUCTIONS**

1. The “Responding Party,” “you,” or “your” means the party to which these interrogatories and requests for production of documents are propounded and/or all agents, affiliates, employees, consultants, and representatives acting on behalf of the Responding Party.
2. “Commission” means the Pennsylvania Public Utility Commission.
3. “PAWC” means Pennsylvania-American Water Company.
4. “Brentwood” means the Borough of Brentwood.

5. The “Application” means the application filed by PAWC at Docket No. A-2021-3024058, *et al.*

6. The “System” means the wastewater collection system currently owned by Brentwood.

7. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address, and last known telephone number.

8. To “identify” a business entity means to state the full name of such business, the form of the business, and its location or address.

9. To “identify” a “document” means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document; and
- d. A description of the subject matter of such document sufficient to permit an

understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (*e.g.*, letter, business record, memorandum, computer print-out, etc.). In lieu of “identifying” any document, it shall be deemed a sufficient compliance with these interrogatories to attach a copy of each such document to the answers hereto and reference said document to the particular interrogatory to which the document is responsive.

10. “Document” means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-

stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

11. “Communication” means any manner or form of information or message transmission, however produced or reproduced, whether as a document as herein defined, or orally or otherwise, which is made, distributed, or circulated between or among persons, or data storage or processing units.

12. “Date” means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof.

13. “Person” refers to, without limiting the generality of its meaning, every natural person, corporation, partnership, association (whether formally organized or *ad hoc*), joint venture, unit operation, cooperative, municipality, commission, governmental body or agency, or any other group or organization.

14. Items referred to in the singular include those in the plural, and items referred to in the plural include those in the singular.

15. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.

16. The answers provided should first restate the question asked and identify the person(s) supplying the information.

17. In answering these interrogatories, the Responding Party is requested to furnish all information that is available to the Responding Party, including information in the possession of the Responding Party's attorneys, agents, consultants, or investigators, and not merely such information of the Responding Party's own knowledge. If any of the interrogatories cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying the Responding Party's inability to answer the remainder, and stating whatever information the Responding Party has concerning the unanswered portions. If the Responding Party's answer is qualified in any particular, please set forth the details of such qualification.

18. If the Responding Party objects to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 9 and state the basis of the objection.

19. If the Responding Party objects to part of an interrogatory and refuses to answer that part, state the Responding Party's objection and answer the remaining portion of that interrogatory. If the Responding Party objects to the scope or time period of an interrogatory and refuses to answer for that scope or time period, state the Responding Party's objection and answer the interrogatory for the scope or time period that the Responding Party believes is appropriate.

20. If, in connection with an interrogatory, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the

so-called “attorneys’ work product doctrine,” or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

21. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and, (c) the basis on which the privilege or other protection from disclosure is claimed.

22. These interrogatories are continuing and the Responding Party is obliged to change, supplement and correct all answers given to conform to new or changing information.

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY PENNSYLVANIA-AMERICAN WATER COMPANY ON THE  
OFFICE OF CONSUMER ADVOCATE - SET I**

**DOCKET NO. A-2022-3037047**

1. In its rate case at Docket Nos. R-2023-3039920 *et al.*, the Pittsburgh Water and Sewer Authority indicated that it bills customers for treatment service by the Allegheny County Sanitary Authority (“ALCOSAN”) through a contractual billing arrangement with ALCOSAN. PWSA St. No. 2 p. 18.
  - a. Did OCA object to this contractual billing arrangement in that proceeding?
  - b. If so, please provide copies of all pertinent OCA testimony.
  - c. If not, please explain why OCA objects to PAWC’s contractual billing arrangement to collect ALCOSAN’s treatment charges in this proceeding.
  
2. Has the OCA ever objected to a contractual billing arrangement for collecting ALCOSAN’s treatment charges?
  - a. If so, please provide the caption and docket number.
  - b. If the OCA was involved in a rate or other proceeding involving a proposed contractual billing arrangement for collecting ALCOSAN’s treatment charges, and did not object, please provide the caption and docket number.
  
3. Please provide the caption and docket number for every application, rate proceeding or Section 507 proceeding in the last five years in which the OCA has participated in which a water and/or wastewater utility has proposed a contractual billing arrangement to collect amounts due to a third party.
  
4. For every case listed in response to Interrogatory 3, please indicate whether the OCA opposed the proposed contractual billing arrangement.
  
5. In its Prehearing Memorandum, the OCA indicated that Nicholas DeMarco would be testifying regarding “rate impact and policy issues.”
  - a. Please identify all “policy issues” that Mr. DeMarco will address in this case.
  - b. Please identify all rate impacts of PAWC’s proposed acquisition of the Brentwood System on PAWC’s existing wastewater customers, PAWC’s existing water customers, and

Brentwood's existing customers. Please include all beneficial impacts as well as all detrimental impacts.

c. Please identify all non-rate impacts of PAWC's proposed acquisition of the Brentwood System on PAWC's existing wastewater customers, PAWC's existing water customers, and Brentwood's existing customers. Please include all beneficial impacts as well as all detrimental impacts.

6. Please identify and produce any communications between OCA and ALCOSAN regarding PAWC's proposed acquisition of the Brentwood System.

7. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts ("NOPE") and Food & Water Watch, regarding PAWC's proposed acquisition of the Brentwood System. This request includes communications with leaders and other members of such groups.

8. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts ("NOPE") and Food & Water Watch, regarding any other proposed Section 1329 acquisition during the last five years. This request includes communications with leaders and other members of such groups.

## **Appendix B**

**Office of Consumer Advocate Objections to  
Set I (Nos. 1(c), 3, 4, 7 and 8) of  
Pennsylvania-American Water Company**

**Oct. 20, 2023**

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO  
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October 20, 2023

**Via Electronic Mail Only**

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Jonathan P. Nase, Esquire  
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[dzambito@cozen.com](mailto:dzambito@cozen.com)  
[jnase@cozen.com](mailto:jnase@cozen.com)

Re: Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code to acquire the wastewater collection and conveyance system owned by the Borough of Brentwood and to provide wastewater service to the public in the Borough of Brentwood in Allegheny County, Pennsylvania  
Docket No. A-2021-3024058

Dear Counsel:

Enclosed please find the Office of Consumer Advocate's Objections to Pennsylvania-American Water Company ("PAWC") Interrogatories, Set I Questions 1(c), 3, 4, 7, and 8 in the above-referenced proceeding.

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

Respectfully submitted,

/s/ Aron J. Beatty  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
[ABeatty@paoca.org](mailto:ABeatty@paoca.org)

Enclosures:

cc: PUC Secretary Chiavetta (Letter and Certificate of Service only)  
Certificate of Service

\*4879-9371-0729

CERTIFICATE OF SERVICE

Application of Pennsylvania-American Water :  
Company under Sections 1102(a) and 1329 of :  
the Pennsylvania Public Utility Code to acquire : Docket No. A-2021-3024058  
the wastewater collection and conveyance system :  
owned by the Borough of Brentwood and to provide:  
wastewater service to the public in the Borough of :  
Brentwood in Allegheny County, Pennsylvania :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Objections to Pennsylvania-American Water Company ("PAWC") Interrogatories, Set I Questions 1(c), 3, 4, 7, and 8, 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:

Dated this 20<sup>th</sup> day of October 2023.

**SERVICE BY E-MAIL ONLY**

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Phone: (717) 783-5048  
Dated: October 20, 2023  
\*4880-9719-2073

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 : A-2021-3024058  
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 :

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OBJECTIONS OF THE  
OFFICE OF CONSUMER ADVOCATE TO  
PENNSYLVANIA-AMERICAN WATER COMPANY'S  
INTRETTOGATORIES SET I, QUESTIONS 1(c), 3, 4, 7, AND 8

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Pursuant to 52 Pa. Code Section 5.342(c), the Office of Consumer Advocate (OCA) hereby submits these Objections to Set I Interrogatories Propounded by Pennsylvania-American Water Company (PAWC or the Company) at Docket No. A-2021-3024058. As explained below, the OCA objects to PAWC Set I, Questions 1(c), 3, 4, 7, and 8. These questions either seek the mental impressions of a party's attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories, and/or are not reasonably calculated to lead to the production of admissible evidence, are privileged and confidential, and/or present the OCA with an unreasonable burden in producing responsive materials and/or require the OCA to perform an unreasonable investigation to produce responsive materials, thus violating Section 5.361(a) of the Pennsylvania Public Utility Commission's (Commission) Regulations. 52 Pa. Code § 5.361(a).

## I. INTRODUCTION

On Tuesday, October 17, 2023, Pennsylvania-American Water Company served discovery (PAWC Set I) upon the OCA. The OCA orally communicated its objections to this discovery to PAWC on Thursday, October 19, 2023. The OCA and PAWC were unable to resolve the discovery dispute informally.

The Commission's regulations allow a participant to obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or participant. 52 Pa. Code § 5.321(c). It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Id.* Information is not reasonably calculated to lead to the discovery of admissible evidence when the party seeking it in discovery is not certain that material responsive to the discovery request would contain information relevant to the case, without first reviewing the responsive material. *Pa. PUC, et al. v. Pennsylvania-American Water Co.*, Docket No. R-2011-2232243 *et al* at 21 (Order on Motion to Compel July 21, 2011).

Section 5.361 of the Pennsylvania Code, however, specifically limits the scope of discovery in proceedings before the Commission. In particular, Section 5.361 provides the following:

- (a) No discovery or deposition is permitted which:
  - (1) Is sought in bad faith.
  - (2) Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or participant.
  - (3) Relates to a matter which is privileged.
  - (4) Would require the making of an unreasonable investigation by the deponent, a participant or witness.

52 Pa. Code § 5.361(a).

Further, Section 5.323(a) provides the following:

The discovery may not include disclosure of the mental impressions of a party's attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories. With respect to the representative of a party other than the party's attorney, discovery may not include disclosure of his mental impressions, conclusions, or opinions respecting the value or merit of a claim or defense or respective strategy, tactics...

52 Pa. Code § 5.323(a).

## II. OBJECTIONS

### A. Objection to PAWC Set I No. 1(c)

1. In its rate case at Docket Nos. R-2023-3039920 et al., the Pittsburgh Water and Sewer Authority indicated that it bills customers for treatment service by the Allegheny County Sanitary Authority ("ALCOSAN") through a contractual billing arrangement with ALCOSAN. PWSA St. No. 2 p. 18.

\*\*\*

(c) If not, please explain why OCA objects to PAWC's contractual billing arrangement to collect ALCOSAN's treatment charges in this proceeding.

In proceedings before the Commission, the scope of what is discoverable is broad but not unlimited. Section 5.321(c) states that "[s]ubject to this subchapter, a participant may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action...." 52 Pa. Code § 5.321(c)(emphasis added). The exclusion of privileged information from the scope of discovery is also supported by Section 5.361(a)(3).

PAWC Set I No. 1(c) asks about matters which are privileged, confidential, and are not discoverable pursuant to these and other provisions in the Commission's regulations. Specifically, PAWC asks "why" the Consumer Advocate will advance its positions as this case proceeds. This question goes to matters which are protected by the deliberative process privilege, attorney-client privilege, and attorney work product privilege. In addition, this question seeks information about

the mental impressions and/or legal opinions and legal theories of the attorneys representing the Consumer Advocate.

The Office of Consumer Advocate is established pursuant to Section 309-1, et seq. of Title 71, Administrative Code of 1929. 71 P.S. §§ 309-1 to 309-7. Section 309-4(a) vests the Consumer Advocate with the duty to represent the interests of consumers in matters before the Public Utility Commission and the authority to initiate proceedings “if in his judgment such may be necessary ...” 71 P.S. §§ 309-4(a). Section 309-4(b) authorizes the Consumer Advocate to exercise discretion in determining whether to engage in advocacy on behalf of consumer interests in any proceeding or to refrain from intervening. 71 P.S. §§ 309-4(b). PAWC’s interrogatory improperly seeks to discover information which is covered by the deliberative process privilege, as embodied in Section 309-4(a) and (b) of Title 71. The Consumer Advocate is vested with the discretion and authority to determine whether or not to pursue a course of action. The General Assembly has expressly provided the Consumer Advocate with authority and room to engage in confidential, internal deliberations of law and policymaking.

Additionally, PAWC’s interrogatory improperly seeks to discover information which is protected by the attorney-client privilege and/or attorney work product doctrine. By statute, the Office of Consumer Advocate also includes attorneys appointed as Assistant Consumer Advocates. 71 P.S. §§ 309-3. The Assistant Consumer Advocates are counsel to the Consumer Advocate, acting at the direction of the Consumer Advocate and providing legal advice. Interrogatory 1(c) asks for the disclosure of privileged communications between the Consumer Advocate and legal counsel which are attorney-client communications. An answer to Interrogatory 1(c) may also improperly delve into privileged attorney work product. The existence of both the attorney-client privilege and work product doctrine when attorneys act in their professional

capacity for governmental agencies is well established. See, *Sedat Inc. v. Dept. of Envtl. Res.*, 641 A.2d 1243, 1244 (Pa. Commw. 1994), citing *Okum v. Unemployment Compensation Bd. of Review*, 77 Pa. Commw. 386, 465 A.2d 1324 (1983).

Discovery is not permitted which relates to matter which is privileged. 42 Pa. Code §§ 5.321(c), 5.361(a)(3). Section 5.323(a) states that “a party may obtain discovery of any matter discoverable” within the scope of Section 5.321(c). 52 Pa. Code § 5.323(a). Section 5.323(a) also clarifies specific information which is not discoverable:

[t]he discovery may not include disclosure of the mental impressions of a party’s attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories. With respect to the representative of a party other than the party’s attorney, discovery may not include disclosure of his mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy, tactics or preliminary or draft versions of written testimony or exhibits....

42 Pa. Code § 5.361(a)(3). The internal reviews and assessments of present and past PAWC regulatory filings conducted by the Consumer Advocate, Assistant Consumer Advocates, and/or consultants for the Office of Consumer Advocate comprise privileged information which is not discoverable under the Commission’s rules.

Therefore, the OCA objects to PAWC Set I No. 1(c), which seeks privileged information.

B. Objection to PAWC Set I No. 3.

3. Please provide the caption and docket number for every application, rate proceeding or Section 507 proceeding in the last five years in which the OCA has participated in which a water and/or wastewater utility has proposed a contractual billing arrangement to collect amounts due to a third party.

The OCA objects to the above question on the grounds that it is overly burdensome in violation of 52 Pa. Code 5.361(a)(c) and is irrelevant to any material issue, position, or defense of a party in this case. PAWC is requesting the OCA to scour five years' worth of cases, including *every* application, rate proceeding or section 507 proceeding in which the OCA has participated. This would require the OCA to spend its limited time and resources, both of which are already subject to the expedited timeframe of this proceeding, searching for cases that the OCA participated in to determine if they meet the broad description that PAWC is requesting.

In addition, PAWC's interrogatory is unreasonably burdensome because the phrase "contractual billing arrangement to collect amounts due to a third-party" is extremely broad and could refer to myriad arrangements from any Commission-regulated utility, meaning that OCA would have to expend further resources to determine which materials may be responsive to PAWC's request, in addition to locating and producing such materials, should they exist.

Not only is this request overly burdensome because of the response time frame and vagueness of PAWC's request, but it is requesting the positions of any "water and/or wastewater" company on all of these cases over the last five years. PAWC can research the positions of water and/or wastewater companies in filings before the Commission and could have done so at any point since filing this case in 2021. There is no indication that PAWC's request is reasonably calculated to lead to the discovery of admissible evidence, as any responsive materials in the

OCA's possession would not be relevant, or of sufficient probative value to be reasonable, relative to the facts that are specific to this case.

As such, PAWC is requesting that the OCA perform an unreasonable investigation for a set of responses which will not or are not likely to produce or lead to admissible evidence – as it cannot be either relevant or material – from too broad of a time frame. Material responsive to PAWC Set I No. 3 is not discoverable under 52 Pa. Code Sections 5.321 and/or 5.361 and, therefore, the OCA objects.

C. Objection to PAWC Set I No. 4.

4. For every case listed in response to Interrogatory 3, please indicate whether the OCA opposed the proposed contractual billing arrangement.

As PAWC Set I No. 4 requests information pertaining to PAWC SET I NO. 3, objected to above, OCA incorporates its objection to PAWC SET I NO. 3 in its objection to PAWC Set I No. 4 as if fully stated herein.

D. Objection to PAWC Set I No. 7

7. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts (“NOPE”) and Food & Water Watch, regarding PAWC’s proposed acquisition of the Brentwood System. This request includes communications with leaders and other members of such groups.

The OCA objects to PAWC Set I No. 7 on the grounds that it is overly burdensome and as such prohibited by 52 Pa. Code 5.361(a)(c). Further, the OCA objects because PAWC Set I No. 7 does not seek evidence which is relevant, of reasonable probative value, or which is reasonably calculated to lead to the discovery of admissible evidence.

The question requests *any* communication made with *any* group that is included in the undefined term “anti-privatization group”. Attempting to respond to this request would force the OCA to spend its limited time, once again limited by the timeline required in a proceeding of this nature, searching through all communications the OCA has made to attempt to determine whether or not they fall within this broad undefined category requested by PAWC.

If PAWC seeks to use any alleged communications to impeach a witness the more appropriate, and significantly less burdensome, method of impeachment would be through cross examination. Rather than force the OCA to waste valuable time and resources PAWC could simply ask a witness whether or not they have communicated with the OCA and fall into one of the aforementioned groups. In addition, PAWC’s interrogatory is unreasonably burdensome because the phrase “anti-privatization group” is undefined, meaning that OCA would have to expend further resources to determine which materials may be responsive to PAWC’s request, in addition to locating and producing such materials, should they exist.

Further, PAWC Set I No. 7 is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, PAWC seeks communications between the OCA and non-parties to the case. To the extent of the OCA’s knowledge, neither of the two groups identified in PAWC Set I No. 7 are parties to the current proceeding, and the OCA is unable to identify what other groups might constitute an “anti-privatization group” due to the vagueness of the term and its lack of definition. As such, material responsive to PAWC’s interrogatory could not be either relevant or of reasonably probative value to a claim or defense raised by any parties to this proceeding, which is the standard required under 52 Pa. Code Section 5.321(c). PAWC cannot be reasonably certain that material responsive to this interrogatory would be admissible; as a result, PAWC is requesting that the OCA embark on a fishing expedition which not advance any claim

or defense that the Company might make in the instant proceeding. Therefore, PAWC Set I No. 7 is overly burdensome, seeks irrelevant information, and, pursuant to 52 Pa. Code Section 5.361(a)(c), the OCA respectfully objects to the question.

E. Objection to PAWC Set I No. 8

8. Please identify and produce any communications between OCA and any anti-privatization group, including but not limited to Neighbors Opposing Privatization Efforts (“NOPE”) and Food & Water Watch, regarding any other proposed Section 1329 acquisition during the last five years. This request includes communications with leaders and other members of such groups.

The OCA objects to PAWC Set I No. 8 insofar as it is overly burdensome, would cause an unreasonable annoyance, and seeks information that is irrelevant to the subject matter involved or to any claim or defense of a party. Further, the OCA objects because PAWC Set I No. 8 does not seek evidence which is relevant, of reasonable probative value, or which is reasonably calculated to lead to the discovery of admissible evidence.

PAWC seeks to force the OCA to scour five years’ worth of communications, consisting of thousands of emails, phone conversations and all other forms of correspondence to search for *any* communication with *any* group that is included in the undefined term “anti-privatization group.” Furthermore, it seeks these conversations relating to an *any* section 1329 acquisition, not just the acquisition at hand, or even just PAWC acquisitions. This would result in a significant and unreasonable burden to the OCA to scour its communications and spend its limited time and resources searching for these conversations which may or may not exist. Attempting to respond to this request would force the OCA to spend its limited time, once again doubly limited by the timeline required in a proceeding of this nature, searching through all communications the OCA has made to attempt to determine whether or not they fall within this broad undefined category requested by PAWC. In addition, PAWC’s interrogatory is unreasonably burdensome because the phrase “anti-privatization group” is undefined in PAWC’s Instructions, meaning that OCA would

have to expend further resources to determine which materials may be responsive to PAWC's request, in addition to locating and producing such materials, should they exist.

If PAWC seeks to use any alleged communications to impeach a witness the more appropriate, and significantly less burdensome, method of impeachment would be through cross examination. Rather than force the OCA to waste valuable time and resources PAWC could simply ask a witness whether or not they have communicated with the OCA and fall into one of the aforementioned groups.

Furthermore, PAWC Set I No. 8 is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, PAWC seeks communications between the OCA and non-parties to the case. To the extent of the OCA's knowledge, neither of the two groups identified in PAWC Set I No. 8 are parties to the current proceeding, and the OCA is unable to identify what other groups might constitute an "anti-privatization group" due to the vagueness of the term and its lack of definition. As such, material responsive to PAWC's interrogatory could not be either relevant or of reasonably probative value to a claim or defense raised by any parties to this proceeding, which is the standard required under 52 Pa. Code Section 5.321(c). In addition, to the extent such a communication may exist, any communication which does not pertain to this specific transaction is not relevant or material, as no two proceedings under Section 1329 are identical. As a result, any communication which does not pertain to this proceeding, specifically, would necessarily be irrelevant to any claim or defense of PAWC and, as a result, is not discoverable.

Therefore, PAWC Set I No. 8 is overly burdensome, seeks irrelevant information, and, pursuant to 52 Pa. Code Section 5.361(a)(c), the OCA respectfully objects to the question.

### III. CONCLUSION

WHEREFORE, the Pennsylvania Office of Consumer Advocate submits these Objections to Set I Interrogatories 1(c), 3, 4, 7 and 8 propounded by PAWC for the reasons set forth above.

Respectfully submitted,



---

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Harrisburg PA 17101-1923  
(717) 783-5048  
(717) 783-7152 (fax)

DATED: October 20, 2023

# **Appendix C**

**Office of Consumer Advocate Interrogatories Set 1**

**May 9, 2023**

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO  
Consumer Advocate

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May 9, 2023

**Via Electronic Mail Only**

Elizabeth Rose Triscari, Esquire  
Erin K. Fure, Esquire  
Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
[elizabeth.triscari@amwater.com](mailto:elizabeth.triscari@amwater.com)  
[erin.fure@amwater.com](mailto:erin.fure@amwater.com)

Re: Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code to acquire the wastewater collection and conveyance system owned by the Borough of Brentwood and to provide wastewater service to the public in the Borough of Brentwood in Allegheny County, Pennsylvania  
Docket No. A-2021-3024058

Dear Counsel:

Enclosed you will find Interrogatories of the Office of Consumer Advocate, Sets 1 and 2, in this matter.

In accordance with the Commission's Rules of Practice and Procedure, we request that the Company provide verified answers to these inquiries within twenty (20) days of service. The OCA would appreciate your efforts to meet the modified discovery response deadlines that have been used in prior Applications filed pursuant to Sections 1102 and 1329 of the Public Utility Code. Also, please forward the verified answers as they are completed, rather than waiting until the responses to the full set are completed. We would appreciate it if you would communicate any objections you may have to these interrogatories as soon as possible.

We also request that you send a copy of the answers directly to our group e-mail, as listed below:

E-Mail: [OCAPAWCBrentwood@paoca.org](mailto:OCAPAWCBrentwood@paoca.org)

Elizabeth Rose Triscari, Esquire  
Erin K. Fure, Esquire  
May 9, 2023  
Page 2

If you have any questions, please call us. By copy of this letter, copies of these interrogatories have been served upon all parties. A certificate of service showing service of these interrogatories on all parties has been filed with Secretary Chiavetta of the Pennsylvania Public Utility Commission as required by 52 Pa. Code § 5.341(b).

Respectfully submitted,

/s/ Mackenzie C. Battle  
Mackenzie C. Battle  
Assistant Consumer Advocate  
PA Attorney I.D. # 330879  
MBattle@paoca.org

Enclosures:

cc: PUC Secretary Chiavetta (Letter and Certificate of Service only)  
Certificate of Service

\*345842

CERTIFICATE OF SERVICE

Application of Pennsylvania-American Water :  
Company under Sections 1102(a) and 1329 of :  
the Pennsylvania Public Utility Code to acquire : Docket No. A-2021-3024058  
the wastewater collection and conveyance system :  
owned by the Borough of Brentwood and to provide:  
wastewater service to the public in the Borough of :  
Brentwood in Allegheny County, Pennsylvania :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Interrogatories Set 1 and Set 2 to PAWC, 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:

Dated this 9<sup>th</sup> day of May 2023.

**SERVICE BY E-MAIL ONLY**

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[rkanaskie@pa.gov](mailto:rkanaskie@pa.gov)  
*Counsel for I&E*

Sharon E. Webb, Esquire  
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[swebb@pa.gov](mailto:swebb@pa.gov)  
*Counsel for OSBA*

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*Counsel for PAWC*

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*Counsel for PAWC*

/s/ Mackenzie C. Battle  
Mackenzie C. Battle  
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[ABeatty@paoca.org](mailto:ABeatty@paoca.org)

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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Dated: May 9, 2023  
\*345843

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American Water :  
Company under Sections 1102(a) and 1329 of :  
the Pennsylvania Public Utility Code to acquire : Docket No. A-2021-3024058  
the wastewater collection and conveyance system :  
owned by the Borough of Brentwood and to provide :  
wastewater service to the public in the Borough of :  
Brentwood in Allegheny County, Pennsylvania :

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INTERROGATORIES  
OF THE  
OFFICE OF CONSUMER ADVOCATE  
SET 1

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Pursuant to 52 Pa. Code §5.341, the Office of Consumer Advocate hereby propounds the following Interrogatories to Pennsylvania-American Water Company (PAWC) to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of the Company. Each interrogatory is to be verified by the responding witness in accordance with 52 Pa. Code § 5.342(a)(6).

DATED: May 9, 2023

### Instructions

- 1) These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed.
- 2) Restate the interrogatory immediately preceding each response.
- 3) Identify the name, title, and business address of each person(s) providing each response.
- 4) Provide the date on which the response was created.
- 5) Divulge all information that is within the knowledge, possession, control, or custody of Respondent or may be reasonably ascertained thereby. The term “Pennsylvania-American Water Company”, “Pennsylvania-American”, “PAWC”, “The Company” or “you” as used herein includes Pennsylvania-American Water Company, its attorneys, agents, employees, contractors, or other representatives, to the extent that the Company has the right to compel the action requested herein.
- 6) Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness’ knowledge, information and belief.
- 7) As used herein, but only to the extent not protected by 52 Pa. Code § 5.323, the word “document” or “workpaper” includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium including computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
  - a) notations of any sort concerning conversations, telephone calls, meetings or other communications;
  - b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
  - c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Application of PAWC – Brentwood

Docket No. A-2021-3024058

Interrogatories of the Office of Consumer Advocate to PAWC

**Set 1**

1. How does PAWC plan to pay ALCOSAN for the continued treatment of the Borough of Brentwood's wastewater, per the Z agreement, if PAWC purchases the Borough's wastewater system?
2. How does PAWC plan to address payments to ALCOSAN in the next base rate case or after the rate freeze?
3. How will PAWC adjust rates as ALCOSAN raises rates before the next base rate case or end of the rate freeze?
4. What notice will be provided to the former Brentwood customers when ALCOSAN raises rates?
5. How will the money owed by PAWC to ALCOSAN be paid?
6. What will payment prioritization be when a customer is in arrearage? Will PAWC or ALCOSAN be paid first?
7. Will Brentwood be its own "customer class/zone/tariff" in the next rate case due to its being a collection-only system and its treatment by ALCOSAN?
8. Will ALCOSAN's charges for treatment be collected from all PAWC wastewater customers, a combination of wastewater and water customers using 1311(c) or will it be a separate charge to customers of Brentwood? Has PAWC analyzed collecting ALCOSAN treatment costs from all existing PAWC customers?
9. Does PAWC pay any of its revenue to other wastewater treatment providers? If yes, what are the payments made to each wastewater treatment provider for each of the last five years?
10. Does PAWC have any collection only systems? If yes, when were they acquired and how are the treatment costs collected?
11. What does PAWC do with other collection-only systems for which they contract for wastewater treatment? How are those wastewater treatment costs collected in rates?
12. Has PAWC projected revenues and expenses for the Borough of Brentwood's system over five years? Please provide estimates and any workpapers used to any support increases or decreases in revenues or expenses for any period through five years.
13. Referring to PAWC Statement No 3at pg. lines 19-21, what interest rate does PAWC anticipate for the short-term debt-based financing?

Application of PAWC – Brentwood

Docket No. A-2021-3024058

Interrogatories of the Office of Consumer Advocate to PAWC

**Set 1**

14. For how many months does PAWC anticipate the short-term debt-based financing will be outstanding?
15. Identify all Borough of Brentwood's system assets as of April 2023 that PAWC plans to replace over the next five years. Include the replacement plans and an explanation of why each asset's planned for replacement.
16. Identify each of the projects that comprise the projected capital improvement cost or investment, by line item and by year, for the total capital investment of \$8,055,000 over the next five years referred to in PAWC statement No. 2 Exhibit DJH-2. Please provide it in live excel format.
17. Explain the underlying basis/need for each of the projects referenced above.
18. Please provide in live excel format PAWC Exhibit AEE-1 pages 1 through 5, with calculation on how the revenue deficiency and requirement were calculated.
19. Is there any level of rate increase that would outweigh the other benefits listed by PAWC?
20. Will the purchase by PAWC of the Borough of Brentwood wastewater assets result in increased costs for state and federal income taxes for PAWC? If no, provide a full explanation including a live spreadsheet and workpaper(s) showing the calculations to support the conclusion that the acquisition will not result in increased costs for state and federal income taxes. If yes, please provide a live spreadsheet and workpaper(s) showing the calculation of the additional state and federal income tax expenses.
21. Please provide a specific list of the regionalization and consolidation benefits the Company anticipates will stem from this specific acquisition.
22. If any of the benefits identified by the Company over the long term are financial benefits, please provide a schedule demonstrating at what point the Company believes the acquisition will provide a cost benefit to existing and future ratepayers.
23. Referring to PAWC Statement No. 1 pg. 20 line 11, please explain step by step, and year by year how long the proposed "economies of scale" will need to take affect?
24. Will Shareholders benefit from this acquisition? If so, how?
25. Will Shareholders be harmed from this acquisition? If so, how?
26. Will current PAWC customers be harmed from this acquisition, if so, how?
27. Will future PAWC customers be harmed from this acquisition, if so, how?

Application of PAWC – Brentwood

Docket No. A-2021-3024058

Interrogatories of the Office of Consumer Advocate to PAWC

**Set 1**

28. What options will be available to the Borough of Brentwood's customers to pay their bills after the acquisition?
29. Will there be any additional charges associated with any of the bill payment options PAWC plans to make available to the acquired Brentwood customers?
30. Will PAWC provide the current customers of the Borough of Brentwood system with the option to pay their bills in-person after the acquisition? How far away from the Borough of Brentwood are the nearest locations to pay in person?
31. Were the residents of Brentwood made aware of the possibility that after two years or after the next base rate case that their rates could increase to levels of current PAWC customers, including the additional costs associated with continued acquisitions?
32. Were the Council Members of Brentwood made aware of the possibility that after two years or after the next base rate case that the Borough's rates could increase to levels of current PAWC customers, including the additional costs associated with continued acquisitions?
33. Regarding using existing Borough employees to continue to operate the collection system after acquisition, is the Borough or PAWC aware of any Borough employee who will be laid off or work reduced time as a result of the sale? If yes, please provide the number of employees who will be laid off and the number of employees who will be working reduced hours.
34. Are there any Borough employees who are currently employed in the provision of wastewater service by the Borough for which no employment offer commitment by PAWC has been made? If so, identify by job title and location of such employees and explain why no employment from PAWC was offered to such employees.
35. Will PAWC provide the customers acquired with information about CAP programs in its territory? If so, please provide the materials PAWC plans to distribute. How far away from the Borough of Brentwood is the nearest location to apply for CAP program in person?
  - a. Will this information be provided in languages other than English? If so, please list the languages the materials will be provided in.
36. Are there any Borough customers who could have their wastewater service terminated due to delinquency between now and when PAWC potentially acquires the Borough wastewater system? If so, how many?
37. How many current PAWC water customers in the Borough of Brentwood are enrolled in PAWC's bill discount water program?

Application of PAWC – Brentwood

Docket No. A-2021-3024058

Interrogatories of the Office of Consumer Advocate to PAWC

**Set 1**

38. How many customers does PAWC estimate would qualify to enroll in the water and wastewater low-income programs within the Borough of Brentwood after the acquisition?
39. Would Borough customers be able to apply and enroll in both ALCOSAN's and PAWC's low-income programs after the acquisition? If so, how will PAWC administer the \$42 credit to each customer's bill every 3 months?
40. Will any of the Borough customers have their service restored after the wastewater system comes under PAWC's ownership? Will PAWC require these customers to pay any fees associated with the return of service?