

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**JOINT PETITION OF  
PENNSYLVANIA-AMERICAN WATER  
COMPANY AND THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION  
REQUESTING AN *EX PARTE* EMERGENCY  
ORDER IN REGARD TO RECEIVERSHIP  
OF EAST DUNKARD WATER AUTHORITY**

**PUBLIC MEETING OF NOVEMBER 9, 2023  
3043950-LAW  
DOCKET NO. P-2023-3043950**

**MOTION OF CHAIRMAN STEPHEN M. DeFRANK**

On November 1, 2023, I issued an *ex parte* Emergency Order in response to a Joint Petition filed by the Pennsylvania-American Water Company (PAWC) and the Pennsylvania Department of Environmental Protection (DEP) requesting an *Ex Parte* Emergency Order in Regard to Receivership of East Dunkard Water Authority (Authority). By issuing the Emergency Order, the Commission took immediate, affirmative action to protect the public health, safety and welfare of the approximately 1,800 households, businesses and schools and the population of approximately 4,200 residents in six affected townships.

The Emergency Order detailed, among other things, numerous statutory and regulatory violations related to the system and explained that the DEP had issued an order to the Authority requiring a series of corrective actions to address deficiencies in the system. In addition, the Commonwealth Court issued an Order on December 15, 2022 requiring the Authority to take certain corrective actions as well.

The Emergency Order noted the unusual facts and circumstances of this case and addressed the Commission's determination that such facts and circumstances warranted action establishing the rights, duties and obligations of PAWC as a jurisdictional utility if and when it is appointed by the Commonwealth Court to be receiver for the Authority, a non-jurisdictional entity. This Commission has never taken such extraordinary measures. I am pleased that we vote today to ratify that Emergency Order to further ensure that the Commission does all it can in response to a serious public health and safety threat the Commission will not ignore.

Appendix A to the Emergency Order, however, requires modification which necessitates this Motion. In particular, I move today that Appendix A of the Emergency Order be modified so that it is clear that:

1. PAWC, in its capacity as receiver of the Authority, shall be authorized to take the actions identified in Appendix A and serve as the Receiver of the Authority subject to the conditions contained in Appendix A;
2. Operating expenses and DEP mandated capital expenses incurred by PAWC as Receiver are eligible for deferred accounting treatment and may be charged to a deferred expenses account;

3. PAWC conduct an evaluation of the system, identify the deficiencies in the systems physical conditions, facilities and operational procedures, identify and prepare a plan of capital and operational improvements and report the results of such evaluation, as well as any DEP mandated capital improvements, to the Commission;
4. PAWC as Receiver has the authority to receive and utilize grant funds in the name of the Authority and borrow money in the name of the Authority necessary for the implementation of corrective actions and continued provisions of adequate, efficient, safe and reasonable service to the customers of the system;
5. PAWC has the authority, but is not required, to file a petition for bankruptcy and participate in any such proceedings on behalf of the Authority; and
6. Any costs incurred by PAWC in providing emergency assistance to the Authority before it is appointed by the Court as Receiver shall be eligible for the deferred expense account as provided for in the Emergency Order.

**THEREFORE, I MOVE:**

1. That the *Ex Parte* Emergency Order issued on November 1, 2023 at docket number P-2023-3043950 is modified consistent with this Motion and hereby ratified.
2. That a copy of this Ratification Order be served upon all parties served with the *Ex Parte* Emergency Order issued on November 1, 2023.
3. That the Law Bureau prepare an Opinion and Order consistent with this motion.

**November 9, 2023**  
**Date**



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**Stephen M. DeFrank**  
**Chairman**