



November 14, 2023

VIA E-FILING

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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.

Amended Joint Stipulation between Pennsylvania-American Water Company, Brentwood Borough, and the Allegheny County Sanitary Authority

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the above-referenced Amended Joint Stipulation.

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
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 14th day of November, 2023 served a true copy of the foregoing **Amended Joint Stipulation of Pennsylvania-American Water Company, Brentwood Borough, and the Allegheny County Sanitary Authority** 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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**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 :

AMENDED JOINT STIPULATION

Pennsylvania-American Water Company (“PAWC”), the Borough of Brentwood (“Brentwood”) and the Allegheny County Sanitary Authority (“ALCOSAN”) (together, the “Stipulating Parties”) hereby enter into this Amended Joint Stipulation¹ (“Amended Stipulation”) to address issues raised by ALCOSAN in the above-referenced acquisition proceeding (“Proceeding”) with respect to the above-referenced Application (the “Application”). The Stipulating Parties respectfully request that the Honorable Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) recommend approval of and that the Public Utility Commission (“Commission”) approve and adopt this Amended Stipulation, without modification.

¹ This Amended Stipulation is subject to ratification at the ALCOSAN Board of Directors meeting of November 16, 2023, and the Brentwood Borough Council meeting of November 27, 2023. A letter will be filed by ALCOSAN’s counsel and Brentwood’s counsel confirming ratification.

I. TERMS OF THE AMENDED STIPULATION

ALCOSAN does not take a position either in opposition to or in support of the Application. ALCOSAN's interest in this Proceeding is to: (1) preserve its status as the exclusive provider of sewage treatment within the service area, (2) maintain the uniformity of the Z Agreements with each customer municipality, (3) continue to meet its obligations under the Modified Consent Decree and trust indentures, and (4) protect itself as an independent municipal authority not subject to Commission oversight.

A. In the event the Application is approved:

1. The terms of this Amended Stipulation shall control and supersede the Joint Stipulation filed in this Proceeding on or about November 7, 2023.
2. PAWC and Brentwood shall honor their obligations under the terms of the Cooperation and Allocation of Responsibilities Agreement dated March 2, 2023 ("Cooperation Agreement").
3. PAWC and Brentwood shall not seek to amend or assign The Pittsburgh Zone Project Agreement of December 1, 1949 ("Z Agreement") between Brentwood, the City of Pittsburgh, and ALCOSAN, and Brentwood shall honor its obligations under the terms of the Z Agreement.
4. Without limiting the generality of the foregoing, PAWC and Brentwood shall honor their respective obligations under Section 2(g) of the Cooperation Agreement in fulfilling the obligations set forth in Section 16 and Section 18 of the Z Agreement with respect to payments due to ALCOSAN.
5. PAWC and Brentwood shall not seek to amend any of the terms of the Cooperation Agreement.

6. Nothing contained in this Amended Stipulation or the Commission's approval of the Application shall preclude ALCOSAN from intervening or participating in a future PAWC proceeding relating to either operation of the Brentwood system or any other potential purchase of wastewater system assets by a public utility within the ALCOSAN service area.

7. PAWC and Brentwood agree that, attached hereto as Exhibit A, are true and correct copies of Schedule 4.05 (Required Governmental Consents), Schedule 4.13 (Assigned Contracts), and Schedule 5.04 (Buyer Consents and Approvals) (collectively the "Schedules") intended by both PAWC and Brentwood to be attached to the Asset Purchase Agreement and First Amendment to the Asset Purchase Agreement By and Between Brentwood and PAWC, dated as of December 22, 2020, and amended on March 2, 2023 (collectively the "Asset Purchase Agreement"), upon submission of the Application.

8. PAWC and Brentwood agree to amend Schedule 4.05 and Schedule 5.04 of the Asset Purchase Agreement as follows:

a. Schedule 4.05 (Required Governmental Consents):

1. Amend to revise Item 2 to read: "PaPUC Approval of Consent to Assignment and Amendment to Sewer Service Agreements (other than the Z Agreement) and Related Amendments"

2. Amend to insert Item 6 to read: "Allegheny County Sanitary Authority approvals to the extent necessary"

b. Schedule 5.04 (Buyer Consents and Approvals):

1. Amend to revise Item 2 to read: "PaPUC Approval of Consent to Assignment and Amendment to Sewer Service Agreements (other than the Z Agreement) and Related Amendments"

2. Amend to insert Item 6 to read: “Allegheny County Sanitary Authority approvals to the extent necessary”

9. PAWC and Brentwood agree that, attached hereto as Exhibit B, are true and correct copies of the Schedules as confirmed and amended by this Amended Stipulation, replacing all prior versions of the Schedules (including without limitation the versions thereof set forth as Exhibit A), and, in the event of any inconsistencies, the copies of the Schedules attached to this Amended Stipulation as Exhibit B shall govern.

10. Brentwood shall enter into a separate agreement with ALCOSAN committing that upon closing of the system sale transaction, Brentwood shall reimburse ALCOSAN in full for any funds received under the Grow Grants, which Grow Grants are more fully described in Recital G. of the Cooperation Agreement, and to decline in writing any awards outstanding under the Grow Grants. Brentwood acknowledges that the amount of \$68,735.11, relating to the Viking Drive Project, has been received by Brentwood to date and will be reimbursed to ALCOSAN by Brentwood.

11. This Amended Stipulation is conditioned upon the Commission’s approval of the terms and conditions contained in the Amended Stipulation, Asset Purchase Agreement, and Cooperation Agreement without any modification that ALCOSAN reasonably concludes could materially affect the rights, obligations or interests of ALCOSAN (except as modified by the Amended Stipulation). If the Commission modifies the Amended Stipulation, Asset Purchase Agreement, and/or Cooperation Agreement in a manner that ALCOSAN reasonably concludes could materially affect the rights, obligations or interests of ALCOSAN, ALCOSAN may elect to withdraw from the Amended Stipulation and may proceed with litigation and, in such event, the Amended Stipulation shall be void and of no effect. Such election to withdraw must be made in

writing, filed with the Secretary of the Commission, and served upon all parties to the Proceeding within five (5) business days after the entry of an Order modifying the Amended Stipulation.

B. If the Commission does not approve the Amended Stipulation and the Proceeding continues, the Stipulating Parties reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument.

II. CONCLUSION

THEREFORE, the Stipulating Parties, by their respective counsel, hereby evidence their agreement to the terms of the Amended Stipulation set forth above and respectfully request that the ALJ recommend approval of the Amended Stipulation in the Recommended Decision and that the Commission approve and adopt the Amended Stipulation in its final order in this Proceeding, without modification.

[Signatures appear on next page.]

Respectfully submitted,

/s/ Scott T. Wyland

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Counsel for *Borough of Brentwood*

Date: November 14, 2023

EXHIBIT A

Schedule 4.05

Required Governmental Consents

1. Pennsylvania Public Utility Commission (“PaPUC”) Approval of Transaction
2. PaPUC Approval of Consent to Assignment and Amendment to Sewer Service Agreements and Related Amendments
3. Pennsylvania Department of Environmental Protection (“PaDEP”) Approval of Sanitary Sewer Collection and Conveyance System Act 537 Plan recognizing transfer of wastewater collection system from Seller to Buyer
4. Allegheny County Health Department approval of transaction and/or any other necessary regulatory approval
5. EPA approval of transaction and/or any other necessary regulatory approvals

Schedule 4.13

Assigned Contracts

Agreements			
Name of Contract	Parties to Contract	Date of Contract	Subject
Agreement	Brentwood Borough City of Pittsburgh	October 14, 1936	Construction of a truck sanitary sewer along Streets Run and the Borough's connection thereto.
Streets Run Sewer Joint Management Agreement	Borough of Brentwood Borough of Baldwin Borough of Whitehall West Mifflin Sanitary Sewer Municipal Authority	July 19, 2000	The parties each use a common sanitary sewer trunk line (the "Streets Run Sewer") and wanted to enter into a collective agreement to formalize its intention to participate jointly in the substantial improvements of the Street Run Sewer

Schedule 5.04

Buyer Consents and Approvals

1. Pennsylvania Public Utility Commission (the “PaPUC”) Approval of Transaction
2. PaPUC Approval of Consent to Assignment and Amendment to Sewage Treatment Agreements and Related Amendments
3. Pennsylvania Department of Environmental Protection (the “PaDEP”) Approval of Sanitary Sewer Collection and Conveyance System Act 537 Plan recognizing transfer of wastewater collection system from Seller to Buyer
4. Allegheny County Health Department approval of transaction and/or any other necessary regulatory or permit approvals.
5. EPA approval of any modified consent decree and/or any other necessary regulatory approvals.

EXHIBIT B

Schedule 4.05

Required Governmental Consents

1. Pennsylvania Public Utility Commission (“PaPUC”) Approval of Transaction
2. PaPUC Approval of Consent to Assignment and Amendment to Sewer Service Agreements (other than the Z Agreement) and Related Amendments
3. Pennsylvania Department of Environmental Protection (“PaDEP”) Approval of Sanitary Sewer Collection and Conveyance System Act 537 Plan recognizing transfer of wastewater collection system from Seller to Buyer
4. Allegheny County Health Department approval of transaction and/or any other necessary regulatory approval
5. EPA approval of transaction and/or any other necessary regulatory approvals
6. Allegheny County Sanitary Authority approvals to the extent necessary

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4. Allegheny County Health Department approval of transaction and/or any other necessary regulatory or permit approvals
5. EPA approval of any modified consent decree and/or any other necessary regulatory approvals
6. Allegheny County Sanitary Authority approvals to the extent necessary