



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.

Brief of Pennsylvania-American Water Company in Support of its Motion to Admit ALJ-2 or, in the Alternative, to Admit ALJ-1

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the above-referenced Brief.

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,

A handwritten signature in blue ink, appearing to read "David P. Zambito", written over a light blue circular scribble.

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 **Brief of Pennsylvania-American Water Company in Support of its Motion to Admit ALJ-2 or, in the Alternative, to Admit ALJ-1** 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).

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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 :

**PENNSYLVANIA-AMERICAN WATER COMPANY’S BRIEF
IN SUPPORT OF ITS MOTION TO ADMIT EXHIBIT ALJ-2 OR, IN THE
ALTERNATIVE, TO ADMIT ALJ-1**

AND NOW COMES Pennsylvania-American Water Company (“PAWC”) to submit this Brief in Support of its Motion to admit Exhibit ALJ-2 into the evidentiary record, or, in the alternative, to admit ALJ-1 into the evidentiary record. PAWC respectfully requests that Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) grant the Motion and admit ALJ-2 into the record. In the alternative, PAWC requests that the ALJ admit ALJ-1 into the record.

STATEMENT OF FACTS

On November 7, 2023, PAWC served all the parties to this proceeding with a proposed Stipulation at this docket. Due to the document being filed with the Secretary’s Bureau after 4:30 p.m. the document received a filing date of November 8, 2023. The Stipulation was between PAWC, Brentwood Borough (“Brentwood”) and the Allegheny County Sanitary Authority

(“ALCOSAN”) (collectively, the “Stipulating Parties”). The Stipulation affirmed that, if the Application is approved, PAWC and Brentwood will honor their respective obligations under the Z Agreement and the Cooperation Agreement. Paragraphs A.1-4. In addition, the Stipulating Parties agreed to minor modifications in Schedules 4.05, 4.13 and 5.04 of the Asset Purchase Agreement (“APA”) between PAWC and Brentwood. The Stipulating Parties had intended to attach copies of those Schedules to the Stipulation, but inadvertently failed to do so.

During the evidentiary hearing on November 8, 2023, the Stipulation was marked as ALJ-1, but it was not admitted into the record because the Stipulating Parties stated that they expected to re-file the Stipulation with the Schedules. They advised the ALJ that the Stipulation would be re-filed with the referenced Schedules.

The Stipulating Parties were unable to re-file the Stipulation on November 8 because most of the day was devoted to an Evidentiary Hearing on the instant Application. The Stipulating Parties subsequently determined that they had negotiated the Stipulation using Exhibit J to the Application (the Borough’s resolution approving the APA). The Stipulating Parties discovered discrepancies between the Schedules to the APA in Exhibit J and the Schedules to the APA as included in Appendix A to the Application. It took time to resolve this discrepancy.

It was ultimately determined that the Schedules in Exhibit J were not the final versions. Once this discrepancy was resolved, the Stipulating Parties determined that changes to the Stipulation were necessary to make it conform with the final versions of the Schedules. For example, there was no longer a need to modify Schedule 4.13 to delete material, because that material was not included in the final version of the Schedule. Rather than re-filing the Stipulation, it was necessary to file an Amended Stipulation.

Several drafts of the Amended Stipulation were exchanged as the Stipulating Parties were making every effort to ensure that the correct changes were made in the Schedules. Nevertheless, the Amended Stipulation made no substantive changes in the Stipulation.

After reviewing each draft, counsel for the Stipulating Parties needed to consult their respective clients. Two of the Stipulating Parties are municipal entities, governed by a board. Obtaining approval of municipal boards can take time. Additionally, it should be noted that Friday, November 10, 2023 was a holiday (Veteran's Day Observed). As a result, some key officials of the three Stipulating Parties were unavailable for all or part of the three-day weekend.

The Amended Stipulation was finally executed on the morning of November 14, 2023, and was e-filed with the Secretary's Bureau at 9:04 a.m. **Attachment A.** The Amended Stipulation was then e-mailed to all of the parties to this proceeding and to the ALJ. It was marked as ALJ-2, but was not admitted into the record.

ARGUMENT

PAWC respectfully requests that the Amended Stipulation be admitted into the record. It is a brief document (five pages, plus a signature page and six pages of attachments). It is a simple document. As stated above, the Amended Stipulation confirms that, if the instant Application is approved, PAWC and Brentwood will honor their respective obligations under the Z Agreement and the Cooperation Agreement. Paragraphs A.2-5. This position is entirely consistent with the position advocated by PAWC, Brentwood, and ALCOSAN throughout the course of this proceeding. The Amended Stipulation simply memorializes the Stipulating Parties' commitment to the position and makes minor revisions to certain APA schedules consistent with the position.

In addition, the Stipulating Parties agreed to minor modifications in Schedules 4.05 and 5.04 of the APA.

The record in this proceeding will close on Friday, November 17, 2023. This will give all the parties to the proceeding an opportunity to review and file objections to the Amended Stipulation (if they have any). Additionally, the Stipulating Parties are requesting Commission approval of the Amended Stipulation. Paragraph 11. All the parties to this proceeding therefore will have an opportunity to argue in briefs whether the ALJ should recommend that the Amended Stipulation be approved. Consequently, the due process rights of the other parties to this proceeding will be fully protected if the ALJ admits the Amended Stipulation into the record and recommends whether the Amended Stipulation should be approved.

The Amended Stipulation did not make substantive changes to the Stipulation that was filed on November 7, 2023. All the parties to this proceeding had plenty of time to review the Stipulation and comment on it, and none had any questions about it or voiced any objections to it. Under these circumstances, PAWC respectfully requests that the ALJ admit ALJ-2 into the record or, in the alternative, to admit ALJ-1 into the record.

CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, for all of the foregoing reasons, PAWC respectfully requests that Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) grant the Motion and admit ALJ-2 into the record. In the alternative, PAWC requests that the ALJ admit ALJ-1 into the record.

[Signature appears on next page.]

Respectfully submitted,



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November 14, 2023

EXHIBIT A

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.

Brief of Pennsylvania-American Water Company in Support of its Motion to Admit ALJ-2 or, in the Alternative, to Admit ALJ-1

(November 14, 2023)



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
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11/14/2023	2504471

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The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: A-2021-3024058

Case Description: Application of PAWC Pursuant to Section 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 Systems Owned by Borough of Brentwood

Transmission Date: 11/14/2023 9:05 AM

Filed On: 11/14/2023 9:05 AM

eFiling Confirmation Number: 2504471

File Name	Document Type	Upload Date
Amended Joint Stipulation between PAWC, Brentwood Borough and Allegheny Sanitation Authority.pdf	Joint Stipulation/Stipulation	11/14/2023 9:04:36 AM

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