

# Morgan Lewis

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December 28, 2023

## VIA eFILING

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

**Re: Pennsylvania Public Utility Commission v.  
Pennsylvania-American Water Company  
Docket Nos. R-2023-3043189 and R-2023-3043190**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matters is the **Prehearing Memorandum of Pennsylvania-American Water Company** (the "Prehearing Memorandum").

Copies of the Prehearing Memorandum have been served upon Deputy Chief Administrative Law Judge Christopher P. Pell, Administrative Law Judge John Coogan, and the parties that are listed on the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosures

c: Per Certificate of Service (w/encls.)

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |          |  |
|---|----------|--|
| <b>PENNSYLVANIA PUBLIC UTILITY<br/>COMMISSION</b> | <b>:</b> | <b>DOCKET NOS.: R-2023-3043189 (Water)</b> |
|   | <b>:</b> | <b>R-2023-3043190 (Wastewater)</b>         |
| <b>v.</b>   | <b>:</b> |  |
| <b>PENNSYLVANIA-AMERICAN WATER<br/>COMPANY</b>    | <b>:</b> |  |
|   | <b>:</b> |  |

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a true and correct copy of the **Prehearing Memorandum of Pennsylvania-American Water Company** on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code Section 1.54:

**VIA ELECTRONIC MAIL**

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Dated: December 28, 2023

*Counsel for  
Pennsylvania-American Water Company*

**\*W – Filed a Water Complaint**  
**\*WW – Filed a Wastewater Complaint**

DB1/ 143244806.1

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |   |
|---|---|---|
| <b>PENNSYLVANIA PUBLIC UTILITY<br/>COMMISSION</b> | : |   |
|   | : |   |
|   | : | <b>DOCKET NO. R-2023-3043189 (Water)</b>      |
| v.  | : |   |
|   | : | <b>DOCKET NO. R-2023-3043190 (Wastewater)</b> |
| <b>PENNSYLVANIA-AMERICAN WATER<br/>COMPANY</b>    | : |   |
|   | : |   |

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

**Before Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative  
Law Judge John Coogan**

**Elizabeth R. Triscari  
Teresa K. Harrold  
Erin K. Fure  
Kenneth M. Kulak  
Mark A. Lazaroff  
Catherine G. Vasudevan  
Brooke E. McGlinn**

*Counsel for  
Pennsylvania-American Water Company*

**Dated: December 28, 2023**

## I. INTRODUCTION

Pennsylvania-American Water Company (“PAWC” or the “Company”) is a public utility that provides water and wastewater services to approximately 780,000 residential, commercial, industrial and governmental customers located in 37 of the 67 counties in Pennsylvania. The Company was formed, with Commission approval, by the merger of the former Pennsylvania-American Water Company into Western Pennsylvania Water Company on February 1, 1989. The Company is a subsidiary of American Water Works Company, Inc. (“American Water”), which is headquartered in Camden, New Jersey.

On November 8, 2023, the Company filed Supplement No. 45 to Tariff Water – Pa. P.U.C. No. 5 (“Water Tariff Supplement”) and Supplement No. 47 to Tariff Wastewater – Pa. P.U.C. No. 16 (“Wastewater Tariff Supplement”), requesting an increase in its total annual operating revenues to become effective January 7, 2024. The amount of the requested increase equals \$203.9 million or approximately 20.2% above the level of pro forma revenues for the fully projected future test year (“FPFTY”) ending June 30, 2025. By Orders entered December 21, 2023, the Pennsylvania Public Utility Commission (the “Commission”) instituted a formal investigation at Docket Nos. R-2023-3043189 (Water) and R-2023-3043190 (Wastewater) to determine the lawfulness, justness and reasonableness of the Company’s existing and proposed rates, rules and regulations. Accordingly, the Water Tariff Supplement and Wastewater Tariff Supplement were suspended by operation of law until August 7, 2024, unless permitted by Commission order to become effective at an earlier date.

Accompanying the Water and Wastewater Tariff Supplements, the Company filed the extensive and detailed supporting information required by the Commission’s regulations, including the prepared direct testimony of the Company’s initial witnesses and the various exhibits to be sponsored by them. During the course of this case, the Company may submit

additional testimony and exhibits in response to the presentations of, or cross-examination by, other parties. In addition, the Company may revise certain statements and exhibits during the course of the Commission's investigation to reflect known and measurable changes reasonably expected to occur during the applicable test periods.

In support of the Company's proposed rate increase, the Company has presented data for the historic test year ("HTY") ended June 30, 2023, the future test year ("FTY") ending June 30, 2024 and the FPFTY. The Company intends to rely primarily on the FPFTY data in support of its proposed rate increase. It is the Company's belief that the record at the close of this proceeding will demonstrate the justness and reasonableness of its proposed rates.

## II. ISSUES

Generally, every rate case presents two major issues for resolution: (1) the total amount of the revenue increase to which the utility is entitled; and (2) the allocation of the increased revenues among the utility's customer classifications through a rate structure and rate design that will produce the required revenue. As discussed below, the Company's computation of its required revenue increase and its proposed allocation of the increase to each customer classification have been developed by applying principles and procedures that, for the most part, the Commission has reviewed and approved in numerous prior cases.

A determination of the total revenue increase to which a utility is entitled involves a number of elements that may be grouped under three headings and characterized as the following major sub-issues:

(1) **TOTAL RETURN.** The total return is the operating income required by the utility to achieve an overall fair rate of return on its claimed rate base. Identifying a fair rate of return involves determining the appropriate cost rate, expressed as a percentage, for each form of capital (debt, preferred stock and common equity) the Company and its investors have

committed to furnishing water and wastewater service. The total return allowed by the Commission must be sufficient to enable the Company to maintain the financial integrity of its existing capital and to attract additional investment on reasonable terms. In particular, the Company must be permitted a reasonable opportunity to earn a return on the portion of its rate base financed by common equity that is commensurate with the returns on equity realized by investments in other enterprises having similar risks. The appropriate rate of return for the Company, and in particular the appropriate return rate for the Company's common equity, is an issue that is critical to the well-being of the Company and its ability to continue to provide the service that its customers have been receiving and are entitled to receive in the future.

(2) **OPERATING EXPENSES.** Operating expenses consist of the future or ongoing level of the utility's total operating expenses, including depreciation and taxes, that must be recovered from customers through rates in order for a utility to have a reasonable opportunity to achieve its allowed rate of return.

(3) **REVENUES.** This component consists of the total revenue from utility operations that is normally available to the utility under present rates and will be produced by the proposed rate levels.

The increase in revenue and rate levels required to produce a fair rate of return is determined by comparing the revenue produced by the utility's present rates with its total required operating income and anticipated operating expenses, depreciation and taxes.

The allocation of the proposed revenue increase and the Company's proposed rate structure and rate design are explained in the Statement of Specific Reasons for Proposed Increase in Rates submitted with the Company's initial filing and further described in the direct testimony of Ashley E. Everette, Stacey D. Gress, and Charles B. Rea. As set forth therein, the

Company's proposed rate structure continues to implement the Commission-approved concept of establishing a uniform set of rates to apply Company-wide. In this case, the Company proposes the following rate structure changes:

- (1) The consolidation of rate zones, where possible, such that the rates charged to customers are the same regardless of geographic location;
- (2) For wastewater service, separate consolidation of sanitary sewer service, combined sewer service, and collection-only service;
- (3) A modification to the low-income discount for water and wastewater customers to include an expansion of the tiered discount structure;
- (4) A proposal to implement alternative ratemaking mechanisms under Section 1330 of the Code consisting of a Revenue Decoupling Mechanism and an Environmental Compliance Investment Charge;
- (5) A request for regulatory and accounting treatment for the deferral of pension, other post-employment benefits and production expenses;
- (6) An increase of monthly service charges to be more in line with customer costs;
- (7) The combining of a portion of the revenue requirement for wastewater operations with the revenue requirement for water operations pursuant to Section 1311(c), which was also added to the Code by Act 11 of 2012;
- (8) A change in annual public fire hydrant rates to reflect 25% of the cost of public fire protection service, pursuant to Section 1328 of the Code; and
- (9) The allocation of the requested rate increase in a manner designed to realign revenues by major customer classes to be more commensurate with the indicated cost of service.

### III. WITNESSES

Set forth below are the anticipated case-in-chief witnesses for the Company and a brief description of the subject matter of their testimony and exhibits:

**Ashley E. Everette** is Senior Director of Rates and Regulatory for PAWC. Her written testimony is set forth in PAWC Statement Nos. 1, and she is sponsoring portions of PAWC Exhibit 3-A. PAWC Exhibit 3-A is the Company's principal accounting exhibit and, as such,

sets forth the development of the Company's revenue requirement and its proposed revenue increase. Ms. Everette's testimony introduces the Company's other case-in-chief witnesses and addresses the following topics: (1) the major drivers of the Company's request for rate relief in this proceeding, which is primarily the significant capital investments that the Company has made and plans to make through June 30, 2025 (2) the affordability of water and wastewater service under present and proposed rates and proposals the Company is making to improve affordability for its customers (3) explain the sources of accounting data that were the starting point for the Company's rate case presentation (4) identify the test years the Company is employing in this case and (5) give an overview of PAWC's Exhibit No. 3-A, the Company's principal accounting exhibit, which includes the Company's revenue requirement studies.

In addition, Ms. Everette discusses the Company's use of authority conferred by Act 11 of 2012 ("Act 11") and Section 1311(c) of the Pennsylvania Public Utility Code ("Code") to mitigate the impact of revenue increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base, the Company's proposed Revenue Decoupling Mechanism and an Environmental Compliance Investment Charge; the Company's request for regulatory and accounting treatment for the deferral of pension, other post-employment benefits ("OPEB") and production expenses, and the Company's compliance with Section 1301.1(b) of the Code by calculating the "differential" in tax costs recognized for ratemaking purposes before and after the enactment of Act 40 of 2016 and identifying how 50% of that differential will be invested in water and wastewater infrastructure. Ms. Everette also reviews the Company's compliance with commitments it made in the Joint Petition for Settlement of Rate Investigation approved by the Commission in the Company's last base rate case at Docket Nos. R-2022-3031671 and R-2022-3031672 as well as

the Company's overall management performance and why the Company's superior management performance supports a rate of return on equity at the upper end of the range determined by PAWC's rate of return witness, Ms. Ann E. Bulkley, in PAWC Statement No. 13.

**Jim Runzer** is the Vice President of Operations for PAWC. Mr. Runzer, in PAWC Statement No. 2, discusses the general operations of the Company; PAWC's commitment to supplying high quality water and wastewater service; initiatives taken to increase efficiency, enhance service and control costs, including efforts to control non-revenue water; employee and customer safety and employee training and development; PAWC's commitment to advanced metering infrastructure ("AMI") technology; support for employee levels and compensation; and the Company's implementation of operations-related settlement commitments from the last base rate case.

**Bruce W. Aiton** is the Vice President of Engineering for PAWC. Mr. Aiton's testimony set forth in PAWC Statement No. 3 discusses the Company's capital investment planning process and the challenges posed by new and changed environmental mandates between rate cases; PAWC's plant additions to be placed in service during the FTY and the FPFTY; operational and regulatory risks associated with maintaining safe and adequate water quantity and water quality and complying with applicable drinking water and environmental regulations associated with owning and operating facilities for supplying water and wastewater services to the public, complying with environmental regulations applicable to owning and operating facilities for furnishing wastewater service to the public, and the challenges climate change could create for water and wastewater utilities; and the bulk treatment service provided to municipal and utility wastewater systems adjacent to the Company's York wastewater treatment plant.

**Stacey D. Gress** is Director of Rates and Regulatory for PAWC. Her testimony, PAWC Statement No. 4, discusses the Company's claims for rate base, depreciation and amortization, taxes other than income and acquisitions since its last rate case that the Company has reflected in its proposed rate base in this case, the Company's claim for rate case and regulatory expense, proposed tariff changes, the allocation of expenses between water and wastewater operations, and PAWC's rate structure and rate design proposals.

**Lori O'Malley** is Senior Manager Regulatory Services for AWWSC. In PAWC Statement No. 5 she addresses the Company's claim for labor and labor-related expenses, Service Company expenses, other operation and maintenance ("O&M") expenses, and miscellaneous expenses.

**Christopher Abruzzo** is Vice President of Business Development for New Jersey American Water Company, formerly Senior Director of Business Development for PAWC. His testimony in PAWC Statement No. 6 describes various acquisitions that PAWC has included in this base rate case and provides support for the Company's request for acquisition adjustments pursuant to 66 Pa. C.S. § 1327 (relating to acquisition of water and sewer utilities) and 52 Pa. Code § 69.711 (statement of policy regarding small nonviable water and wastewater systems).

**Melissa Ciullo** is Vice President of Tax for AWWSC. Her testimony as set forth in PAWC Statement No. 7 addresses the Company's computation of income tax expense in compliance with Act 40 of 2016, the Pennsylvania state tax rate change, and the Corporate Alternative Minimum Tax.

**J. Cas Swiz** is Senior Director, Enterprise-Wide Regulatory Strategy of AWWSC. His testimony, PAWC Statement No. 8, discusses PAWC's claim for uncollectible accounts expense and amortization of the deferred amounts recorded to the regulatory asset for incremental

COVID-19 related financial impacts authorized in the Company's last base rate case. His testimony also discusses PAWC's proposed deferred accounting treatment for pension, OPEB, and production expenses, as well as the Company's proposed Environmental Compliance Investment Charge.

**Deborah A. Degillio** is Vice President and Chief Customer Officer of AWWSC. Her testimony in PAWC Statement No. 9 provides an overview of PAWC's customer service function and addresses how the Customer Service Organization ("CSO") uses customer feedback to drive customer satisfaction, the CSO's efforts to improve customer service and achieve customer service performance objectives, and PAWC's customer assistance programs and proposed enhancements to those programs in this base rate case.

**Charles B. Rea** is Senior Director, Enterprise-Wide Regulatory Pricing & Affordability of AWWSC. His testimony in PAWC Statement No. 10 explains the design of current and proposed tariff rates, presents the Company's affordability analyses for water and wastewater service, describes the Company's analysis of residential, commercial, and municipal water consumption, discusses the Company's claimed revenues, and supports the Company's proposed Revenue Decoupling Mechanism.

**John J. Spanos** is President of Gannett Fleming Valuation and Rate Consultants LLC. In PAWC Statement No. 11 Mr. Spanos explains the development of the depreciated original cost of the Company's utility plant in service and its claims for annual depreciation expense.

**Constance E. Heppenstall** is Senior Project Manager for rate studies of Gannett Fleming Valuation and Rate Consultants LLC. Ms. Heppenstall's testimony in PAWC Statement No. 12 explains the allocation of the cost of service to customer classifications and the identification of stormwater-related costs of service of combined sewer systems ("CSSs").

**Ann E. Bulkley** is a Principal with The Brattle Group. Her testimony as set forth in PAWC Statement No. 13 provides a recommendation regarding PAWC's authorized return on equity and assesses the reasonableness of its proposed capital structure for ratemaking purposes.

The business addresses and business telephone numbers of the Company's witnesses are set forth in Appendix A.

#### **IV. DISCOVERY**

To date, PAWC has been served with approximately 787 interrogatories,<sup>1</sup> many of which contain multiple subparts, totaling 2,348 queries. PAWC encourages informal exchanges of information and is prepared to meet with representatives of the parties to discuss issues of interest to them.

PAWC proposes that discovery should be conducted in accordance with the Commission's regulations at 52 Pa. Code, Chapter 5, Subchapter D, subject to the following modification: Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filings.

Pursuant to 52 Pa. Code § 5.341(b) and § 5.342(e), respectively, neither discovery requests and responses, nor objections to interrogatories, are to be served on the Commission or the Administrative Law Judge, although a certificate of service should be filed with the Commission's Secretary.

In addition, by separate Petition being filed contemporaneously with the Company's

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<sup>1</sup> Of the 787 interrogatories served on the Company, 518 were issued by the Office of Consumer Advocate, 144 by the Bureau of Investigation and Enforcement, 44 by the Office of Small Business Advocate, 11 by the Pennsylvania-American Water Large Users Group, and 70 by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania.

Prehearing Memorandum, the Company is requesting that the Administrative Law Judge enter a Protective Order to cover confidential and proprietary information and documents. As explained in the Company's Petition, the proposed Protective Order is substantially the same as Protective Orders approved in other recent base rate proceedings.<sup>2</sup>

## **V. PROPOSED PROCEDURAL SCHEDULE AND PUBLIC INPUT HEARINGS**

PAWC has prepared and attached as Appendix B to this Memorandum a proposed schedule for the submission of testimony, the conduct of evidentiary hearings, and the filing of briefs. This schedule is consistent with the guidance of the Administrative Law Judges in the Prehearing Conference Order in these proceedings issued on Friday, December 22, 2023.

PAWC will continue to work in good faith with the parties to reach agreement on a consensus schedule.

## **VI. SETTLEMENT**

PAWC is willing to pursue with the parties, and encourages, the possible stipulation of individual issues or more far-ranging settlement discussions that might lead to a comprehensive resolution of this case with some or all of the parties.

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<sup>2</sup> *E.g., Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-2022-3031672 and R-2022-3031673, Order Granting Motion for a Protective Order (July 15, 2022) (Deputy Chief Administrative Law Judge Joel H. Cheskis); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371, First Interim Order Granting Respondent's Petition for Protective Order (June 26, 2020) (Administrative Law Judge Conrad A. Johnson).

## VII. SERVICE LIST

PAWC requests that the official service list entry for the Company be as follows:

Elizabeth R. Triscari (Pa. No. 306921)  
Teresa K. Harrold (Pa No. 311082)  
Erin K. Fure (Pa. No. 312245)  
Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
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[erin.fure@amwater.com](mailto:erin.fure@amwater.com)

PAWC also requests that a copy of all correspondence, discovery, testimony and other materials sent to the Company be provided to:

Kenneth M. Kulak (Pa. No. 75509)  
Mark A. Lazaroff (Pa. No. 315407)  
Catherine G. Vasudevan (Pa. No. 210254)  
Brooke E. McGlinn (Pa. No. 204918)  
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Attorney Brooke McGlinn will speak as the lead attorney for the Company for the purposes of the prehearing conference.

## VIII. CONCLUSION

Based on the evidence summarized above, it is the position of Pennsylvania-American Water Company that the rates proposed in Supplement No. 45 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 47 to Tariff Wastewater – Pa. P.U.C. No. 16 are just, reasonable and lawful in all respects and, accordingly, the requested rate increases should be approved by the ALJs and the Commission at the close of this proceeding.

Respectfully submitted,



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Kenneth M. Kulak (PA No. 75509)  
Mark A. Lazaroff (PA No. 315407)  
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Dated: December 28, 2023

*Counsel for*  
*Pennsylvania-American Water Company*

**APPENDIX A**

**WITNESS CONTACT INFORMATION**

| <b>NAME</b>              | <b>BUSINESS ADDRESS</b>  | <b>TELEPHONE NO.</b> |
|--------------------------|--|----------------------|
| Ashley E. Everette       | Pennsylvania-American Water Co.<br>852 Wesley Drive<br>Mechanicsburg, PA 17055                               | 717-550-1536         |
| Jim Runzer               | Pennsylvania-American Water Co.<br>852 Wesley Drive<br>Mechanicsburg, PA 17055                               | 717-550-1540         |
| Bruce W. Aiton           | Pennsylvania-American Water Co.<br>852 Wesley Drive<br>Mechanicsburg, PA 17055                               | 717-550-1610         |
| Stacey D. Gress          | American Water<br>1 Water Street<br>Camden, NJ 08102   | 856-955-4479         |
| Lori N. O'Malley         | American Water<br>1 Water Street<br>Camden, NJ 08102   | 856-955-4072         |
| E. Christopher Abruzzo   | New Jersey-American Water Co.<br>1 Water Street<br>Camden, NJ 08102  | 717-790-3024         |
| Melissa Ciullo           | American Water<br>1 Water Street<br>Camden, NJ 08102   | 856-955-4322         |
| J. Cas Swiz              | Missouri-American Water Co.<br>727 Craig Road<br>St. Louis, MO 63141   | 812-618-6678         |
| Deborah A. Degillio      | American Water<br>1 Water Street<br>Camden, NJ 08102   | 856-955-4872         |
| Charles B. Rea           | Iowa-American Water Co.<br>5201 Grand Avenue<br>Davenport, IA 52807  | 563-468-9202         |
| John J. Spanos           | Gannett Fleming Valuation and Rate<br>Consultants, LLC<br>207 Senate Avenue<br>Camp Hill, Pennsylvania 17011 | 717-763-7211         |
| Constance E. Heppenstall | Gannett Fleming Valuation and Rate<br>Consultants, LLC<br>1010 Adams Avenue<br>Audubon, PA 19403             | 610-783-3785         |
| Ann E. Bulkley           | The Brattle Group<br>One Beacon Street<br>Suite 2600<br>Boston, MA 02108                                     | 617-864-7900         |

## **APPENDIX B**

### **PROPOSED SCHEDULE**

|   |                          |
|---|--------------------------|
| Opposing Party Direct Testimony (all issues except for Public Input Hearings) | January 17, 2024         |
| Telephonic Public Input Hearings  | Week of January 22, 2024 |
| Opposing Party Supplemental Direct Testimony Regarding Public Input Hearings  | January 31, 2024         |
| Rebuttal Testimony (all parties and all issues)                               | February 9, 2024         |
| Surrebuttal Testimony (all parties and all issues)                            | February 20, 2024        |
| Written Rejoinder or Outlines of Oral Rejoinder                               | February 23, 2024        |
| Evidentiary Hearings (including oral rejoinder)                               | February 27, 2024        |
| Main Briefs due   | March 22, 2024           |
| Reply Briefs due  | April 5, 2024            |
| Public Meeting  | July 11, 2024            |
| End of Suspension Period  | August 7, 2024           |