

# 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 **Petition of Pennsylvania-American Water Company for Consolidation of Rate Proceedings** (the "Petition for Consolidation").

Copies of the Petition for Consolidation 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 COMMISSION</b>	:	<b>DOCKET NOS.: R-2023-3043189 (Water)</b>
	:	<b>R-2023-3043190 (Wastewater)</b>
<b>v.</b>	:	
<b>PENNSYLVANIA-AMERICAN WATER COMPANY</b>	:	
	:	

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a true and correct copy of the **Petition of Pennsylvania-American Water Company for Consolidation of Rate Proceedings** 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  
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**\*W – Filed a Water Complaint**  
**\*WW – Filed a Wastewater Complaint**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
	:	<b>Docket No. R-2023-3043189</b>
v.	:	<b>Docket No. R-2023-3043190</b>
	:	
<b>PENNSYLVANIA-AMERICAN WATER COMPANY</b>	:	
	:	

**PETITION OF PENNSYLVANIA-AMERICAN WATER COMPANY FOR  
CONSOLIDATION OF RATE PROCEEDINGS**

Pennsylvania-American Water Company (“PAWC” or the “Company”) files this Petition pursuant to Sections 1311(c) and 3202(b) of the Public Utility Code (“Code”) and 52 Pa. Code §§ 5.41 and 5.81 and respectfully requests that the above-referenced dockets be formally consolidated into a single proceeding. In support of this Petition, PAWC avers as follows:

**I. INTRODUCTION**

1. PAWC 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., which is headquartered in Camden, New Jersey.

2. Act 11 of 2012 (“Act 11”) amended Chapter 13 of the Code by permitting utilities with water and wastewater operations to mitigate the impact of revenue increases on wastewater

customers by recovering a portion of the utility's wastewater revenue requirement from its total water and wastewater customer base.<sup>1</sup>

3. On November 8, 2023, the Company submitted to the Commission its base rate case filing, to which the Secretary's Bureau assigned Docket Nos. R-2023-3043189 (water) and R-2023-3043190 (wastewater) ("Base Rate Filing"). As set forth therein, the Company is requesting an increase in its total (water and wastewater) annual operating revenues to become effective January 7, 2024. The requested increase equals \$203.9 million or approximately 20.2%, above the level of pro forma revenues for the fully projected test-year ending June 30, 2025.

4. The Base Rate Filing does not combine PAWC's water and wastewater revenue requirements into a single Company-wide revenue requirement, as Section 1311(c) permits upon petition to the Commission. Rather, the Company has prepared and presented separate revenue requirement studies for its water and wastewater operations that "segregate the property used and useful in furnishing each type of such service."<sup>2</sup> The Company has relied, however, upon the portion of Section 1311(c) that permits a utility "to allocate a portion of [its] wastewater revenue requirement to the combined water and wastewater customer base." As explained in PAWC Statement No. 1 (pp. 19-22), which is included in the Base Rate Filing, the Company's proposal will mitigate the impact of the proposed increase on wastewater customers while adding only a modest increase to the monthly bills of its water customers. As a result of the Company's reliance upon Section 1311(c), as explained above, there is a substantive and integral relationship

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<sup>1</sup> The Commission's Final Implementation Order, issued August 2, 2012, also clarified that Section 1311(c) of the code applies to both a utility company that provides water and wastewater service, as well as to two utilities, owned by a single parent company, that provide water and wastewater service separately. *See Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered August 2, 2012, at p. 9.

<sup>2</sup> This is the same approach the Company employed in its 2013, 2017, 2020, and 2022 water/wastewater base rate filings.

between the proposed increases in its water and wastewater rates.

## II. REQUEST FOR CONSOLIDATION

5. 52 Pa. Code § 5.81(a) provides:

The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceedings as may avoid unnecessary costs or delay.

6. In considering whether consolidation is appropriate, the Commission or presiding officer must consider whether: (a) additional issues exist that could cloud the determination of common issues; (b) consolidation will reduce litigation costs and expedite decision-making for the parties and the Commission; (c) the issues in one proceeding go to the heart of an issue in the other proceeding; (d) consolidation will unduly protect a hearing or produce a disorderly or unwieldy record; (e) different statutory and legal issues are involved; (f) the party with the burden of proof differs in the proceedings; (g) consolidation will unduly delay the resolution of one of the proceedings; and (h) supporting data in both proceedings will be repetitive.<sup>3</sup> No single consideration or subset of considerations is dispositive of the consolidation issue. Rather, all of the aforementioned factors must be evaluated collectively, and the decision-maker must balance the factors favoring and disfavoring consolidation.<sup>4</sup>

7. As previously described, the Company's Base Rate Filing proposes increases to the Company's water and wastewater rates. PAWC is an integrated company that provides water and wastewater services (on a combined basis in several portions of its service territory), and

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<sup>3</sup> See *Pa. Pub. Util. Comm'n v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, at p. 3-4 (Second Prehearing Order Nov. 26, 2012).

<sup>4</sup> *Id.* at 3.

many functions needed to provide such services are performed on a consolidated basis by PAWC employees. While the Company has submitted separate revenue requirement studies for water and wastewater service, those studies contain many components that are common across both forms of service. Consequently, although the Commission initially assigned separate docket numbers to the water and wastewater components of the Company's Base Rate Filing, that filing reflects the reality that PAWC's proposed revenue requirements, rate design and tariff changes raise common issues of law and fact. The manner in which the Company provides water and wastewater services, the commonality of issues across PAWC's water and wastewater revenue requirement studies, and its proposed rate treatment (i.e., allocating a portion of wastewater revenue requirement to the total-Company customer base), when considered in light of the factors summarized in Paragraph No. 6, above, fully support consolidation.

8. Formal consolidation is also in the interest of all parties and the Commission and in the public interest. Consolidation will promote efficiency and conserve administrative resources without delaying the resolution of proceedings at either docket.<sup>5</sup> Consolidation avoids the need for parties to submit overlapping and redundant testimony and briefs in two proceedings and avoids the need for the Commission to issue separate decisions to resolve common issues of fact and laws in interrelated cases for the same Company. For that reason, failure to grant consolidation would impose unnecessary costs on all parties and the Commission, which is clearly not in the public interest.

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<sup>5</sup> Both dockets share the same suspension period. *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-2023-3043189 (Order entered December 21, 2023); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-2023-3043190 (Order entered December 21, 2023) (collectively, the "Suspension Orders").

9. The Commission has recognized that the public interest is served by consolidating water and wastewater rate increase requests for investigation and decision. The Company contemporaneously filed water and wastewater base rate increases requests in 2013, 2017, 2020 and 2022. In the 2013 and 2017 cases, the Commission *sua sponte* assigned PAWC's water and wastewater base rate requests to a *single* docket number.<sup>6</sup> Although the Commission assigned separate docket numbers to PAWC's water and wastewater rate increase requests in 2020 and 2022, those dockets were consolidated by the presiding Administrative Law Judge pursuant the Company's unopposed Petition for consolidation.<sup>7</sup> Moreover, the Commission, as a practical matter, has already recognized the value of consolidating the separate dockets assigned to the Company's Base Rate Filing by referring both proceedings to a single Administrative Law Judge.

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<sup>6</sup> *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-2013-2355276 (Jun. 13, 2013) (Order initiating investigation of PAWC's water and wastewater base rate filing); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-20172595853 (May 18, 2017) (Order initiating investigation of PAWC's water and wastewater base rate filing).

<sup>7</sup> *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371 (Prehearing Order entered June 15, 2020), p. 10; *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-2022-3031672 and R-2022-3031673, Scheduling Order (June 30, 2022), p. 3.



**V. CONCLUSION**

WHEREFORE, for all of the foregoing reasons, this Petition should be granted and the Commission should consolidate the separately-docketed rate filings for the Company's water and wastewater operations, together with all complaints and petitions to intervene filed at each docket, into a single proceeding.

Respectfully submitted,



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