

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

**Application of Towamencin Township for a
Certificate of Public Convenience *Nunc
Pro Tunc* to Provide Wastewater Service to
Several Townships in Montgomery County**

**Public Meeting of January 18, 2024
3040661-ALJ
Docket No. A-2023-3040661**

STATEMENT BY VICE CHAIR KIMBERLY BARROW

Before us for consideration is the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Darlene Heep recommending approval of the “Amended Joint Petition of Non-Unanimous Settlement” (Settlement) between Towamencin Township (Applicant) and the Office of Consumer Advocate filed on November 1, 2023, and the issuance of a Certificate of Public Convenience (CPC) on the Applicant’s *nunc pro tunc* request for a CPC (Application).¹

The Applicant has been providing wastewater service to customers in Worcester Township, Montgomery County as required under a court-approved stipulation entered into on March 30, 1987. As of May 15, 2023, the Applicant’s wastewater system provided direct service to approximately 8,066 customers, including customers outside of its boundaries - 310 customers in Worcester Township, 21 customers in Lower Salford Township and one customer in Franconia Township. The Applicant also provides wastewater service under bulk contracts with several municipalities in the County.

In its Application, the Applicant, *inter alia*, listed the following as support for Commission’s approval of the Application and issuance of a CPC:

1. It has approximately \$5.7 million in available funds in the sewer account dedicated to its wastewater service.
2. It has a Standard & Poor credit rating of AA/Stable.
3. It is a financially-sound municipality that can financially support the ongoing operation and investment commitments required to operate, maintain, and improve its wastewater system.
4. It has provided wastewater service for over 50 years without financial issue.
5. It employs professionals with expertise in all areas of wastewater utility operations.
6. It has provided wastewater service for over 50 years without technical issue and demonstrated adequate fitness in doing so.

The Settlement also references a pending matter before the Commission, in which Pennsylvania-American Water Company (PAWC) requests approval to acquire the wastewater system assets of the Applicant at Docket No. A-2023-3039900 under Section 1329 of the Public Utility Code (Section 1329 Application). While the settling parties note that the Settlement in no way implies the Section 1329 Application should be approved or disapproved, the Application did indicate that the instant Application is connected and predicates the filing of the Section 1329 Application. R.D. at 6-7.

¹ Upper Gwynedd Township and the Office of Small Business Advocate did not join in but do not oppose the Settlement.

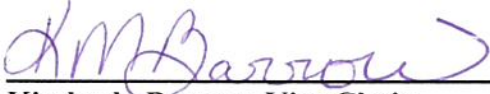
In the Section 1329 Application, PAWC and the Applicant agreed on a purchase price of \$104 million for the Applicant's wastewater system. The average appraised value for the system is \$104.05 million (Gannett Fleming's Appraisal - \$110.6 million and ScottMadden's Appraisal - \$97.5 million). On the other hand, the Depreciated Original Cost of the system is valued at \$11.4 million (Original Cost - \$38.9 million and the Accumulated Depreciation - \$27.5 million).

The Section 1329 Application has not been accepted by the Commission as it is yet to be perfected. I understand that if perfected and accepted by the Commission, the Section 1329 Application may be litigated or settled by the parties. Nevertheless, I am concerned by the proposed purchase price and valuation of the Applicant's wastewater system in the Section 1329 Application. I acknowledge the reasons given for the proposed Section 1329 acquisition, including increased costs, future capital investments, and loss of a major customer in Upper Gwynedd; but, I strongly believe these concerns can still be addressed in a traditional Section 1102 acquisition.

It is clear from the record evidence in the instant filing that there is a need for the wastewater service provided to the customers outside of the Applicant's boundaries and that the Applicant has the technical and financial fitness to continue its operations now and into the future. Further, as stated by the ALJ, if the CPC is granted, Commission jurisdiction will continue to provide the Applicant's customers and the public with required statutory and regulatory notices of rate and other proceedings as well as the opportunity to participate in such proceedings. R.D. at 15-16.

Therefore, while I vote to approve the instant Application and issuance of a CPC to the Applicant, given that the wastewater system appears to be in good condition and the Applicant has provided wastewater service for over 50 years without apparent financial or technical issues, it would be remiss of me not to note that I do not see a reason why the related acquisition of the Applicant's wastewater assets by PAWC cannot be done using the traditional Section 1102 acquisition process as opposed to the proposed Section 1329 acquisition.

January 18, 2024
Date



Kimberly Barrow, Vice Chair