

COMMONWEALTH OF PENNSYLVANIA



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January 19, 2024

Via Electronic Mail Only

The Honorable Christopher P. Pell
The Honorable John M. Coogan
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Re: Pennsylvania Public Utility Commission
v.
Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)

Dear Deputy Chief Judge Pell and Judge Coogan:

Enclosed please find copies of the Office of Consumer Advocate's Motion to Dismiss Objections and Compel Answers to OCA Interrogatories Set 27 No. 14 b. in the above-referenced proceeding. As this Motion contains **CONFIDENTIAL** material, the **CONFIDENTIAL VERSION** will only be served upon the Company and parties that have executed a non-disclosure certificate. A public version will also be made available.

Copies have been served upon the parties as evidenced by the attached Certificate of Service.

Respectfully submitted,

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Enclosures:

cc: Rosemary Chiavetta, PUC Secretary
Certificate of Service

*4859-1680-5023

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 : Docket Nos. R-2023-3043189 (Water)
 v. : R-2023-3043190 (Wastewater)
 :
 :
 Pennsylvania-American Water Company :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Motion to Dismiss Objections and Compel Answers to Interrogatories Set 27 No. 14 b. upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission’s electronic filing system.

Dated this 19th day of January 2024.
*** Received Confidential Version**

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 : Docket Nos. R-2023-3043189 (Water)
 v. : R-2023-3043190 (Wastewater)
 :
 Pennsylvania-American Water Company :

MOTION TO DISMISS OBJECTION AND TO COMPEL
ANSWER TO INTERROGATORY
OF THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

AND NOW, before the Honorable Deputy Chief Administrative Law Judge (ALJ) Christopher P. Pell and the Honorable ALJ John M. Coogan, the Office of Consumer Advocate (OCA) files this Motion to Dismiss Objection and to Compel Answer to Interrogatory (Motion), pursuant to 66 Pa.C.S. § 333(g), 52 Pa. Code §§ 5.103, 5.331, and 5.342(g), and the ALJs' Prehearing Order #1 issued on January 5, 2024, in this proceeding. In this Motion, the OCA requests that the ALJs enter an order that (1) dismisses the written objection filed by Pennsylvania-American Water Company (PAWC or the Company) on January 16, 2024, in this proceeding; and (2) compels PAWC to provide the full and complete information requested in Interrogatories OCA Set 27, Question No.14, subpart b. on the grounds that the information sought in this interrogatory and its subpart is relevant and not privileged. In support thereof, the OCA states as follows:

II. BACKGROUND

1. On November 8, 2023, PAWC filed Supplement No. 35 to Tariff Water- PA P.U.C. No 5 and Supplement No. 34 to Tariff Wastewater – PA P.U.C. No. 16, requesting that the Public Utility Commission (Commission) approve its general rate increase requests that would increase

the Company's total annual operating revenues by approximately \$203.9 million.

2. On December 21, 2023, the Commission suspended the effective date of the proposed tariffs until August 7, 2024, and assigned PAWC's general rate increase requests to the Office of Administrative Law Judge for proceedings and a Recommended Decision.

3. On January 3, 2024, the ALJs held a telephonic prehearing conference. On January 5, 2024, the ALJs issued Prehearing Order #1, which, among other things, established a compressed litigation schedule and discovery modifications that shortened the time periods for serving responses, objections, and motions to compel.

4. On January 10, 2024, the OCA issued its Set 27 Interrogatories (Set 27) to PAWC.

5. On January 12, 2024, PAWC and the OCA held a conference call where PAWC orally objected to OCA's Set 27, Question No. 14, subpart b., and the OCA explained the bases for the interrogatories. PAWC notified the OCA on the call that it planned to file written objections to Interrogatories OCA-27-14, subpart b.

6. On January 16, 2024, PAWC filed its written objections to Interrogatory OCA-27-14, subpart b. A copy of PAWC's written objections is attached as Attachment A.

7. In accordance with paragraph 16 of the ALJs' Prehearing Order #1, the OCA files this Motion within three calendar days of the PAWC's written objection, requesting that the ALJs dismiss PAWC's objection and compel PAWC to answer Interrogatory OCA-27-14, subpart b.

III. LEGAL STANDARD

8. Section 333(d) of the Public Utility Code permits a party to a proceeding to "serve written interrogatories upon any other party for purposes of discovering relevant, unprivileged information." 66 Pa.C.S. § 333(d). Under the Commission's regulations, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in

the pending action.¹ 52 Pa. Code § 5.321(c). It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Id.*

9. The Commission applies the relevancy test liberally. *See Pa. P.U.C. v. The Peoples Natural Gas Co.*, 62 PaPUC 56 (Aug. 26, 1986). Relevancy depends upon the nature and the facts of the individual case. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. 2006) (*Koken*). Any doubts are to be resolved in favor of relevancy and permitting discovery. *Petition of the Borough of Cornwall for a Declaratory Order*, Docket No. P-2015-2476211 (Order entered Sept. 11, 2015) (citing *Koken at 1025*).

10. The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *Id.*

11. Where there has been an objection filed to an interrogatory, the propounding party has the right to file a motion requesting that the presiding officer issue an order that dismisses the objection and compels an answer to the interrogatory. 66 Pa.C.S. § 333(d); 52 Pa. Code § 5.432(g). The consequence to the propounding party for failure to file a motion to compel is that the objected to interrogatory will be deemed withdrawn. 52 Pa. Code § 5.432(g). The motion to compel must include the interrogatory objected to and the objection. *Id.*

¹ Section 5.321 outlines the scope of discovery as follows:

(c) *Scope.* Subject to this subchapter, a party may obtain discovery regarding **any matter**, not privileged, which is **relevant to the subject matter** involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the **claim or defense of another party**, including the **existence**, description, nature, content, custody, condition and location of any books, **documents**, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c) (emphasis added).

IV. MOTION TO COMPEL

12. It is the OCA's responsibility to protect the interests of PAWC's consumers in matters that are properly before the Commission. In doing so, the OCA must inquire into any and all matters which may lead to the discovery of admissible evidence to support its recommendations to the Commission in this rate proceeding.

13. Absent privileged information, the OCA has the right to obtain discovery regarding any matter which is relevant to the subject matter involved in the proceeding.

14. The subject matter involved in this case includes the expenses and revenues claimed by PAWC to support its claimed revenue requirement and its general rate increase requests, including those incurred through acquisitions.

15. **CONFIDENTIAL** Interrogatory OCA-27-14, subpart b. states: [REDACTED]

[REDACTED]

[REDACTED]

b.) [REDACTED]

16. PAWC objects to OCA-27-14, subpart b. by alleging that the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] are both confidential and proprietary as well as not reasonably related to matters addressed in this proceeding. PAWC claims that the documents requested were not used in developing the Company's claims, and that they are not reasonably related to matters addressed in this proceeding. Objection at ¶7. PAWC further claimed that the requested documents would

encompass [REDACTED]

[REDACTED] Thus, PAWC argues that the OCA’s request constitutes “the kind of broad and unfocused ‘fishing expedition’ that this Commission and the Pennsylvania trial and appellate courts have rejected as an impermissible form of discovery.” PAWC argues that “there is clear Company-specific precedent that the information sought in OCA Interrogatory (Set [27]) No. 14, subpart (b) is not discoverable”. Objection at ¶8. The “Company-Specific precedent” that PAWC is referring to is the ALJ’s Order from PAWCs 2011 base rate case that rules on the OCA’s Motion to Compel in that proceeding. *See Pa. PUC et al, v. Pennsylvania American Water Co.*, 2011 Pa. PUC Lexis 1523* 16-19 (Opinion on Motion to Compel July 21, 2011) (“2011 Order on Motion to Compel”).

17. During an informal conference call on January 17, 2024, the OCA narrowed the request to only seek information regarding [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18. The OCA believes the PAWC’s objections to Interrogatory OCA-27-14, subpart b. fail for the three reasons discussed below.

19. First, the designation by PAWC of the requested information as confidential and proprietary does not preclude it from discovery. Rather, PAWC’s designation of the information as confidential and proprietary would make such information subject to the Protective Order issued on January 5, 2024, in this proceeding. Furthermore, PAWC has the ability to redact information. In the 2011 Order on Motion to Compel, the presiding ALJ considered the existence of a protective

order and the ability to redact information and directed PAWC to use these tools when producing relevant information that had been requested by the OCA in that case.²

20. Second, the OCA's request in this proceeding for [REDACTED]

[REDACTED] is quite distinguishable from the OCA's request for Board meeting minutes in the 2011 case. The portion of the 2011 Order on Motion to Compel that PAWC relies on as "Clear Company-specific precedent" is the ALJs' granting of PAWC's objection to the OCA's request for minutes of the Boards of Directors for PAWC and American Water. Objection at ¶8. In granting that objection, the presiding ALJs agreed with PAWC that the OCA's interrogatory was overbroad, would require an unreasonable burden and production of documents not reasonably related to the proceeding, and would be a fishing expedition. 2011 Order on Motion to Compel at 34. The presiding ALJs in the 2011 case stated: "We are particularly disturbed by OCA's admission that it does not know whether the minutes contain information relevant to this case without first reviewing the minutes . . . that admission alone exposes the quintessential premise of a 'fishing expedition.'" 2011 Order on Motion to Compel at 35.

21. The Interrogatory at hand differs greatly from the interrogatory that was before the presiding ALJs in the 2011 Order on Motion to Compel. Unlike the 2011 case, the OCA can state with a reasonable degree of certainty that the requested information in Interrogatory OCA-27-14, subpart b. is reasonably related to the ratemaking claims made by PAWC in this base rate case and

² The ALJ stated the following regarding an OCA interrogatory seeking an AIP performance review for supervisors, We conclude that the requested discovery is relevant to PAWC's inclusion of AIP expenses in its rate claims and to OCA's goal of verifying all expenses included in the Company's rate claims. In order to address the Company's concerns regarding the confidentiality of personnel information, PAWC has the tool of redaction at its disposal as well as the added protection of the Protective Order already in place in this case. Therefore, we will dismiss PAWC objection to OCA Set II – 65, and grant OCA's Motion to Compel an answer to the same.

Id.

reasonably calculated to lead to the discovery of admissible evidence as to the OCA's ratemaking claims.

22. Interrogatory OCA-27-14, subpart b. seeks [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] all of which ultimately result in system costs borne by consumers.

23. Notably, the 2011 Order on Motion Compel predates, by approximately five years, the enactment of Section 1329³, which has drastically changed the landscape for utility acquisitions in the water and wastewater industries. Since the enactment of Section 1329 in 2016, PAWC has sought Commission approval of approximately 12 utility systems utilizing Section 1329. In PAWC's current general rate increase filing, it seeks to include two Section 1329 acquisitions (Brentwood and BASA), which have yet to receive a Commission final order approving the applications or close. In its initial case, PAWC presented separate revenue requirements and cost of service studies for these to-be-acquired systems in the fully projected future test year (FPFTY), showing \$5,105,013 of additional revenue requirement.⁴ Additionally, in its initial case, PAWC included four additional non-Section 1329 acquisitions of water and wastewater systems, the Sadsbury Township Municipal Authority wastewater system, Farmington Township water system, Farmington Township wastewater system, and Audubon Water Company, each of which have yet

³ 66 Pa. C.S. § 1329.

⁴ The OCA points to the PAWC's direct case and PAWC's presentation of revenue requirement for purposes of this Motion to Compel. However, the OCA disputes the PAWC's direct case and reserves its right to present its position on the impact of these acquisitions on PAWC's revenue requirement in the OCA's direct testimony that is due to be served in this proceeding on February 1, 2024.

to receive a Commission final order approving the applications or close. For these acquisitions, PAWC included rate base and net operating income claims in the FPFTY in its general Water Operations and Wastewater SSS General Operations revenue requirements. PAWC's [REDACTED]

[REDACTED] will inform the OCA of the effects of these acquisitions on PAWC. Such information directly relates to the Company's revenue requirement claims in this case for the included acquisitions and are reasonably calculated to lead to ratemaking adjustments for those acquisitions proposed by the OCA in the evidentiary record of this proceeding. As such, despite PAWC's contention, the information requested in CONFIDENTIAL OCA-27-14, subpart b. is not overly broad, does not constitute a fishing expedition, and differs greatly from the information requested in the 2011 base rate case and therefore merits a different result.

24. Third, PAWC's argument that the requested material is not relevant because PAWC did not use such material to develop its claims for revenue requirement in this rate case lacks merit. A party may obtain discovery regarding any matter, not privileged, *which is relevant to the subject matter involved in the pending action*, whether it relates to the claim or defense of the party seeking discovery. 52 Pa. Code § 5.321(c). PAWC's attempt to deny the relevancy by alleging that the materials were not used by PAWC in developing PAWC's ratemaking claims in this case ignores the fact that the OCA is entitled to obtain discovery relevant to the subject matter of the proceeding and relating to the OCA's potential ratemaking adjustment claims in this proceeding. It further contradicts the undisputable fact that PAWC has made a claim based on management effectiveness and operating efficiency in this case relating to utility acquisitions. In direct testimony, Ms. Everette recommends that the Commission grant a rate of return that reflects "PAWC's superior management performance." PAWC St. 1 at 33. In support for her recommendation, Ms. Everette

points in part to PAWC's proposal to acquire the Sadsbury Township Municipal Authority wastewater system, Farmington Township water system, Farmington Township wastewater system, and Audubon Water Company, and further points to the fact that PAWC made the decision not to utilize the fair market value process under Section 1329 for setting ratemaking rate base values, even though Sadsbury and Farmington, as municipal sellers, were eligible. PAWC St. 1 at 42. Here, the materials requested by the OCA, [REDACTED]

[REDACTED] is being managed in a way that does not impute imprudent risk and financial decisions to ratepayers who are powerless to negotiate the transactions at issue but must pay for the consequence in rates. Because PAWC is seeking a management premium, the prudence of its management decisions regarding utility acquisitions and their direct impact upon ratepayers is relevant and the materials at issue should be provided.

V. CERTIFICATION

25. The undersigned counsel for OCA certifies that they have attempted to resolve the Company's objections by undertaking the informal effort of participating on a conference call with PAWC's counsel to discuss the basis for OCA's request and the basis for PAWC's objection, but counsel for both sides were unable to reach a resolution.

VI. CONCLUSION

For the foregoing reasons, the OCA's Interrogatory OCA-27-14, subpart b., requests relevant information that is not protected by privilege. Accordingly, the OCA respectfully requests that the Presiding Officers grant this Motion to Dismiss Objection and Compel Response to Discovery and direct Pennsylvania-American Water Company to answer Interrogatories Set 27,

Question No. 14, subpart b., within three calendar (3) days from the date of the order.

Respectfully submitted,

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Dated: January 19, 2024

ATTACHMENT A

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January 16, 2024

VIA eFILING

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

Dear Secretary Chiavetta:

Enclosed please find, in the above-captioned proceeding, the **Certificate of Service** evidencing service upon the parties of record of the **Objections of Pennsylvania-American Water Company to the Interrogatories (Set XXVII) of the Office of Consumer Advocate (“Objections”)**. The Objections contain confidential information and will be provided to those parties who have executed a confidentiality agreement. A public version will be provided to those parties who have not executed a confidentiality agreement.

If you have any questions, please do not hesitate to contact me directly at 215.963.5384.

Very truly yours,



Kenneth M. Kulak

KMK/ap

Enclosures

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

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January 16, 2024

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

Dear Counsel:

Enclosed please find in the above-referenced matters, the **Objections of Pennsylvania-American Water Company to the Interrogatories (Set XXVII) of the Office of Consumer Advocate (Confidential)**. A public version will be provided to those parties who have not executed a confidentiality agreement.

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

Very truly yours,



Kenneth M. Kulak



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Enclosures

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

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION : **DOCKET NOS.: R-2023-3043189 (Water)**
: **R-2023-3043190 (Wastewater)**
v. :
PENNSYLVANIA-AMERICAN WATER COMPANY :
:

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a true and correct copy of the **Objections of Pennsylvania-American Water Company to the Interrogatories (Set XXVII) of the Office of Consumer Advocate** on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code Section 1.54:

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Dated: January 16, 2024

*Counsel for
Pennsylvania-American Water Company*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	DOCKET NOS. R-2023-3043189
v.	:	R-2023-3043190
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	
	:	

**OBJECTIONS OF PENNSYLVANIA-AMERICAN WATER COMPANY
TO THE CONFIDENTIAL INTERROGATORIES (SET XXVII)
OF THE OFFICE OF CONSUMER ADVOCATE**

Pursuant to 66 Pa.C.S. § 333(d) and 52 Pa. Code § 5.342, Pennsylvania-American Water Company (“PAWC” or the “Company”) hereby objects to the Twenty-Seventh Set of Interrogatories (“Set XXVII”), No. 14, subparts (b) and (c), propounded by the Office of Consumer Advocate (“OCA”) on January 10, 2024. A copy of the OCA’s Set XXVII Interrogatories is attached to these Objections as Appendix A.

I. RELEVANT BACKGROUND

1. 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 above the level of pro forma revenues for the fully projected future test year (“FPFTY”) ending June 30, 2025. The Company’s filing included the detailed supporting data required by the Pennsylvania Public Utility Commission’s (“Commission’s”) regulations at 52 Pa. Code §§ 53.52 et seq.

2. To date, the OCA has served on the Company 27 sets of interrogatories comprising a cumulative total of 591 questions with 1,327 subparts.

3. As previously noted, on January 10, 2023, the OCA issued its Set XXVII interrogatories containing Question No. 14, subparts (b) and (c), to which PAWC hereby objects because those inquiries seek information that is not relevant to any matters properly at issue in this base rate proceeding and/or that is protected from disclosure by the attorney-client privilege and work product doctrine.

II. OBJECTIONS

4. Section 333(d) of the Public Utility Code states, in pertinent part, as follows:

Interrogatories. – Any party to a proceeding may serve written interrogatories upon any other party for purposes of discovering *relevant, unprivileged* information.

66 Pa.C.S. § 333(d) (emphasis added)

5. The Commission’s regulations at 52 Pa. Code § 5.321(c) define the permissible scope of discovery in proceedings before the Commission as follows:

Scope. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, *which is relevant to the subject matter involved in the pending action*, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. (Emphasis added.)

6. OCA Interrogatory (Set XXVII) No. 14, subparts (b) and (c), states as follows:

[BEGIN CONFIDENTIAL] [REDACTED]

c) [REDACTED]

[END CONFIDENTIAL]

7. PAWC objects to Interrogatory (Set XXVII) No. 14, subpart b, because

[BEGIN CONFIDENTIAL] [REDACTED]

[END CONFIDENTIAL]. These

documents are confidential and proprietary, were not used for any purpose in developing the Company's claims in this rate case, and are not reasonably related to matters addressed in this proceeding. PAWC has fully supported its claims related to water and wastewater system acquisitions in this proceeding. Therefore, the OCA's inquiry is outside the permissible bounds of discovery set forth in 66 Pa. C.S. §333(d) and constitutes the kind of broad and unfocused "fishing expedition" that this Commission and the Pennsylvania trial and appellate courts have rejected as an impermissible form of discovery.

8. Moreover, in the Company's 2011 base rate case, the presiding Administrative Law Judge granted the Company's Objection, and dismissed the OCA's Motion to Compel, with respect to an OCA interrogatory that would have required the Company to produce information about contemplated future acquisitions or business

opportunities.¹ In that case, the OCA sought copies of the minutes of the Boards of Directors of PAWC and American Water. PAWC objected to the production of any of the Board of Directors' minutes for American Water and to the production of the Board of Directors' minutes for PAWC unless they were "redacted for information about contemplated future acquisitions/business opportunities, labor negotiations, and litigation/settlement discussion."² The Administrative Law Judge denied the OCA's Motion to Compel and granted PAWC's Objection, including PAWC's Objection to producing its Board of Directors' minutes unless they were redacted in the manner previously described. Accordingly, there is clear Company-specific precedent that the information sought in OCA Interrogatory (Set XXVII) No. 14, subpart (b), is not discoverable, in addition to being irrelevant for the reasons set forth in Paragraph No. 7 above.

9. PAWC objects to Interrogatory (Set XXVII) No. 14, subpart (c) requesting information **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED] **[END CONFIDENTIAL]**. PAWC also objects to Interrogatory (Set XXVII) No. 14, subpart (c) to the extent the interrogatory requests information that would be subject to the attorney-client privilege, the attorney work-product privilege or would require the Company to divulge its or its attorneys' mental impressions, analyses, or assessments of the merits respecting issues, claims, defenses or any other aspect of the

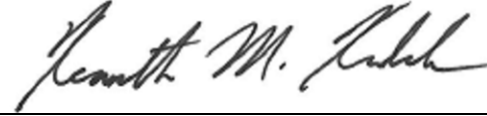
¹ *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket No. R-2011-2232243 et al. (Order on Motion to Compel entered July 21, 2011) pp. 21-22.

² *Id.* at 21.

matters as to which legal representation was provided. Pursuant to the Commission's regulations at 52 Pa. Code § 5.361(a)(3), such information is not discoverable.

WHEREFORE, for the foregoing reasons, PAWC's Objections to the OCA's Interrogatories (Set XXVII), No. 14, subparts (b) and (c) should be granted.

Respectfully submitted,



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Dated: January 16, 2024

Counsel for
Pennsylvania-American Water Company

Appendix A

COMMONWEALTH OF PENNSYLVANIA



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January 10, 2024

Via Electronic Mail Only

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Re: Pennsylvania Public Utility Commission
v.
Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)

Dear Counsel:

Enclosed you will find Interrogatories of the Office of Consumer Advocate, Set 27, in this matter. This document contains some **CONFIDENTIAL** information that is only being provided to Pennsylvania-American Water Company. Other parties will receive only the non-confidential (public) portion of OCA Set 27 but parties to the Protective Agreement will have access to the full set of questions and responses, including confidential material, when those are posted in the Company's data room.

In accordance with the discovery modifications ordered at the Prehearing Conference held on January 3, 2024, we request Pennsylvania-American Water Company provide verified answers to these inquiries within ten (10) days of service. Also, please forward the verified answers as they are completed, rather than waiting until the responses to the full set are completed.

We would appreciate it if you would communicate any objections you may have to these interrogatories as soon as possible.

Kenneth M. Kulak, Esquire
Brooke E. McGlinn, Esquire
Catherine Vasudevan, Esquire
Mark A. Lazaroff, Esquire
January 10, 2024
Page 2

We also request that you send a copy of the answers directly to our group e-mail, as listed below:

OCAPAWC2023@paoca.org

If you have any questions, please call us. By copy of this letter, copies of these interrogatories have been served upon all parties. A certificate of service showing service of these interrogatories on all parties has been filed with Secretary Chiavetta of the Pennsylvania Public Utility Commission as required by 52 Pa. Code §5.341(b).

Sincerely,



Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
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Enclosures:

cc: PUC Secretary Rosemary Chiavetta (Letter and Certificate of Service Only)
Certificate of Service

4868-2143-2986

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 : Docket Nos. R-2023-3043189 (Water)
 v. : R-2023-3043190 (Wastewater)
 :
 Pennsylvania-American Water Company :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Interrogatories to Pennsylvania-American Water Company, Set 27, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission’s electronic filing system.

Dated this 10th day of January, 2024.

SERVICE BY E-MAIL ONLY

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Dated: January 10, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2023-3043189 (Water)
v.	:	R-2023-3043190 (Wastewater)
	:	
Pennsylvania-American Water Company	:	

INTERROGATORIES
OF THE
OFFICE OF CONSUMER ADVOCATE
SET 27

Pursuant to 52 Pa. Code § 5.341, the Office of Consumer Advocate hereby propounds the following Interrogatories to Pennsylvania-American Water Company (PAWC) to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of the Company. Each interrogatory is to be verified by the responding witness in accordance with 52 Pa. Code § 5.342(a)(6).

DATED: January 10, 2024

Instructions

- 1) These interrogatories shall be construed as a continuing request. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed.
- 2) Restate the interrogatory immediately preceding each response.
- 3) Identify the name, title, and business address of each person(s) providing each response.
- 4) Provide the date on which the response was created.
- 5) Divulge all information that is within the knowledge, possession, control, or custody of Respondent or may be reasonably ascertained thereby. The term “Pennsylvania-American Water Company”, “Pennsylvania-American”, “PAWC”, “the Company”, or “you” as used herein includes Pennsylvania-American Water Company, its attorneys, agents, employees, contractors, or other representatives, to the extent that the Company has the right to compel the action requested herein.
- 6) Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness’ knowledge, information and belief.
- 7) As used herein, but only to the extent not protected by 52 Pa. Code Section 5.323, the word “document” or “workpaper” includes, but is not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium, including computerized memory, magnetic, electronic, or optical media, regardless of origin, and whether or not including additional writing thereon or attached thereto, and may consist of:
 - a) notations of any sort concerning conversations, telephone calls, meetings or other communications;
 - b) bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys;
 - c) worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing.

Pa. P.U.C. v. Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)
Interrogatories of the Office of Consumer Advocate to PAWC
Set 27 **PUBLIC**

1. Impact of Management Audit Recommendations being implemented by PAWC. Refer to the Management and Operations Audit (“MOA”) in Docket No. D-2022-3035217 and to PAWC’s responses to OCA 22-001 and OCA 22-002.
 - a) Other than for PAWC’s agreement to remove costs for the external PAWC board of directors, please confirm that there are no other cost savings from the MOA in the FTY or FPFTY. If this cannot be confirmed explain fully why not.
 - b) Has PAWC included any costs to implement the MOA recommendations in the FTY or FPFTY? If not, explain fully why not. If so, please identify those costs by amount and account, separately for the FTY and FPFTY.
 - c) Please responsively answer the specific requests that are contained in OCA 22-002 parts a through d, without referencing the responses to OCA 22-001.

2. Unaccounted for water. Refer to the MOA and to the Company’s response to OCA 22-007.
 - a) What quantity of unaccounted for water did PAWC have in the HTY? Identify the quantity and show in detail how it was determined.
 - b) What is the total quantity of water sold that PAWC used for the HTY?
 - c) What is the total quantity of treated water that PAWC used for the HTY?
 - d) Is the difference between the quantity of water sold and treated water identified by PAWC as unaccounted for water? If not, explain fully why not, and identify, quantify and explain what else is used by PAWC to identify quantities of unaccounted for water, and show each of those quantities for the HTY.
 - e) What costs did PAWC incur in the HTY to treat water that was sold in the HTY? Show the amounts of such costs, by account, and explain how they were determined.
 - f) What costs did PAWC incur in the HTY to treat water that was not delivered? Show the amounts and how they were determined.
 - g) What costs did PAWC incur in the HTY to pump water that was sold in the HTY? Show the amounts of such costs, by account, and explain how they were determined.
 - h) What costs did PAWC incur in the HTY to pump water that was not delivered? Show the amounts and how they were determined.

Pa. P.U.C. v. Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)
Interrogatories of the Office of Consumer Advocate to PAWC
Set 27 **PUBLIC**

- i) What unaccounted for water quantify has PAWC budgeted, forecasted, estimated, and/or calculated for the FTY? Identify the quantity and show in detail how it was determined.
 - j) What is the total quantity of water sold that PAWC used for the FTY?
 - k) What is the total quantity of treated water that PAWC used for the FTY?
 - l) What is the total quantity of water sold that PAWC used for the FPFTY?
 - m) What is the total quantity of treated water that PAWC used for the FPFTY?
 - n) What unaccounted for water quantify has PAWC budgeted, forecasted, estimated, and/or calculated for the FPFTY? Identify the quantity and show in detail how it was determined.
 - o) What was PAWC's percentage of unaccounted for water for the HTY? Identify the percentage and show the quantities of unaccounted for water and total water that were used to derive that percentage. Include supporting calculations.
 - p) Has PAWC assumed that the percentage of unaccounted for water in the FTY is the same as the quantity of unaccounted for water that PAWC experienced during the HTY? If not, explain in detail. If so, what is the basis for that assumption.
 - q) Has PAWC assumed that the percentage of unaccounted for water in the FPFTY is the same as the quantity of unaccounted for water that PAWC experienced during the HTY? If not, explain in detail. If so, what is the basis for that assumption.
3. Refer to the Company's response to OCA 22-008.
- a) Identify the costs for the UFW reduction efforts that were undertaken by PAWC in 2023.
 - b) Does PAWC consider any of the costs identified in response to part a to be "one-time items"? If so, please explain fully and identify the amounts.
 - c) Identify the budgeted, projected, and forecast costs for the UFW reduction efforts that are being undertaken by PAWC in 2024. Show the amounts by account and explain in detail how they were derived.
 - d) Identify the budgeted, projected, and forecast costs for the UFW reduction efforts that are being undertaken by PAWC in the FTY. Show the amounts by account and explain in detail how they were derived.

Pa. P.U.C. v. Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)
Interrogatories of the Office of Consumer Advocate to PAWC
Set 27 **PUBLIC**

- e) Identify the budgeted, projected, and forecast costs for the UFW reduction efforts that are being undertaken by PAWC in the FPFTY. Show the amounts by account and explain in detail how they were derived.
 - f) What costs has PAWC budgeted, projected and forecast for the robust UFW training program in the FTY and, separately, in the FPFTY? Show the amounts by account and explain in detail how they were derived.
 - g) Explain fully and in detail whether and why PAWC would consider a reduction in UFW below 20% to be “one-time savings.”
 - h) Would a reduction of UFW below 20% in the FTY result in reducing any costs? If not, explain fully why not. If so, identify the costs that would be reduced.
 - i) Would a reduction of UFW below 20% in the FPFTY result in reducing any costs? If not, explain fully why not. If so, identify the costs that would be reduced.
4. Refer to the Company’s response to OCA 22-008. In computing unaccounted for water (UFW) show in detail and explain fully how the Company defines and treats each of the following:
- a) Unmetered water
 - b) Unbilled water
 - c) Leaked water losses
5. What specific plant additions has PAWC reflected in the HTY, FTY and FPFTY for lead service line replacements? Identify each PAWC lead service line project in each period and show the related amounts of utility plant addition by plant account.

**QUESTIONS ADDRESSING INFORMATION DESIGNATED BY PAWC AS
CONFIDENTIAL BEGIN ON PAGE 4**