

Stevens & Lee

17 N. Second Street, 16th Floor
Harrisburg, PA 17101
(717) 234-1090
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: michael.gruin@stevenslee.com
Direct Fax: (610) 988-0852

January 24, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Salvatore and Elizabeth Galante, et. al. v. Pennsylvania-American Water Company

Docket Nos. C-2023-3042213, C-2023-3043734, C-2023-3043677, C-2023-3043676, C-2023-3043459, C-2023-3043458, C-2023-3043222, C-2023-3043135, C-2023-3042588, C-2023-3042545, C-2023-3042488, C-2023-3042487, C-2023-3042486, C-2023-3042377, C-2023-3042348, C-2023-3042343, C-2023-3042334, C-2023-3042332, C-2023-3042295, and C-2023-3042822

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Petition for Interlocutory Review and Answer to a Material Question in the above-referenced matter. A copy has been served on the Complainants in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Michael A. Gruin

Enc.

cc: Certificate of Service
Administrative Law Judge Marta Guhl, via email

Allentown • Bergen County • Bala Cynwyd • Fort Lauderdale • Harrisburg • Lancaster • New York
Philadelphia • Princeton • Reading • Rochester • Scranton • Valley Forge • Wilkes-Barre • Wilmington
A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SALVATORE AND ELIZABETH GALANTE;	:	Docket No. C-2023-3042213
LOUISE SPINELLI;	:	Docket No. C-2023-3043734
SANDRA GRZYBICKI;	:	Docket No. C-2023-3043677
LANA GRZYBICKI;	:	Docket No. C-2023-3043676
JOSEPH PETROSKY;	:	Docket No. C-2023-3043459
FRANK SERAFINI;	:	Docket No. C-2023-3043458
ADRIAN J. MIHALKO;	:	Docket No. C-2023-3043222
RYAN R. MCBRIDE;	:	Docket No. C-2023-3043135
DAVID AND JEAN WADAS;	:	Docket No. C-2023-3042588
LAURIE CIECIUCH;	:	Docket No. C-2023-3042545
PATRICK AND ANDREA FRICCHIONE;	:	Docket No. C-2023-3042488
PATRICK DUNLEAVY;	:	Docket No. C-2023-3042487
MICHAEL KOWALSKI;	:	Docket No. C-2023-3042486
DOMINICK YORK;	:	Docket No. C-2023-3042377
RAJAB DASTGIR;	:	Docket No. C-2023-3042348
RICHARD POLACHEK;	:	Docket No. C-2023-3042343
JAMES H. SNYDER;	:	Docket No. C-2023-3042334
PORNTIPA MUKDASATIT;	:	Docket No. C-2023-3042332
MARK AND EILEEN LYONS;	:	Docket No. C-2023-3042295
PAUL KOBIERECKI;	:	Docket No. C-2023-3042822
Complainants	:	
	:	
v.	:	
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**PETITION OF PENNSYLVANIA-AMERICAN WATER COMPANY FOR
INTERLOCUTORY REVIEW AND ANSWER TO A MATERIAL QUESTION**

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl.

Harrisburg, PA 17101

Tel. (717) 255-7365

Fax (610) 988-0852

COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: January 24, 2024

INTRODUCTION

Pursuant to 52 Pa. Code § 5.302(a), Pennsylvania-American Water Company (“PAWC” or “Company”) hereby files this Petition for Interlocutory Review and Answer to a Material Question, and in support thereof, avers as follows:

1. This proceeding involves twenty nearly identical Formal Complaints (the “Consolidated Complaints”) filed by Complainants against PAWC.

2. All of the Complainants receive wastewater service from a municipal authority, the Lackawanna River Basin Sewer Authority (“LRBSA”), and all of the Consolidated Complaints dispute the wastewater rates being charged by LRBSA, as well as certain billing practices of the LRBSA.

3. PAWC provides bulk wastewater acceptance, conveyance, treatment and disposal services to LRBSA, but does not provide wastewater service to any of the Complainants.

4. PAWC filed timely Answers and New Matter to each of the Consolidated Complaints, all of which averred that the Complainants are not now, and never have been, customers of the Company’s for wastewater service at the service addresses listed in the Complaints. PAWC’s New Matter also confirmed that the Complainants receive wastewater service directly from the LRBSA and PAWC only provides bulk wastewater acceptance, conveyance, treatment and disposal services to LRBSA.

5. In each case, PAWC’s New Matter also explained that the Company does not bill the Complainants for wastewater service, and the Company does not own the collection lines used by LRBSA to provide LRBSA’s wastewater service to the Complainants.

6. None of the Complainants submitted Answers to New Matter that denied the averments of the Company’s New Matter. As such, the averments in PAWC’s New Matter may be deemed admitted. See 52 Pa. Code 5.63 (b).

7. On November 3, 2023, PAWC filed a Motion for Judgment on the Pleadings to seek a dismissal of the Consolidated Complaints on the grounds that:
- a. The Complainants are not customers of PAWC's for wastewater service and therefore lack standing to bring a complaint against PAWC
 - b. The Commission does not have jurisdiction over LRBSA's rates or services, because LRBSA is a municipal authority and
 - c. PAWC's wastewater rates were previously approved by the Commission and therefore not subject to revision.
8. By Interim Order issued on January 4, 2024, Administrative Law Judge Marta Guhl ("Judge Guhl") denied PAWC's Motion for Judgment on the Pleadings, reasoning that "in this case, the Complainants have seen a substantial increase in their rate due to PAWC charges to LRBSA" and therefore they have a substantial, direct and immediate interest that provides them with standing to bring a complaint before the Commission.
9. Judge Guhl also identified two factual questions for determination by the Commission: 1) how LRBSA is charging its customers related to PAWC's charges and 2) how PAWC interacts with other entities such as LRBSA. See Interim Order, at p. 5.

MATERIAL QUESTION

10. PAWC respectfully disagrees with the Interim Order's denial of its Motion for Judgment on the Pleadings, and believes that Interlocutory Review is required to prevent substantial prejudice and expedite the conduct of the proceeding.
11. Accordingly, PAWC presents the following Material Question for Commission review and requests that the material Answer be answered in the negative:

Does the Commission have jurisdiction over complaints brought by customers of a municipal authority against a public utility regarding the municipal authority's wastewater rates and billing practices, when the public utility only provides bulk wastewater acceptance, conveyance, treatment and disposal services to the municipal authority and when the customers do not receive any wastewater service from the public utility?

Suggested Answer: No

**INTERLOCUTORY REVIEW WILL PREVENT SUBSTANTIAL PREJUDICE
AND EXPEDITE THE CONDUCT OF THE PROCEEDING**

12. The Consolidated Complaints involve twenty *pro se* complainants, and hearings in this matter are likely to be complex, cumbersome, and repetitive. The question of whether the Commission has the jurisdiction to hear complaints against public utilities related to the provision of bulk wastewater service to municipal authorities is a threshold question that requires resolution before the twenty Consolidated Complaints can move forward.

13. Resolution of this Material Question will prevent substantial prejudice to PAWC and will greatly streamline the proceeding by providing the parties clarity on the scope of the Commission's jurisdiction over the Complaints, if not resolving the proceeding in its entirety.

WHEREFORE, for all of the reasons stated herein, Pennsylvania-American Water Company respectfully requests that your Honorable Commission grant this Petition for Interlocutory Review and Answer the Material Question in the negative

Respectfully submitted,
STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)
17 N. 2nd St., 16th Fl.
Harrisburg, PA 17101
Tel. (717) 255-7365
COUNSEL FOR PENNSYLVANIA
AMERICAN WATER COMPANY

DATE: January 24 ,2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Complainants	:	
	:	
v.	:	
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Judgment on the Pleadings upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA First Class U.S. Mail

Salvatore and Elizabeth Galante 4103 Austen Close Moosic, PA 18507	Adrian J. Mihalko 2004 Robinson Close 20-D Moosic, PA 18507
Louise Spinelli 228 Thoreau Drive Moosic, PA 18507	Ryan R. McBride 6 Beckett Close Moosic, PA 18507
Sandra Grzybicki 1062 Beaumont Road Berwyn, PA 18507	David and Jean Wadas 29 Alpine Drive Moosic, PA 18507
Lana Grzybicki 16 Alpine Drive Moosic, PA 18507	Laurie Ciecich 1601 Robinson Close Moosic, PA 18507
Joseph Petrosky 237 Thoreau Drive Moosic, PA 18507	Patrick and Andrea Fricchione 110 Glenmaura Drive Moosic, PA 18507
Frank Serafini 603 Main Street Moosic, PA 18507	Patrick Dunleavy 801 O'Henry Close Moosic, PA 18507
Michael Kowalski 24 Emerson Drive Moosic, PA 18507	James H. Snyder 904 O'Henry Cose Moosic, PA 18507
Dominick York 9 Kipling Drive Moosic, PA 18507	Pornnipa Mukdasatit 2005 Robinson Close Moosic, PA 18507
Rajab Dastgir 25 Alpine Drive Moosic, PA 18507	Mark and Eileen Lyons 325 Glenmaura Drive Moosic, PA 18507
Richard Polacheck 1905 Robinson Close 19-6 Moosic, PA 18507	Paul Kobierecki 109 Glenmaura Drive Moosic, PA 18507



DATED: January 24, 2024

Michael A. Guin