

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17120**

Public Meeting held February 1, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of The York Water Company
for approval of the right to acquire certain
water system assets from the David W.
Smith Residuary Trust and Kelly Jo
McKinsey General Partnership d/b/a
Longstown Mobile Estates in Windsor
Township, York County

Docket No.
A-2023-3041860

Public Version

ORDER

BY THE COMMISSION:

By the application (Application) filed with the Pennsylvania Public Utility Commission (Commission) on July 21, 2023, The York Water Company (York Water), Utility Code 213550, seeks a certificate of public convenience pursuant to Section 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of York Water's right to acquire certain water system assets from the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates (Longstown) in Windsor Township, York County.

I. AFFECTED ENTITIES AND BACKGROUND

York Water is a regulated public utility company, duly organized and existing under the laws of the Commonwealth with offices located at 130 East Market Street, York, Pennsylvania 17401. York Water furnishes water service to approximately 77,219

customers in all or portions of 53 municipalities throughout York, Franklin, Adams, and Lancaster Counties. York Water also furnishes wastewater service in portions of York, Franklin, Adams, and Lancaster Counties as The York Water Company-Wastewater (York Water-WW), Utility Code 230087.

Longstown Mobile Estates is a fictitious name that has a registered address of RD 1, Dallastown, Pennsylvania.¹ In supplemental information filed with the Commission, York Water clarified that this name is used by the David W. Smith Residuary Trust and Kelly Jo McKinsey, a general partnership duly existing under the laws of the Commonwealth. Longstown owns and operates a water distribution system (Water System) that furnishes water service to approximately 88 residential customers within the Longstown mobile home park (Longstown MHP), which includes 88 mobile home lots.²

York Water currently provides water service to Longstown MHP residents through a single point bulk connection located in York Water's existing certificated service territory. York Water entered into an Asset Purchase Agreement (APA) with Longstown to acquire the Water System and provide water service directly to individual Longstown MHP residents. York Water proposed to acquire Longstown's Water System within York Water's certificated service territory. After closing, York Water would begin providing individually metered water service to Longstown MHP residents. Also, after closing on the acquisition, Longstown MHP residents will become York Water's customers, and York Water will own the Water System within the community.

Specifically, York Water averred that the main reasons for the proposed acquisition of Longstown's Water System are to include Longstown MHP residents as York Water's direct customers, to centrally maintain the Water System in accordance

¹ See, <https://file.dos.pa.gov/search/business>, retrieved November 3, 2023, and additional confidential information identified in Section IV of this Order.

² Longstown does not hold a certificate of public convenience from the Commission to provide water service and York Water does not believe Longstown separately charges for water service. Therefore, the facilities to be acquired are not currently in the public service. Notwithstanding, York Water is seeking all necessary approvals of this Application under Section 1102(a) generally to acquire the facilities of Longstown and to furnish water service to all Longstown MHP residents.

with York Water's service, to provide more direct and comprehensive customer service, and to ensure consistent and responsive operation and maintenance practices. In supplemental information filed with the Commission, York Water noted that Longstown MHP customers are provided wastewater service by Windsor Township.

York Water submitted proofs of publication and service to the appropriate entities. Notice of the Application was published in the *Pennsylvania Bulletin*, 53 Pa.B. 4510, on August 5, 2023. The protest period ended August 21, 2023. No protests were filed, and no hearings were held.

II. LOCATION OF FACILITIES TO BE ACQUIRED

York Water provided maps and a written description of the boundaries of the Longstown MHP in the Application's Exhibits B-1, B-2, and B-3. The Longstown MHP encompasses an area of approximately 0.06 square miles of land in northwestern Windsor Township, northwest of East Prospect Road's intersection with Locust Grove Road. York Water averred that the Water System is within its existing certificated service territory.

III. DESCRIPTION OF FACILITIES FOR FURNISHING SERVICE

In supplemental information filed with the Commission, York Water clarified that the Water System includes approximately 3,700 linear feet (LF) of two-inch diameter polyvinyl chloride (PVC) pipe, 4,078 LF of three-inch diameter PVC pipe, and other appurtenances. Also, York Water provided copies of the Water System facility maps as Attachment A-1-1 that identified 3/4-inch diameter water service lines.

In additional supplemental information filed with the Commission, York Water indicated that its Grantley Road Water Treatment Plant (Grantley WTP) provides water to the Longstown MHP. The Grantley WTP has a permitted peak treatment capacity of 39.0 million gallons per day (MGD), with an average day demand of approximately 20.5 MGD based on a five-year average. York Water stated that the Water System's average

monthly water usage in 2022 was 403,475 gallons. Considering that the Grantley WTP's current water demand includes the demand of Longstown's existing customers and that no additional connections are anticipated within the next five years, York Water averred that it will be able to provide adequate water supply, treatment, storage, and distribution capacity to meet present and future customer water service demands.

IV. ASSET PURCHASE AGREEMENT

As noted, on June 1, 2023, York Water and Longstown entered into an APA that outlined the terms for York Water to acquire the Water System. An executed copy of the APA was included in the Application's Exhibit E (Confidential). In supplemental information filed with the Commission, York Water specified a purchase price of \$1 for the Water System and averred that there is no affiliation between York Water and Longstown and that all negotiations were conducted at arm's length.

[BEGIN CONFIDENTIAL]

[REDACTED]

[END CONFIDENTIAL]

York Water stated that there have been no contributions toward the Water System's construction and that the Water System has no outstanding Pennsylvania Infrastructure Investment Authority (PENNVEST) loans. In supplemental information filed with the Commission, York Water noted the following tentative journal entries to record this transaction in its accounts:

1. Record Purchase of System

| Account No. | Account Description | Debit | Credit |
|--------------------|-------------------------------|--------------|---------------|
| 105 | Construction Work in Progress | \$12,001 | |
| 131 | Cash | | \$12,001 |

2. Close Project to Utility Plant

| Account No. | Account Description | Debit | Credit |
|--------------------|--------------------------------|--------------|---------------|
| 101 | Utility Plant in Service | \$30,945 | |
| 108 | Accumulated Depreciation | | \$18,566 |
| 114 | Utility Plant Acquisition Adj. | | \$378 |
| 105 | Construction Work in Progress | | \$12,001 |

In the Application, York Water indicated that because the original cost of the Water System assets is not available from the Water System's owners, it would perform an original cost study to determine the Water System's original cost, any acquisition adjustment, and accumulated depreciation. Through this Order, York Water is directed to file a copy of its original cost study with the Commission upon completion of the study.³ Additionally, York Water is directed to identify this transaction for individual review in the context of York Water's next base rate case that proposes to include the value of these assets in rate base to evaluate the reasonableness of original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims.⁴

³ See, Ordering Paragraph 5.

⁴ See, Ordering Paragraph 6.

V. ADDITIONAL CAPITAL REQUIREMENTS

In supplemental information filed with the Commission, York Water estimated spending approximately \$24,640 to install 5/8-inch meters and meter pits for each of the 88 mobile home lots within 18 months of closing (the Proposed Facilities). In the Application, York Water indicated that the Proposed Facilities will be financed by internally generated funds, proceeds from the issuance of common stock under York Water's dividend reinvestment, direct stock purchase and employee stock purchase plans, and, if necessary, borrowings against York Water's lines of credit.

Public utilities are required to furnish water service, other than fire protection service, exclusively on a metered basis, except that flat rate service may continue to be provided pending implementation of a reasonable metering program or under special circumstances as may be permitted by the Commission for good cause.⁵ Considering the unique circumstances involved in the Application, we find that York Water's commitment to install individual meters, meter pits, and associated assemblies within 18 months of closing appears to be a reasonable metering program or a special circumstance that provides good cause to allow York Water to provide flat rate service pending implementation of its metering program. However, we will direct York Water to notify the Commission upon completing the installation of water meters.⁶

VI. PROPOSED RATES

Longstown MHP residents are currently not charged a separate water service rate. However, York Water will charge its proposed repumping metered and flat rates for water service within the Longstown MHP. York Water proposes to charge its unmetered monthly rate for the time between closing and the installation of individual water meters.

⁵ See, 52 Pa. Code § 65.7(d) (related to metered service and universal metering).

⁶ See, Ordering Paragraph 7.

Once individual water meters are installed, York Water will charge its regular “Repumping System Rates” for service to Longstown MHP residents.

York Water provided a copy of a notice sent to Longstown MHP customers on June 16, 2023, describing the Application and the anticipated effect on rates for water service as the Application’s Exhibit F. In this notice, York Water indicated to Longstown MHP customers that until York Water installs a water meter, residential customers will be billed monthly at York Water’s flat rate of \$36.53. Once a meter has been installed, the residential customer will be billed monthly at a base rate of \$17.25 plus \$10.21 per 1,000 gallons of metered water. For example, a residential customer using 3,000 gallons of water per month would be charged \$47.88.

In the Application’s Exhibit J, York Water provided an estimate of anticipated annual revenues and expenses. York Water estimated that total revenue and operating expenses for providing water service to proposed customers would be approximately \$12,085 and \$7,276, respectively, based on the current flat rate of \$36.53 per month, resulting in an estimated annual net operating income of \$4,809. York Water estimated annual revenue, expenses, and income in the Application based on 92 residential customers and deducted \$28,237 in current commercial revenue from service to Longstown.⁷

VII. YORK WATER’S LTIP AND DSIC

In supplemental information filed with the Commission, York Water indicated that if the Application is approved, its compliance tariff filing in this matter will include language excluding the Water System customers, investments, expenses, and revenue from York Water’s Distribution System Improvement Charge (DSIC) until York Water receives Commission approval of a new or modified Long-Term Infrastructure

⁷ The difference between the 92 customers used in York Water’s estimates and the 88 Longstown MHP customers identified in the Application would not affect Application disposition. Also, the commercial revenue of \$28,237 is from the current commercial service meter with which York Water provides bulk water service to Longstown.

Improvement Plan (LTIP) that incorporates DSIC eligible property information for the Water System. This exclusion would be limited to the Water System customers, investments, expenses, and revenues beyond the point of interconnection through which the Water System currently receives bulk water service from York Water. Consistent with the York Water's averment, York Water is directed to file a tariff supplement that includes tariff language to exclude Water System customers, investments, expenses, and revenues from York Water's DSIC until York Water receives Commission approval of a new or modified LTIP that incorporates information for Water System eligible property.⁸

VIII. PERMITS, EASEMENTS, AND RIGHTS-OF-WAY REQUIRED

In supplemental information filed with the Commission, York Water averred that no new permits, easements, or rights-of-way are required for York Water to provide service to the Water System customers.

IX. OPERATIONS UNDER YORK WATER

York Water indicated that it would begin providing water service directly to individual Longstown MHP residents upon Commission approval of the Application and completion of the proposed transaction. In supplemental information filed with the Commission, York Water indicated that the transaction could close within 30 days of Commission approval. In the Application's Exhibit K, York Water provided a copy of the certificate of its certified operator that will be responsible for future water facility operations.

X. LAND-USE PLANNING COMPLIANCE

The Application's Exhibit C included a copy of a response letter from Windsor Township's Board of Supervisors dated June 19, 2023, that indicated York Water's Application is consistent with applicable comprehensive plans and zoning ordinances.

⁸ See, Ordering Paragraph 4.

Also, the Application's Exhibit D included a copy of a response letter from the York County Planning Commission dated July 20, 2023, that specified York Water's Application is consistent with the adopted county or multi-county comprehensive plan.

XI. OTHER CONSIDERATIONS

York Water averred that no corporation, partnership, or individual except Longstown, is now furnishing or has corporate or franchise rights to furnish service like the water service York Water will provide to the Longstown MHP and no competitive condition will be created as the entirety of the Longstown MHP is within York Water's existing certificated service territory.

In supplemental information filed with the Commission, York Water indicated that Application approval will benefit its existing customers by expanding its customer base, allowing fixed costs to be spread over a greater number of customers. Furthermore, the revenue received from these new customers can help pay for other system improvements. York Water averred that Application approval will benefit proposed customers by centrally maintaining the Water System in accordance with York Water's service, providing more direct and comprehensive customer service, and ensuring consistent and responsive operation and maintenance practices.

York Water has no outstanding fines or assessments due to the Commission. York Water is also current with its annual and quarterly reports and the Commission's security planning and readiness report filing requirements. Through Commission correspondence with the Department of Environmental Protection's (DEP's) Southcentral Regional Office, it was determined that DEP does not have any pending actions or outstanding complaints against York Water.

XII. CONCLUSION

Based upon the facts that York Water will acquire the Water System assets in compliance with Commission regulations; that York Water will be able to meet the needs

of new customers without apparent detriment to its existing customers; and that York Water has the technical, financial and legal fitness to own, operate and maintain the Water System; the Commission finds that granting approval of York Water's Application is necessary or proper for the service, accommodation, convenience or safety of the public and in the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the Application of The York Water Company at Docket No. A-2023-3041860, is hereby approved.
2. That a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the right of The York Water Company to acquire substantially all of the water system assets owned by the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates, as described in the Application.
3. That The York Water Company shall provide written notification to the Secretary's Bureau at Docket No. A-2023-3041860 within ten (10) days of closing with the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates.
4. That no later than the date of closing with the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates, The York Water Company shall file a tariff supplement with the Secretary's Bureau at Docket No. A-2023-3041860, to become effective on one day's notice, to include tariff language that excludes David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates' acquired customers and water system investments, expenses, and revenues from The York Water Company's distribution system improvement charge until The York Water Company receives Commission

approval of a new or modified long-term infrastructure improvement plan that includes separate and distinct information for the eligible property of the acquired water system.

5. That The York Water Company shall file a copy of its original cost study of the water system assets acquired from the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates with the Secretary's Bureau, with copies sent to the Bureau of Technical Utility Services, the Bureau of Audits, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate upon completion of said study.

6. That, at the time of filing its next base rate case, which proposes to include the assets of this acquisition in rate base, The York Water Company shall provide testimony that specifically references Docket No. A-2023-3041860 and that justifies any amount claimed in rate base in order to evaluate the reasonableness of the original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims pursuant to Section 1327 of the Public Utility Code, 66 Pa.C.S. § 1327.

7. That within ten (10) days following the completion of the installation of water meters for all customers served by water system assets acquired from David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates, The York Water Company shall file notice of the installation with the Secretary's Bureau at Docket No. A-2023-30471860.

8. That if The York Water Company determines that the transaction will not occur, it will promptly file notice of such determination with the Secretary's Bureau at Docket No. A-2023-3041860 and return the Certificate of Public Convenience issued in Ordering Paragraph 2.

9. That nothing herein shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt The York

Water Company from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

10. That a copy of this Order be served upon The York Water Company, the David W. Smith Residuary Trust and Kelly Jo McKinsey General Partnership d/b/a Longstown Mobile Estates, the Commission’s Bureau of Audits, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Windsor Township Board of Supervisors, the Windsor Township Planning Commission, the York County Board of Commissioners, the York County Planning Commission, the Pennsylvania Department of Revenue’s Bureau of Corporate Taxes, and the Department of Environmental Protection – Southcentral Regional Office and its Bureau of Regulatory Counsel.

11. That upon the filing of a notice of closing as outlined in Ordering Paragraph 3, or upon the return of the Certificate of Public Convenience issued in Ordering Paragraph 2, the proceeding at Docket No. A-2023-3041860 be closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: February 1, 2024

ORDER ENTERED: February 1, 2024