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March 26, 2024

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 (Water) / R-2023-3043190
(Wastewater)

Dear Secretary Chiavetta:

Enclosed please find the Main Brief, on behalf of Cleveland-Cliffs Steel (“Cleveland-Cliffs”), in the above-captioned proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

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

Sincerely,

/s/ Kurt J. Boehm

Kurt J. Boehm, Esq.

Jody K. Cohn, Esq.

BOEHM, KURTZ & LOWRY

**COUNSEL FOR CLEVELAND-CLIFFS
STEEL**

Enclosures

cc: PA PUC Secretary Rosemary Chiavetta (Cover Letter & Certificate of Service only)
Brian Kalcic
Kevin Higgins
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
vs.	:	
	:	Docket No. R-2023-3043189 (Water)
	:	
Pennsylvania American Water Company	:	R-2023-3043190 (Wastewater)

**MAIN BRIEF OF
CLEVELAND-CLIFFS STEEL**

COMES NOW, Cleveland-Cliffs Steel (“Cleveland-Cliffs”) and submits its Main Brief in these proceedings. For ease of reference, Cleveland-Cliffs’ arguments are organized using the joint issues outlined agreed to by the parties.

ARGUMENT

IX. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Studies

1. Water Operations

Cleveland-Cliffs’ Recommendation: The Commission Should Apply An Equal Percentage Allocation of The Water Increase To All Customer Classes.

Pennsylvania American Water Company (“PAWC” or “Company”) witness, Constance Heppenstall filed a revised class cost of service study (“CCOSS”) as part of her Rebuttal Testimony that included several corrections to PAWC’s original filing. PAWC’s revised CCOSS generates relative rates of return (“RROR”) for the Residential, Commercial, and Industrial

classes range from 0.98 to 1.03; and the Public class RROR is at 1.16. The Table below provides a summary of the class-relative rates of return from this exhibit.¹ Note that these RRORs are before the Company's assignment of the Act 11 wastewater revenue requirement to rate classes.

Summary of PAWC's Corrected CCOSS Results²

	<u>RATE OF RETURN, PERCENT</u>	<u>RELATIVE RATE OF RETURN</u>
Cost of Service	6.28	1.00
Residential	6.21	0.99
Commercial	6.40	1.02
Industrial	6.07	0.97
Public	7.26	1.16
Other Water Utilities:		
Group A	53.14	8.47
Group B	-1.08	-0.17
Fire Protection:		
Private	7.25	1.16
Public	1.16	0.97

Based on PAWC's revised CCOSS, Cleveland-Cliffs recommends that the Commission apply an equal percentage increase for the Residential, Commercial, Industrial, and Public classes. The Residential, Commercial, and Industrial classes are tightly grouped around the system average based on the most recently corrected CCOSS. Although the Public class is above the system average rate of return (RROR of 1.16), the large swing between the various CCOSS results that were presented in this proceeding (by PAWC and intervenors) warrants

¹ The RROR shows how close the customer classes are to the system average rate of return. For example, a class RROR of 1.0 shows that this class is returning the system average rate of return. A class RROR under 1.0 indicates a class is returning less than the system average return, while a RROR above 1.0 shows a class that is returning more than the system average rate of return.

² A summary of PAWC's corrected CCOSS results at present rates is included in Cleveland Cliff's Exhibit ____ (RAB-S1).

some caution in terms of its revenue increase percentage. Therefore, it is reasonable to apply the same percentage increase to each customer class in this proceeding.³

IX. RATE STRUCTURE AND RATE DESIGN

B. Revenue Allocation and Act 11

Cleveland-Cliffs' Recommendation: The Direct Assignment Of Wastewater Subsidies From Wastewater Service Classes To The Corresponding Water Service Classes Should Be Rejected By The Commission.

Cleveland-Cliffs does not take a position regarding the reasonableness of assigning a subsidy of wastewater service customers to water service customers. However, if the Commission decides to assign such a subsidy, it should be assigned to water service customers in a manner consistent with current PAWC allocation of this subsidy. In current rates, the wastewater subsidy is recovered from water customers according to the customer class share of water costs. In PAWC's last rate case (Docket R-2022-3031672), PAWC witness Ms. Heppenstall explained that the current wastewater subsidy is allocated based on each water service class's percentage of total cost of service.⁴ Ms. Heppenstall stated:

“The wastewater operations revenue requirements are allocated to the customer classes in Exhibit No. 12-A based on the cost-of-service allocation of each class revenue contribution shown in the cost-of-service studies.”⁵

In other words, since the total wastewater subsidy cannot be tracked to specific water service classes, the total wastewater subsidy reallocation is currently based on each water service class's proportionate share of total water service cost responsibility under current rates. This Commission-approved method is straightforward and equitable to each customer grouping.

³ Baudino Rebuttal, p. 9-10.

⁴ Heppenstall Direct Testimony, 2022 General Base Rate Case, R-2022-3031672 (Water) and R-2022 3031673 (Wastewater), page 13, lines 18 – 22.

⁵ Note that Private Fire was not allocated any of the wastewater revenue requirement in the Company's last rate case, whereas in the current case Private Fire receives an allocated share of the wastewater revenue requirement.

Unfortunately, in the current proceedings PAWC proposes a drastic change to the current methodology that would inappropriately link wastewater class subsidies to the water service classes. The Company provided its explanation of this proposed methodology in its response to OSBA 01-018. The Company's states:

Where possible, Act 11 reallocations are directly assigned to water customer classes based on wastewater class contributions to Act 11. Where wastewater contributions are not class specific, those amounts are allocated to water customers based on relative levels of water cost of service. Act 11 revenues are calculated in Exhibits 10-B through 10-E.⁶

This new allocation methodology in which wastewater subsidies from wastewater service classes are directly assigned to the corresponding water service classes is not reasonable. The cost of water services and wastewater services are separate and distinct and should not be linked. A Residential water service customer is not directly responsible for a Residential wastewater service customer's subsidy. The same is true for Commercial and Industrial water service customers having to subsidize Commercial and Industrial wastewater customers, respectively. PAWC's proposed direct assignment of wastewater subsidies should therefore be rejected.⁷

Instead, it is appropriate to allocate any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's CCOSS. PAWC is requesting the collection of \$71.1 million of wastewater subsidies pursuant to Act 11 as it has done in past cases before the Commission. This subsidy is not a cost that can be directly assigned or even allocated using water cost of service principles. In other words, the wastewater subsidy cannot be allocated based on the usual base/extra capacity allocations that one would use to allocate

⁶ Please refer to Exhibit ____ (RAB-4), which includes PAWC's response to OSBA-01-018. As noted in PAWC's response to OSBA 03-001, the attachment to this response was in error. The Company explained the error and provided corrected numbers in OSBA 03-001_Attachment, which I have included in Exhibit ____ (RAB-5).

⁷ Baudino Rebuttal, pp. 3-4.

PAWC's water cost of service because there is no cost causation principle that can be applied to that subsidy.⁸

A direct assignment approach would also skew the final revenue allocation for water service customers. For example, assume that the Residential class's underlying water service cost responsibility is 65%. Further assume that a direct assignment of the wastewater subsidy based on residential wastewater customers would give the Residential water service class a 70% share of that subsidy. This would result in a higher revenue allocation to the Residential class due solely to the direct assignment of the wastewater subsidy. Clearly, this would be unfair to Residential water service customers who had nothing to do with generating the residential wastewater subsidy. This would also be the case for other water service classes.⁹

This Brief will not recount Cleveland-Cliffs' response to the testimony of PAWLUG witness Billie Laconte, OCA witness Jerome Mierzwa and OSBA witness Kevin Higgins on the allocation of wastewater subsidy issue in this Brief as they are thoroughly addressed in Mr. Baudino's Surrebuttal Testimony.¹⁰ But in short, each of these witnesses advocate for tweaks to PAWC's proposed direct allocation from wastewater rate classes to the corresponding water service classes. These proposed tweaks create winners and losers by changing the level of responsibility that the different customer classes would receive through a direct assignment, but do not address the fundamental problem that PAWC's direct assignment is unreasonable. It is much simpler and more equitable for the Commission to reject PAWC's direct assignment of the wastewater subsidy and require the Company to maintain its current practice of allocating any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's CCROSS.

⁸ Id.

⁹ Id.

¹⁰ Baudino Surrebuttal Testimony, pp. 2-9.

Mr. Baudino's Direct Testimony contains a detailed description of how to update PAWC's current methodology for allocating the costs of the wastewater subsidy to water customers in this case. Mr. Baudino's proposal is consistent with PAWC's Commission-approved approach in the last rate case, but is modified to include the Private Fire class (in addition to Residential, Commercial, Industrial and Public). His proposal does not include the Public Fire class as its revenue recovery is limited by statute.¹¹

IX. RATE STRUCTURE AND RATE DESIGN

C. Tariff Structure

2. Water Rate Design

Cleveland-Cliffs' Recommendation: The Industrial Tariffs Should Be Designed To Recover More Fixed Costs In Order To Better Reflect Cost-Causation.

PAWC does not propose any increase to the existing Industrial meter charges and instead seeks to collect the entire Industrial revenue increase through the volumetric charges. This is problematic because, as Mr. Rea himself notes on page 86 of his Direct Testimony, over 95% of the Company's costs are fixed and do not vary with water consumption. Volumetric rates collect these costs based on the volumes of water consumed by the water service rate classes. As consumption varies month to month and year to year, PAWC's collection of its fixed costs will vary as well, introducing more variability in its revenues and earnings than if more of these costs were collected from fixed charges, such as meter charges.¹²

To the extent practicable, fixed costs should be collected through fixed charges. PAWC's proposed rate design would collect even more of the Company's fixed costs through volumetric rates, which moves in the opposite direction from cost-causation. On the other hand, PAWLUG witness, Ms. LaConte recommended an Industrial rate design that more closely

¹¹ See Baudino Direct Testimony, pp. 8-9.

¹² Id., pp. 13-14.

aligns with cost-causation than that of PAWC.¹³ Ms. Laconte proposes to approximately double the Industrial meter charges and provide for smaller percentage increases to the volumetric charges. While PAWC's description of its variable versus fixed costs would justify an even greater increase in Industrial fixed charges than proposed by PAWLUG, Ms. Laconte's proposal is a step in the right direction and would ensure that more of the Company's fixed costs would be collected through a meter charge.

Cleveland-Cliffs recommends that the Commission either approve Ms. Laconte's proposed rate design for the Industrial class, or at the very least, increase Industrial customer charges by the same percentage as Industrial volumetric charges.

X. ALTERNATIVE RATEMAKING REQUESTS

A. Revenue Decoupling Mechanism ("RDM")

Cleveland Cliff's Recommendation: The Commission Should Reject PAWC's Proposed RDM.

PAWC is proposing a new RDM that would recover the difference between the revenues collected under the actual Commission-approved rates customers pay with the revenues that would have been collected through a straight fixed variable rate design on a forward-looking basis and accrues the differences, which are either credited to customers or collected from customers at a later time.¹⁴

Cleveland-Cliffs recommends that the Commission reject the proposed RDM. First, the Commission has already approved the Company's Distribution System Improvement Charge ("DSIC"), a mechanism designed to provide accelerated cost recovery to PAWC for certain system improvements. The DSIC has been and will continue to be an important ongoing source of additional revenue collection outside of traditional rate case proceedings for PAWC.¹⁵

¹³ Laconte Direct, p. 28.

¹⁴ Rea Direct, pp. 86-87

¹⁵ Baudino Direct, p. 15.

Second, the Company already has the opportunity to include forecasted costs and investments through the use of a forecasted test year. In this case, PAWC used a fully projected future test year through June 30, 2025. This provides a significant benefit to PAWC compared to using an historic test period, which in this case would be a 12-month period ending June 30, 2023.¹⁶

Both the DSIC and the use of a future test year serve to reduce regulatory lag and enhance PAWC's revenue stream between rate proceedings. Therefore, the implementation of another revenue recovery tracker is unnecessary.

If the Commission does decide to approve the proposed RDM it should not include the Industrial class in the tracker. Mr. Rea only provided an analysis of conservation-related revenue losses from the Residential, Commercial, and Public (Municipal) classes.¹⁷ Mr. Rea did not present any analysis suggesting that weather influences industrial water consumption. Therefore, PAWC has failed in its burden to support the implementation of an RDM for industrial water users.¹⁸

There is no evidence in this case that the Industrial class is affected by conservation measures, weather, or declining numbers of customers. It is generally understood that industrial customers have a natural incentive to implement cost-effective investments in efficient use (as well as electricity and natural gas) and are therefore unsuitable customers for an RDM tracker. PAWC's filed case does nothing to counter this argument.¹⁹

The proposed RDM also presents significant problems with interclass allocations of lost revenues. If the RDM were applied to all customers in the Residential, Commercial, Industrial

¹⁶ Id.

¹⁷ Mr. Rea presented Usage Trend Adjustments on pages 78 and 79 of his Direct Testimony. He explained on page 78 that the Usage Trend Adjustments "incorporate weather normalization, COVID-19 normalization, and adjustments for trends in declining use" that he described and quantified earlier in his Direct Testimony. These adjustments were applied to the Residential, Commercial, and Public (Municipal) classes. The Industrial class was not included.

¹⁸ Baudino Direct, p. 16.

¹⁹ Id.

and Municipal classes, as PAWC proposes, any revenue shortfall would be collected from all customers. So if continued conservation in Residential class's revenues declined from the Commission-authorized level in this case, that revenue shortfall would be collected from all customers, not just from the Residential class. It is unreasonable to allow lost revenue in one customer class to bleed over to other classes in between rate cases.²⁰

This problem would not be solved by confining lost Industrial revenues to the Industrial class. Industrial class revenues could rise or fall based on market conditions and on the general economy. Further, if a single industrial customer left PAWC's system, the loss in revenues from that customer would be confined to the rest of the Industrial customers and would have to be picked up by those customers. This could have a devastating rate impact on those customers depending on the volumes that were lost from the departing industrial customer. Industrial customers must not be placed in such a risky and potentially damaging position by the operation of an RDM.²¹

Cleveland-Cliffs recommends that the Commission reject PAWC's RDM, or exclude the Industrial class of customers if it decides to implement a RDM in this case. PAWC provided no support or analysis showing that the factors the Company cited in support of its proposed RDM apply to the Industrial class.

Respectfully submitted,

/s/ Kurt J. Boehm

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²⁰ Id. pp. 17-18.

²¹ Id. p. 18.

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email upon the following persons the 26th day of March, 2024.

/s/ Kurt J. Boehm

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