

KOZLOFF STOUTD
Professional Corporation
By: Joan E. London, Esquire
Attorney I.D. #67934
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

ATTORNEYS FOR THE BOROUGH OF ST.
LAWRENCE, BERKS COUNTY

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY : No. R-2023-3043190 (Wastewater)
COMMISSION, E.T. AL., :
: vs. :
: PENNSYLVANIA-AMERICAN :
WATER COMPANY - WASTEWATER :
DIVISION :
: Assigned to:
Appeal of the Borough of St. Lawrence, : Christopher P. Pell, ALJ
Berks County - No. C2023-3044757 : John M. Coogan, ALJ

EXCEPTIONS OF THE BOROUGH OF ST. LAWRENCE, BERKS COUNTY, TO
RECOMMENDED DECISION OF THE ADMINISTRATIVE LAW JUDGE

The Borough of St. Lawrence, Berks County, through its undersigned Solicitors, Joan E. London, Esquire and Kozloff Stoutd, Professional Corporation, sets forth the following as Exceptions to the Recommended Decision of the Administrative Law Judge in the above-captioned matter:

1. The Borough of St. Lawrence is a municipal corporation, organized and existing pursuant to the Pennsylvania Borough Code, with a registered address of 3540 St. Lawrence Avenue, Reading, PA 19606.

2. The Borough has a population of approximately 1,890 residents. Nearly all of the residences in the Borough connect to the Borough's sanitary sewer system.

3. In the 1960s, the Borough of St. Lawrence, at its own expense, constructed a sanitary sewer collection system, which included an interceptor line connecting to Exeter's downstream interceptor line, conveying the combined flow to the wastewater treatment plant owned by Exeter Township. Exeter Township almost wholly surrounds the Borough.

4. The Borough collection system has a length of approximately 45,566 linear feet.

5. A portion of this Borough-owned and maintained collection system (approximately 2,463 linear feet) acts as the sewer interceptor line for the upstream flow from Exeter Township, combined with a small portion of the Borough's flow before entering Exeter's downstream interceptor line. Approximately 95% of the flow through St. Lawrence's interceptor originates in Exeter Township, without charge to Exeter Township/PA American.

6. From concept in the 1960s through construction, the Borough contributed approximately 6.5% of the capital costs for the sewer treatment plant, with ongoing investments for capital improvements and expansions until Exeter's sale of their plant and collection system to PA American.

7. The Borough of St. Lawrence provides all funding to maintain its collection system.

8. Ongoing maintenance includes televising and cleaning lines, repairing and replacing lines, lining manholes, and preventing inflow and infiltration into the Borough collection system.

9. Since the 1980s, the Borough performed ongoing major rehabilitation projects to portions of the collection system. In 2009/2010, the Borough televised the entire collection system, identifying all issues with the collection system. The Borough contracted repairs for all identified problems, which involved lining portions of the collection system and rehabilitation of manholes. The Borough repeated the same project in 2021/2022. All projects resulted in 19,963 linear feet of pipelining (43.2% of the system) and the rehabilitation of 109 manholes (44.8%). The Borough instituted a 10-year cycle involving system-wide televising and repair projects resulting in the ongoing rehabilitation of its collection system, at its own expense, to prevent I & I and potential damage to the wastewater treatment plant.

10. On or about October 24, 2019, Pennsylvania American Water Company - Wastewater Division, acquired the Exeter Township wastewater treatment plant and sanitary sewer system.

11. The collection system and interceptor line are owned and maintained by the Borough of St. Lawrence and were not included with the purchase of the Exeter Township wastewater treatment plant and sanitary sewer system.

12. The Borough of St. Lawrence, during all times relevant to this matter, has been a bulk customer for sewer processing only of Exeter Township. That arrangement has continued under the ownership of Pennsylvania-American.

13. The Borough of St. Lawrence is a metered customer in Rate Zone 1 under the Tariff now in effect and the Tariff as proposed, and currently pays a rate of \$0.4000 per 100 gallons, with no monthly customer charge.

14. The Recommended Decision, at Section XI(H)(5), titled "Tariff Structure - Wastewater Rates Design" proposes for the Borough of St. Lawrence a rate increase to \$0.412 per 100 gallons, and a monthly customer charge of Four Hundred Fifty-Six Dollars and 00/100 (\$456.00).

15. The Recommended Decision, at Section XI(J)(1), (J)(2)(b)(i), and XI(J)(7), furthermore, adopts the position of PAWC and I & E, and would deny the Borough of St. Lawrence the scaleback of rates recommended for other municipalities in Zone 1, alleging that St. Lawrence's rates are below corresponding usage rates in Zone 1.

16. The Borough of St. Lawrence takes exception to the above-referenced Recommended Decision of the Administrative Law Judge, for the following reasons:

a. As was the subject of the testimony of Robert J. May, Borough Council President, the Borough of St. Lawrence, from the 1960s until the time of the sale of the wastewater treatment plant to PAWC, had agreements in place with Exeter Township for the manner of billing and formula for charges.

b. The prior Exeter billing was equitably based upon:

i. The Borough's capital contributions to plant expansions;

ii. The Borough's construction and continued maintenance of its own collection system; and,

iii. That wastewater emanating in Exeter Township flowed through a portion of the Borough collection system.

c. The Recommended Decision, with its rate increase, denial of scaleback, and monthly customer charge which would adopt the position of PAWC and I & E, is inequitable, and would amount to an error of law and/or abuse of discretion where:

i. The Borough of St. Lawrence is not similarly situated to other Zone 1 metered bulk customers, due to its construction and continued maintenance of the collection system, including ongoing rehabilitation, which has benefited PAWC;

ii. The Borough of St. Lawrence is not similarly situated to other Zone 1 metered bulk customers, due to its capital contributions to the construction and improvements to the wastewater treatment plant, which has benefited PAWC;

iii. The Borough of St. Lawrence is not similarly situated to other Zone 1 metered bulk customers, due to the wastewater emanating from Exeter Township which flows through the collection system, contributing to metered flow, which has not, to date, been charged by the Borough of St. Lawrence; and,

iv. The rate increase and monthly customer charge to St. Lawrence customers is disproportionate, and amounts to an unjust subsidy

to Exeter Township ratepayers and other ratepayers who have not built and maintained their collection systems.

d. The Recommended Decision (Section XVII, Paragraph 5, titled "Order"), with its rate increase, denial of scaleback, and monthly customer charge which would adopt the position of PAWC and I & E, will create a hardship for Borough residents, many of whom are on fixed incomes or have financial difficulties.

For the above-stated reasons, it is respectfully requested by the Borough of St. Lawrence, Berks County, Pennsylvania that the portions of the Recommended Decision which deny scaleback, increase rates, and impose a monthly customer charge on the Borough not be adopted by the Commission.

KOZLOFF STOUDT
Professional Corporation



Joan E. London, Esquire
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552
Solicitors for the Borough of St. Lawrence

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY : Docket Nos. R-2023-3043189 (Water)
COMMISSION, : R-2023-3043190 (Wastewater)
:
vs. :
:
PENNSYLVANIA-AMERICAN :
WATER COMPANY :

VERIFICATION OF ROBERT J. MAY

I, Robert J. May, on behalf of the Borough of St. Lawrence hereby verify that the Exceptions were prepared by me or by legal counsel under my direct supervision and control. Furthermore, the facts contained therein are true and correct to the best of my knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Signed in St. Lawrence, Berks County, Pennsylvania, this 16th day of May, 2024.



ROBERT J. MAY
COUNCIL PRESIDENT
BOROUGH OF ST. LAWRENCE

PENNSYLVANIA PUBLIC UTILITY :
 COMMISSION :
 v. : DOCKET NO. R-2023-3043189
 : DOCKET NO. R-2023-3043190
 PENNSYLVANIA-AMERICAN WATER :
 COMPANY :
 :

CERTIFICATE OF SERVICE

I, Joan E. London, Esquire, hereby certify that a true and correct copy of the attached *Exceptions of the Borough of St. Lawrence, Berks County, to Recommended Decision of the Administrative Law Judge* has been served via email upon the following this 17TH day of May 2024.

<p>Elizabeth Rose Triscari, Esquire <u>elizabeth.triscari@amwater.com</u> Teresa K. Harrold, Esquire <u>teresa.harrold@amwater.com</u> Erin K. Fure, Esquire <u>erin.fure@amwater.com</u> Pennsylvania American Water Company 852 Wesley Drive Mechanicsburg, PA 17055 <i>Counsel for PAWC</i> <i>Efiling</i></p>	<p>Kenneth M. Kulak, Esquire <u>ken.kulak@morganlewis.com</u> Brooke E. McGlinn, Esquire <u>brooke.mcglinn@morganlewis.com</u> Catherine Vasudevan, Esquire <u>catherine.vasudevan@morganlewis.com</u> Mark A. Lazaroff, Esquire <u>mark.lazaroff@morganlewis.com</u> Morgan Lewis & Bockius, LLP 2222 Market Street Philadelphia, PA 19103-2921 <i>Counsel for PAWC</i> <i>Efiling</i></p>	<p>David P. Zambito, Esquire <u>dzambito@cozen.com</u> Jonathan P. Nase, Esquire <u>jnase@cozen.com</u> 17 North Second Street, Suite 1410 Harrisburg, PA 17101 <i>Counsel for PAWC</i> <i>Efiling</i></p>
<p>Andrew J. Zerby, Esquire David T. Evrard, Esquire Erin L. Gannon, Esquire Melanie J. El Atieh, Esquire <u>OCAPAWC2023@paoca.org</u> Office of Consumer Advocate 555 Walnut Street, 5th Floor Forum Place Harrisburg, PA 17101-1923 <i>Efiling</i></p>	<p>Carrie B. Wright, Esquire <u>carwright@pa.gov</u> Bureau of Investigation & Enforcement PA Public Utility Commission 400 North Street Harrisburg, PA 17120 <i>Efiling</i></p>	<p>Steven C. Gray, Esquire <u>sgray@pa.gov</u> Rebecca Lyttle <u>relyttle@pa.gov</u> Office of Small Business Advocate 555 Walnut Street, 1st Floor Harrisburg, PA 17101 <i>Email and First Class Mail</i></p>

<p>Joseph L. Vullo, Esquire <u>jlullo@bvrrlaw.com</u> 1460 Wyoming Avenue Forty Fort, PA 18704 <i>Counsel for CEO</i></p>	<p>J. Chadwick Schnee, Esquire <u>chadwick@schneelegal.com</u> Schnee Legal Services, LLC 74 E. Main Street, #648 Lititz, PA 17543 <i>Counsel for Exeter Township</i></p>	<p>Robert K. Ralls <u>rralls73@yahoo.com</u> 254 Red Haven Road New Cumberland, PA 17070 <i>Efiling and Email</i></p>
<p>Kurt J. Boehm, Esquire <u>kboehm@bkllawfirm.com</u> Jody Kyler Cohn, Esquire <u>jkylercohn@bkllawfirm.com</u> Boehm, Kurtz & Lowry 36 East Seventh Street, Suite 1510 Cincinnati, Ohio 45202 <i>Counsel for Cleveland Cliffs Steel Efiling</i></p>	<p>Sean M. Gallagher, Esquire <u>smgallagher@gallagher.legal</u> Gallagher Law Group 110 East Diamond Street, Suite 101 Butler, PA 16001 <i>Counsel for Cleveland Cliffs Steel Email</i></p>	<p>Ria M. Pereira, Esquire Lauren N. Berman, Esquire John W. Sweet, Esquire Elizabeth R. Marx, Esquire <u>pulp@pautilitylawproject.org</u> 118 Locust Street Harrisburg, PA 17101 <i>Counsel for CAUSE-PA Efiling</i></p>
<p>Kyle Donahue <u>Kyle.23.donahue@gmail.com</u> 621 Gibbons Street Scranton, PA 18505 <i>Email</i></p>		

KOZLOFF STOUDT
Professional Corporation

/s/ Joan E. London
Joan E. London, Esquire
PA Supreme Court I.D. #67934
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552 (ph.)
(610) 670-2591 (fax)
E-mail: jlondon@kozloffstoudt.com
Solicitors for the Borough of Lawrence,
Berks County, PA