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May 17, 2024

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Exceptions of the Pennsylvania-American Water Large Users Group ("PAWLUG"), in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Very truly yours,

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC

c: Christopher P. Pell, Deputy Chief Administrative Law Judge (via e-mail)
John M. Coogan, Administrative Law Judge (via e-mail)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Dated this 17th day of May, 2024, at Harrisburg, Pennsylvania.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, *et al*.	:	
	:	
v.	:	R-2023-3043189
	:	
Pennsylvania-American Water Company, Inc.	:	

Pennsylvania Public Utility Commission, *et al*.	:	
	:	
v.	:	R-2023-3043190
	:	
Pennsylvania-American Water Company, Inc.	:	

EXCEPTIONS OF THE
PENNSYLVANIA-AMERICAN WATER LARGE USERS GROUP

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Dated: May 17, 2024

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. EXCEPTIONS 2

1. Exception No. 1: The R.D. Erred in Allocating Higher Revenues to the Municipal (Public) Customer Class. 2

2. Exception No. 2: The R.D. Erred in Directing PAWC to Include Rider DIS and Rider DRS Customers in the CCOSS for its next base rate case. 3

3. Exception No. 3: The R.D. Erred in Declining to Increase the Industrial Customer Charge. 4

III. CONCLUSION 6

I. INTRODUCTION

On November 8, 2023, Pennsylvania-American Water Company ("PAWC" or "Company") filed with the Pennsylvania Public Utility Commission ("Commission" or "PUC") proposed Supplement No. 45 to Tariff Water-Pa. P.U.C. No. 5 ("Water Tariff") and proposed Supplement No. 47 to Tariff Wastewater-Pa. P.U.C. No. 16 ("Wastewater Tariff"). PAWC's combined filing requests an overall increase in rates of approximately $203.9 million or 20.2% above the level of pro forma revenues for the Fully-Projected Future Test Year ("FPFTY") ending June 30, 2025. The proposed rate increase for PAWC's water customers comprises $199.2 million of the combined $203.9 million rate increase, including $71.1 million of the wastewater revenue requirement re-allocated to water customers pursuant to Act 11 of 2012 ("Act 11").

On December 13, 2023, the Pennsylvania-American Water Large Users Group ("PAWLUG") filed a Complaint in this proceeding. PAWLUG filed a Main Brief on March 26, 2024. Because PAWLUG addressed all of its arguments in its Main Brief, PAWLUG did not file a Reply Brief in this proceeding.

On May 7, 2024, the presiding Administrative Law Judges ("ALJs") issued a Recommended Decision ("R.D.") in this proceeding. PAWLUG hereby excepts to three of the ALJs' recommendations that, if implemented, could detrimentally impact PAWC's Industrial and Municipal[1] customers. Specifically, PAWLUG excepts to: (1) the ALJs' recommendation to allocate higher revenues to Municipal customers; (2) the ALJs' recommendation to require PAWC to include Rider Demand Based Industrial Sales ("DIS") and Rider Demand Based Resale Service ("DRS") customers in the Class Cost-of-Service Study ("CCOSS") for its next base rate case; and

[1] PAWC's Municipal class is also referred to as the "Public" class.

(3) the ALJs' rejection of PAWLUG's proposal to increase the Industrial customer charges for large meters. *See* R.D. at 203 and 247.

II. EXCEPTIONS

1. Exception No. 1: The R.D. Erred in Allocating Higher Revenues to the Municipal (Public) Customer Class.

PAWLUG excepts to the R.D.'s modification of PAWC's proposed revenue allocation by recommending that the Commission approve higher increases for the Municipal class proposed by OSBA and Cleveland Cliffs. R.D. at 247. In addition to lacking clarity as to which of the OSBA and Cleveland Cliffs proposals would be implemented, this recommendation sharply conflicts with cost-of-service principles and would result in unjust and unreasonable rates for Municipal customers, including the public colleges and hospitals in PAWC's service territory. *See* Supplement No. 48 Tariff Water-Pa. P.U.C. No. 5, Rule 26.

The Commonwealth Court and the Commission have repeatedly held that a utility's cost of providing service must be the guiding principle – or "polestar" – in utility ratemaking. *See Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2006; *see also, e.g.*, *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-2008-2073938, 2009 WL 884424 *5 (Order entered Mar. 26, 2009) (upholding natural gas utility rates as consistent with *Lloyd* by reason of the rates being properly derived from a cost-of-service analysis and subject to cost of service review in future base rate case). Company's Municipal class cost-of-service was modified substantially in this proceeding due a correction appropriately made by PAWC in a discovery response and formally adopted in its Rebuttal Testimony. *See* PAWC Statement No. 10-R at 2. As explained by PAWC in its Rebuttal Testimony, the original rate filing included an overstated allocation factor for the Municipal class meters and services. *Id.* The error resulted in a cost-of-service study showing the Municipal class considerably below cost of service at present revenues,

with a Relative Rate of Return ("RROR") at present revenues of 0.33. PAWC Statement No. 12, Exhibit 12-A, Schedule B. PAWC's Rebuttal correction adjusted the Municipal class RROR at present revenues to 1.16. *See* Cleveland Cliffs Statement No. 1-R at 10.

In other words, the basis for parties' proposal to assign a higher increase for the Municipal class no longer exists following PAWC's Rebuttal corrections. Both OSBA and Cleveland Cliffs acknowledged PAWC's Rebuttal correction, but continued to propose that the Municipal class absorb a higher share of revenues than proposed by PAWC through differing means. OSBA takes the results of its CCOSS and assigns costs to the Municipal Class to moderate the rate increase for the Residential and Commercial classes. OSBA Statement No. 1-S at 19. Cleveland Cliffs retracts its statement that the Municipal class should receive an increase above system average, but recommends flat percentage increases for each customer class. Cleveland Cliffs Statement No. 1-R at 10. The R.D. makes no distinction between the two proposals. While there may have been a basis to adjust the Company's proposed Municipal increase based on the original filing showing a 0.33 RROR, such proposal are now unreasonable and contrary to *Lloyd.* Following the Company's Rebuttal CCOSS changes, the Company's revenue allocation for the Municipal class makes reasonable progress towards cost-of-service and should be approved. Efforts to incorporate the R.D.'s directive to shift additional revenue to the Municipal class are likely to result in unintended consequences due to the inconsistencies between the Cleveland Cliffs and OSBA recommendations, including the fact the OSBA's proposed allocation of costs to the Municipal class is derived from its own CCOSS results.

2. <u>Exception No. 2</u>: The R.D. Erred in Directing PAWC to Include Rider DIS and Rider DRS Customers in the CCOSS for its next base rate case.

The R.D. recommended Commission approval of a proposal from the Office of Consumer Advocate ("OCA") to require PAWC to include revenues from its Rider DIS and Rider DRS

customers in its CCOSS when filing its next base rate case. R.D. at 203. The R.D. agreed with OCA that having cost-of-service information from the two riders would be "useful" for PAWC's next base rate case. *Id.* However, the potential usefulness of such information does not support the Commission's requiring PAWC to modify its CCOSS. The record in this proceeding shows no instance where PAWC declined to provide information concerning the cost-of-service for PAWC's Rider DIS and Rider DRS customers. PAWLUG Main Brief at 21. As OCA has not taken advantage of available means to confirm Rider DIS and Rider DRS's cost-of-service, the relief requested by OCA is premature and should be denied by the Commission."

3. <u>Exception No. 3</u>: The R.D. Erred in Declining to Increase the Industrial Customer Charge.

With regard to PAWC's Industrial rate design, the R.D. rejected PAWLUG's proposal to increase the Industrial customer charge by 50%. R.D. at 247. The R.D. determined that PAWLUG's proposal was "not persuasive." *Id.* In making this determination, the R.D. relies principally on PAWC Witness Charles Rea's statement that volumetric rates for industrial customers should be designed to collect the total revenue allocated to that class less revenue from current industrial meter charges." *Id.* As with all rates, PAWC's Industrial meter charges should be designed to recover the cost-of-service. Contrary to the R.D.'s recommendation, PAWC's proposal to not increase the Industrial customer charge is not cost-based and should be rejected.

PAWC claims that the Industrial customer charge for meters 6' and above should not be increased because these Industrial charges are already higher than the customer charges applicable to PAWC's Residential and Commercial customers. *See* PAWC Statement No. 10 at 35. However, the cost basis for PAWC's Industrial customer charge is limited to a customer cost analysis of the cost-of-service for 5/8' meters, with larger Zone 1 Residential and Commercial meter sizes receiving proportional increase based on that customer cost analysis. *Id.* As stated by PAWC's

own witness "the direct cost analysis only applies to 5/8-inch meter customers." PAWC Statement No. 12-R at 13. Accordingly, PAWC has not established a cost basis for the larger meter customer charges, including the 6' or larger Industrial meters.

As PAWC has not established a cost basis for the Residential or Commercial customer charge for meters 6' and above, its position that the Industrial customer charges for larger meters should not be increased because they are higher than current Residential or Commercial customer charges also lacks a cost basis. In the absence of a customer cost analysis for PAWC's large meters Industrial customers, it more reasonable to assign an increase than to hold the customer charge unchanged from PAWC's prior rate case. *See* PAWLUG Statement No. 1 at 28. Increasing the fixed costs would also align with PAWC's stated interest in reducing revenue volatility and ensuring recover of fixed costs. *See id, see* PAWLUG Main Brief at 26. Accordingly, the Commission should approve PAWLUG's proposed rate design as described in it Main Brief. *See* PAWLUG Main Brief at 26. Alternatively, the Commission should approve the proposal from Cleveland Cliffs and increase Industrial customer charges by the same percentage increase as the Industrial volumetric charges. *See* Cleveland Cliffs Main Brief at 7. PAWC's proposal to preserve the current Industrial customer charge and apply 100% of the Industrial class revenue increase to volumetric rates is unsupported, unreasonable, not cost-based and should be denied.

However, if the Commission approves PAWC's recommendation to preserve the existing Industrial class customer charges, the proportional scaleback supported by PAWC should be applied solely to the volumetric Industrial rates.

III. CONCLUSION

WHEREFORE, the Pennsylvania-American Water Large Users Group respectfully requests that the Pennsylvania Public Utility Commission grant the Exceptions set forth herein.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By_____

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