



COMMONWEALTH OF PENNSYLVANIA

May 22, 2024

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 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 Reply Exceptions to the Recommended Decision dated May 7, 2024, on behalf of the Office of Small Business Advocate (“OSBA”), 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/ Steven C. Gray

Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: Kevin Higgins
Brian Kalcic
Parties of Record

On March 11, 2024, ALJs Pell and Coogan issued their Order on Briefs and Closing of the Record.

On March 26, 2024, the OSBA filed its Main Brief.

On April 5, 2024, the OSBA filed its Reply Brief.

On May 7, 2024, ALJs Pell and Coogan issued their Recommended Decision (“RD”).

On May 17, 2024, the OSBA filed a Letter stating that this Office would not be filing Exceptions to the RD.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by the Company, the Office of Consumer Advocate (“OCA”), and Pennsylvania-American Water Large Users Group (“PAWLUG”).

II. Reply Exceptions

Reply to PAWC Exception No. 3: The ALJs properly recommended that the BASA acquisition should not be included in the Company’s rates at this time. (PAWC Exceptions, at 12-16)

The OSBA agrees with the ALJs’ recommendation that the revenue requirement related to PAWC’s proposed acquisition of the Butler Area Sewer Authority (“BASA”) be rejected in this proceeding as untimely. The acquisition is still before the Commonwealth Court, and no party, including the Company, knows when that Court will reach a decision.

Furthermore, PAWC’s torturing of the statutory language (“absolute certainty!”) is a baseless argument that should be rejected by the Commission. Section 315(e) requires “appropriate data evidencing the accuracy of the estimates contained in the future test year,” and as no one can predict the actions of the Commonwealth Court, no such “accuracy” regarding the outcome of the BASA case can be ascertained.

Finally, however, if the Commission does not find that the untimeliness of the BASA acquisition is sufficient grounds for rejection of the BASA revenue requirement, then the OSBA

submits that the Commission should still reject PAWC's position and instead adopt the OSBA's recommended treatment of the BASA-related revenue requirement as set forth in the OSBA's Main Brief, at 7-9. That is, the BASA-related revenue requirement increase should be limited to the 40% capped increase for BASA wastewater customers with no associated revenue shift to water customers in this proceeding.

Reply to OCA Exception No. 14: The ALJs properly recommended allocating the Arrearage Management Plan ("AMP") costs and the administrative costs for the H2O Grant and Discount programs to the Residential class only. (OCA Exceptions, at 25-26)

The OCA claims that that ALJs erred by directly assigning AMP costs and the administrative costs of the H2O Grant and Discount programs to the Residential class only. In fact, the ALJs were correct in adopting OSBA's recommendation on this issue because these programs are only available to residential customers, and as such, the costs of these programs are appropriately assigned to the Residential class.

However, the ALJs' RD also reduced the incremental AMP costs in the revenue requirement from \$2,377,200 as originally proposed by PAWC to \$209,746 (excluding BASA and Brentwood), thereby removing the large majority of AMP costs that otherwise would be directly assigned to the Residential class as specified by the RD. The remaining \$209,746 of AMP cost should still be directly assigned to the Residential class in accordance with the RD.¹

In addition, the ALJs were correct in recommending that the administrative costs for the H2O Grant and Discount programs (which total \$315,390) should be allocated to the Residential class only.

¹ RD at pp. 116-117; p. 405.

Finally, the ALJs' allocation of the Dollar Energy administrative costs² is not entirely clear from the RD. Nevertheless, these costs should be directly assigned to the Residential class, consistent with the AMP and H2O Grant and Discount program administrative costs, because this program is only available to residential customers.

Reply to PAWLUG Exception No. 1: The ALJs properly recommended allocating a higher revenue increase to the Municipal class. (PAWLUG Exceptions, at 2-3)

As PAWLUG admits in its Exceptions, the OSBA took full account of the correction of PAWC's error in PAWC's initial cost allocation to the Municipal class. OSBA Statement No. 1-R, at 5-6.

Consequently, the OSBA's recommended revenue allocation to the Municipal class is less than the system average on a percentage basis,³ but is not as far below the average as PAWC initially proposed in its direct testimony. The extent of the Company's originally proposed, below-average increase to the Municipal class set forth in PAWC's direct filing remains unjustified even after the correction of PAWC's error.

² The Dollar Energy administrative costs total \$476,190 excluding BASA and Brentwood. *See* PAWC Direct Volume 04, Exhibit 3-B, page 336.

³ Schedule KCH-12, at 1.

III. Conclusion

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny PAWC Exception No. 3, OCA Exception No. 14, and PAWLUG Exception No. 1.

Respectfully Submitted,

/s/ Steven C. Gray
Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538

Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-2525

Dated: May 22, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos.
	:	R-2023-3043189 (Water)
v.	:	C-2023-3044375
	:	R-2023-3043190 (Wastewater)
Pennsylvania-American Water Company	:	C-2023-3044377
	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
cpell@pa.gov
pmcneal@pa.gov

The Honorable John Coogan
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
jcoogan@pa.gov

Erin L. Gannon, Esquire
Melanie El Atieh, Esquire
David Evrard, Esquire
Andrew Zerby, Esquire
Office of Consumer Advocate
Forum Place
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
OCAPAWC2023@paoca.org

Kurt J. Boehm, Esquire
Jody Kyler Cohn, Esquire
Boehm, Kurtz, & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
carwright@pa.gov

Kenneth M. Kulak, Esquire
Brooke E. McGlinn, Esquire
Catherine Vasudevan, Esquire
Mark A. Lazaroff, Esquire
Morgan, Lewis & Bockius, LLP
2222 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
catherine.vasudevan@morganlewis.com
mark.lazaroff@morganlewis.com

Office of Special Assistants (OSA) at ra-OSA@pa.gov.

Joan E. London, Esquire
Kozloff Stoudt, P.C.
2640 Westview Drive
Wyomissing, PA 19610
jlondon@kozloffstoudt.com

Elizabeth Rose Triscari, Esquire
Teresa K. Harrold, Esquire
Erin K. Fure, Esquire
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com
erin.fure@amwater.com
teresa.harrold@amwater.com

Ria M. Pereira, Esquire
Lauren N. Berman, Esquire
John W. Sweet, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Sean M. Gallagher, Esquire
Gallagher law Group
110 East Diamond Street, Suite 101
Butler, PA 16001
smgallagher@gallagher.legal

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com

DATE: May 22, 2024

Adeolu A. Bakare, Esquire
Charis Mincavage, Esquire
Ryan Block, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
Harrisburg, PA 17101
abakare@mcneeslaw.com
rblock@mcneeslaw.com
cmincavage@mcneeslaw.com

J. Chadwick Schnee, Esquire
Schnee Legal Services, LLC
74 E. Main Street, #648
Lititz, PA 17543
chadwick@schneelegal.com

Robert Ralls (*W)
254 Red Haven Road
New Cumberland, PA 17070
rralls73@yahoo.com

Kyle Donahue
621 Gibbons Street
Scranton, PA 18505
Kyle.23.donahue@gmail.com

David P. Zambito, Esquire
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com

Karen O. Moury, Esquire
Lauren Burge, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
lburge@eckertseamans.com

/s/ Steven C. Gray
Steven C. Gray
Senior Attorney
Assistant Small Business Advocate
Attorney ID No. 77538