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May 22, 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 Reply 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,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

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 22nd day of May, 2024, at Harrisburg, Pennsylvania.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2023-3043189
	:	
Pennsylvania-American Water Company, Inc.	:	
Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2023-3043190
	:	
Pennsylvania-American Water Company, Inc.	:	

**REPLY EXCEPTIONS OF THE
PENNSYLVANIA-AMERICAN WATER LARGE USERS GROUP**

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. REPLIES TO EXCEPTIONS	1
1. Reply to OCA Exception No. 13: Because OCA's Exception No. 13 Relies on a Flawed and Incorrect Comparison of PGW's 2023 Rate Case to PAWC's Rate Case, the Commission Must Deny the Exception and Adopt the ALJ's Recommendation re the Treatment of Interruptible Usage for Purposes of PAWC's Class Cost of Service Study.	1
2. Reply to OCA Exception No. 14: The R.D. Correctly Assigned the Incremental Costs of PAWC's Arrearage Management Plan ("AMP") and Other Low-Income Program Administrative costs to Residential Customers.	3
3. Reply to PAWC Exception No. 5: The R.D. Correctly Denied PAWC's Proposed Deferral Mechanisms.	3
4. Reply to PAWC Exception No. 6: The R.D. Correctly Denied PAWC's Proposed Alternative Ratemaking Mechanisms.	4
III. CONCLUSION.....	5

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. Various parties filed Exception on May 17, 2024. PAWLUG hereby files these Replies to Exceptions from the Office of Consumer Advocate ("OCA") and PAWC.

II. REPLIES TO EXCEPTIONS

1. **Reply to OCA Exception No. 13: Because OCA's Exception No. 13 Relies on a Flawed and Incorrect Comparison of PGW's 2023 Rate Case to PAWC's Rate Case, the Commission Must Deny the Exception and Adopt the ALJ's Recommendation re the Treatment of Interruptible Usage for Purposes of PAWC's Class Cost of Service Study.**

OCA attempts to oversimplify the present circumstances by drawing a flawed analogy between the Commission's analysis in *Pennsylvania Public Utility Commission et. al. v.*

Philadelphia Gas Works, Docket No. R-2023-3037933, Opinion and Order at 111-112, 138-139 (Nov. 9, 2023) ("PGW PUC Order") and the instant PAWC rate case. OCA Exception at 25. The OCA's Exception No. 13 should be denied and the ALJs' Recommendation to approve PAWC's Class Cost of Service Study ("CCOSS") findings regarding interruptible water usage should be adopted by the Commission.

In the PGW PUC Order, the Commission approved the CCOSS filed by the utility, including the exclusion of interruptible usage from the extra capacity factors. PAWLUG Main Brief at 16. In the PGW Order, the Commission took the position that the exclusion of interruptible usage from PGW's CCOSS brought the Rate IT customer class closer to cost of service. *See* PAWLUG Brief at 13 *citing* PGW PUC Order at 138. Now, in this proceeding, OCA advocates for the Commission to deny the arguments from PAWC and PAWLUG to include interruptible usage in PAWC's CCOSS on grounds that the arguments advanced by PAWC and PAWLUG were previously rejected in the PGW case. *See* OCA Exceptions at 25. Unfortunately, OCA's arguments ignore clear and critical distinctions between the two cases and must be rejected by the Commission.

First, in the PGW case, the Commission approved the CCOSS proposed by the utility. PGW PUC Order at 138. Here, OCA seeks to modify the CCOSS proposed by PAWC. Second, and more importantly, the Commission's finding in the PGW case sought to align PGW's Rate IT customer class, consisting *exclusively* of interruptible customers, with cost-of-service. PGW PUC Order at 138. As detailed in PAWLUG's Main Brief and acknowledged by OCA, PAWC does not have an interruptible customer class, but instead has a single interruptible customer within the broader Industrial class. *See* PAWLUG Main Brief at 17. The overwhelming majority of PAWC's Industrial customers are firm service customers. *See id.* As a result, including the interruptible

usage in the extra capacity factor allocations for PAWC's CCOSS would not align with cost-of-service as the Commission intended in the PGW rate case. There is no record in this proceeding showing how PAWC would allocate such costs to the Industrial class without imposing an unjust and unreasonable burden on the firm service Industrial customers. For the reasons set forth herein and further detailed in PAWLUG's Main Brief, OCA's Exception No. 13 must be denied.

2. Reply to OCA Exception No. 14: The R.D. Correctly Assigned the Incremental Costs of PAWC's Arrearage Management Plan ("AMP") and Other Low-Income Program Administrative costs to Residential Customers.

OCA's Exception No. 14 contests the R.D.'s finding that incremental costs of PAWC's AMP and the administrative costs of other low-income programs should be allocated to all customers. OCA Exceptions, at 26. As discussed in PAWLUG's Main Brief, the OCA has not offered a compelling basis for diverting from the Commission's long-standing adherence to cost-of-service principles regarding recovery of program costs from customers eligible to participate in the program. *See* PAWLUG Main Brief at 22. In particular, parties' reliance on the Commission's CAP Policy Statement applicable to electric and natural gas utility Customer Assistance Programs is misplaced. *Id.* Accordingly, the Commission should deny OCA's Exception No. 14.

3. Reply to PAWC Exception No. 5: The R.D. Correctly Denied PAWC's Proposed Deferral Mechanisms.

PAWC excepts to the R.D. rejection of its proposal to establish deferral accounting for pension, Other Post Employment Benefits ("OPEB"), and production expenses. PAWC Exceptions at 20. PAWC's Exception should be denied as the R.D. correctly determined these expenses are not extraordinary, unanticipated, or nonrecurring. R.D. at 131; PAWLUG Main Brief at 7. PAWC's recitation of various prior dockets where the Commission approved deferral mechanisms for extraordinary or nonrecurring expenses such as COVID-related expenses or

limited and defined extraordinary OPEB expenses is not persuasive. *See* PAWC Exceptions at 18. Accordingly, PAWC's Exception No. 5 must be denied.

If the Commission grants PAWC's Exception No. 5 and PAWC Exceptions at 20

4. Reply to PAWC Exception No. 6: The R.D. Correctly Denied PAWC's Proposed Alternative Ratemaking Mechanisms.

As with its deferral mechanisms, PAWC similarly objects to the R.D.'s rejection of its proposed Environmental Compliance Investment Charge ("ECIC") and Revenue Decoupling Mechanism ("RDM"). PAWC Exceptions at 20. PAWLUG's Main Brief provided a detailed analysis of the incongruity of PAWC's arguments in support for these alternative ratemaking mechanisms. Most significantly, PAWC's attempts to characterize these mechanisms as "commonplace" is misleading. *Id.* PAWLUG's analysis clarifies the specific alternative ratemaking mechanisms proposed by PAWC are quite extraordinary and broad in scope. *See* PAWLUG Main Brief at 10-12, 29-30. PAWC also misconstrues Section 1330 of the Public Utility Code as authorizing the implementation of these mechanisms, when the statute merely authorizes the Commission to consider approval of such mechanisms. As with its proposed deferral mechanisms, PAWC has not shown the costs to be recovered through the RDM or ECIC to be extraordinary, unanticipated or nonrecurring. PAWLUG Main Brief 29-30. Particularly with regard to the RDM, this proposed surcharge and reconciliation mechanism would conflict with cost causation by applying a uniform surcharge to all non-residential customers. PAWLUG Main Brief at 29. This result would impact interclass cost shifting between the various non-residential customer classes, including commercial, industrial, and municipal water customers." *Id.* at 13.

If the Commission determines to approve the proposed RDM, it should exempt Industrial and Municipal customers due to the lack of record evidence indicating these customers are materially impacted by conservation, weather, or a declining customer base. *See* PAWLUG Main

Brief at 30. Also, if the RDM is approved, the Commission must approve the customer protections outlined in PAWLUG's Main Brief, including the earnings test and an asymmetrical 2% cap. PAWLUG Main Brief at 30. Finally, the operational risk mitigation resulting from any approval of the RDM should be recognized through a downward to PAWC's ROE per PAWLUG Main Brief. *See* PAWLUG Main Brief at 11-12.

III. CONCLUSION

WHEREFORE, the Pennsylvania-American Water Large Users Group respectfully requests that the Pennsylvania Public Utility Commission enter a Final Order consist with the Replies to Exceptions set forth herein.

Respectfully submitted,

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