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June 18, 2024

VIA eFILING

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 and R-2023-3043190

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceedings is the **Answer of Pennsylvania-American Water Company to Motion for Relief of the Office of Consumer Advocate** (the "Answer").

As evidenced by the enclosed Certificate of Service, copies of the Answer are being served upon Deputy Chief Administrative Law Judge Christopher P. Pell, Administrative Law Judge John Coogan, and all parties of record.

If you have any questions, please contact me directly at 215.963.5384.

Very truly yours,

Kenneth M. Kulak

KMK/ap
Enclosures

c: Per Certificate of Service (w/encls.)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	**DOCKET NOS. R-2023-3043189**
v.	:	**R-2023-3043190**
	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	

ANSWER OF PENNSYLVANIA-AMERICAN WATER COMPANY TO MOTION FOR RELIEF OF THE OFFICE OF CONSUMER ADVOCATE

Pursuant to 52 Pa. Code §§ 5.61 and 5.103, Pennsylvania-American Water Company ("PAWC" or the "Company") hereby files this Answer opposing the Office of Consumer Advocate's ("OCA's") Motion for Relief Regarding Ex Parte Communications by Pennsylvania-American Water Company (the "Motion").[1] As explained below, the OCA is attempting to prevent the Pennsylvania Public Utility Commission ("Commission") from considering PAWC's assistance to the community served by the troubled East Dunkard Water Authority ("EDWA") system by claiming that the presentation of a short publicly-available video played during a widely-attended annual meeting of a trade association constitutes an off-the-record communication to the Commission related to the Company's rate case. The Commission should deny the Motion in its entirety.

I. BACKGROUND

The National Association of Water Companies ("NAWC") is a water industry organization whose members own, operate, or partner with water utilities.[2] NAWC has state chapters across the United States that collaborate on best practices, community outreach, public

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[1] This Answer is supported by the Verification of Justin L. Ladner, President of PAWC.

[2] *See* "About NAWC," https://nawc.org/about-us/.

affairs, and advocacy efforts.[3] The Pennsylvania Chapter of the NAWC ("NAWC-PA") convened on May 20, 2024 for its annual meeting and luncheon in Harrisburg, PA (the "NAWC-PA Annual Meeting"). PAWC is a member of NAWC-PA and regularly participates in its meetings.

The NAWC-PA Annual Meeting was scheduled to begin at 8:30am and adjourn at 1:30pm and featured seven presentations on varied topics, and a separate luncheon presentation where the chapter presented an award for excellence.[4] Among the seven presentations given at the NAWC-PA Annual Meeting was a 45 minute "Executives' Panel Discussion" moderated by Marc Lucca, President of Aqua PA and the Chairman of NAWC-PA, that featured Larry Finnicum, Vice President & General Manager of Veolia, Justin Ladner, President of PAWC, JT Hand, President & CEO of The York Water Company, and David Lewis, President & General Manager of Columbia Water Company. The panel focused on timely issues facing the Commonwealth's regulated water and wastewater utilities, including but not limited to environmental challenges, infrastructure challenges and the need to aid smaller, troubled systems. Within that 45 minute panel, a two minute and forty five second video presentation was shown that highlighted the Company's actions as receiver of the troubled EDWA system (the "Video"), which is the subject of a separate uncontested Commission proceeding.[5] The Video is also publicly available on YouTube and has been publicized on the Company's website and

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[3] *Id.*

[4] *See* National Association of Water Companies, Pennsylvania Chapter, Annual Meeting and Luncheon Agenda, attached hereto as Appendix A.

[5] *See Joint Petition of Pa.-Am. Water Co. and the Pa. Dept. of Envtl. Prot. Requesting an Ex Parte Emergency Order in Regard to Receivership of East Dunkard Water Auth.*, Docket No. P-2023-3043950 (Order entered Nov. 1, 2023).

through its social media accounts, including on Facebook, LinkedIn, X (Twitter), and Instagram.[6]

The OCA claims that the presentation of the Video at the NAWC-PA Annual Meeting constitutes an ex parte communication since Commission staff were in attendance. The OCA's claim is entirely without merit.

Section 334 of the Public Utility Code ("Code")[7] defines ex parte communications to mean "any off-the-record communications **to or by any member of the commission, administrative law judge ["ALJ"], or employee of the commission**, **regarding the merits or any fact in issue** of any matter pending before the commission in any contested on-the-record proceeding." (emphasis added). The Video was neither "to or by" a member of the Commission or Commission staff and was not "regarding the merits or any fact in issue" in this proceeding. The Video itself is publicly available and the NAWC-PA event where it was shown was open to invited NAWC-PA members and non-members, with over 100 people in attendance. Furthermore, the Video is not a communication concerning this base rate case or any fact in issue in this case. The fact that EDWA was failing to provide its customers with basic safe drinking water, and that PAWC stepped in as receiver to provide immediate support to EDWA's customers, is an on-the-record uncontested fact in this proceeding. It is therefore not a fact "at issue," nor is the Video "regarding the merits" of the Company's rate case. Indeed, at the Commission's direction, as discussed *infra*, PAWC has already provided far more detailed

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[6] *See* East Dunkard Water Authority Receivership: Taking Action to restore a community's water system, available at https://www.youtube.com/watch?v=NcmE6-YS2LA. Prior to being publicized on YouTube, the Company's website, and social media, the video shown at the NAWC-PA Annual Meeting was slightly revised to address a safety concern by replacing a seconds-long image that was shown in the original version. The version shown at the NAWC-PA Annual Meeting and the version available on YouTube are otherwise identical (including all text and narration). A written transcript of the Video is attached hereto as Appendix B.

[7] 66 Pa. C.S. § 334. Hereafter all references to a "Section" are to the Code, 66 Pa.C.S. §§ 101 et seq., unless indicated otherwise.

information on its activities in East Dunkard to the Commission than presented in the Video in a separate docket after the close of the record in this proceeding.

In addition to mischaracterizing the Video as an ex parte communication and seeking to have PAWC "admonished" for presenting the Video at the NAWC-PA Annual Meeting, the OCA requests the extraordinary relief of asking the Commission to completely disregard the undisputed record evidence related to PAWC's appointment as receiver of EDWA in considering management performance adjustments to the Company's authorized return on equity ("ROE"). The OCA's requested "remedy" for presenting the Video at an industry conference is simply a belated effort to undermine PAWC's demonstrated management performance and is entirely inappropriate.

The OCA also requests that PAWC circulate the Video to all parties in the Company's rate case and seeks an assurance that no information offered by PAWC during the NAWC-PA Annual Meeting will be considered by Commission staff when advising the Commission on its decision in this rate proceeding. However, the Video has already been distributed to the Commission and all parties in this case,[8] and the Company has no objection to the Commission providing assurances that neither it, nor its staff, considered or relied upon the Video in making recommendations or determinations in this proceeding.

For these reasons, and as addressed more fully below, the Commission should deny the Motion.

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[8] Following receipt of a May 24, 2024 Secretarial Letter directing PAWC to provide the Commission with a copy of the Video, PAWC uploaded the Video to the Commission's SharePoint site and served a letter to the Commission on all parties that contained a YouTube link for viewing the Video. *See* Letter of Elizabeth R. Triscari to Secretary Rosemary Chiavetta, Docket R-2023-3043189 and R-2023-3043190 (May 28, 2024). The version uploaded to the Commission's SharePoint site is the same version of the Video shown at the Annual Meeting (*c.f.* fn. 7).

II. ARGUMENT

A. The Video Does Not Constitute An Ex Parte Communication

Section 334 of the Code prohibits ex parte communications and then goes on to define what constitutes an ex parte communication.[9] The Video does not conform to the definition of an ex parte communication, as set forth in the Code, in two key respects: (1) the Video was not a communication "to or by" the Commission or Commission Staff; and (2) the subject matter of the Video is not "regarding the merits or any fact in issue" in this proceeding.

First, contrary to the false impression created by the OCA's Motion, the Video is a public communication that was not directed to Commission staff. The Video is available on the internet – and has been promoted by PAWC through social media – for public consumption. Any Commission staff that did view the Video at the NAWC-PA Annual Meeting did so incidentally alongside more than 100 other individuals. Defining ex parte communications to include public statements made at any event that Commission employees may attend, as the OCA does, would yield an absurd and unreasonable result contrary to the tenets of statutory construction in the Commonwealth.[10] Watching the Video at the NAWC-PA Annual Meeting is no different than if Commission staff came across a newspaper article or watched a television news segment that discussed the Company's actions as receiver of the EDWA system.[11] In either case, the information would have been made available for public consumption and its distribution would not have been directed to the Commissioners or Commission staff.

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[9] 66 Pa. C.S. § 334.

[10] *See* 1 Pa.C.S. § 1922.

[11] *See*, *e.g.*, *PAWC touts progress at East Dunkard water treatment plant*, Herald Standard, https://www.heraldstandard.com/news/local_news/2024/apr/08/pawc-touts-progress-at-east-dunkard-water-treatment-plant/ (April 8, 2024), which describes PAWC's actions as receiver of the EDWA system.

According to the OCA, the Video presentation falls within the scope of inappropriate Section 334 off-the-record communications because the NAWC-PA Annual Meeting was an "invite-only" event and not all parties to this rate case proceeding attended.[12] However, NAWC-PA's invite to the NAWC-PA Annual Meeting was widely distributed and over 100 people registered to attend, including NAWC-PA members and non-members. While Commission staff were present, so were members of the public utility bar, OCA staff, Office of Small Business Advocate ("OSBA") staff, and employees of many Pennsylvania water utilities. A presentation to a public audience at an industry meeting that happens to include some PUC employees bears no resemblance to the off-the-record communications with fact finders in contested administrative proceedings that are described in the cases cited by the OCA in the Motion.[13] Nothing about the creation of the Video or its presentation at the NAWC-PA Annual Meeting was directed specifically to the Commission or Commission staff.

Significantly, the Commission does not view alleged ex parte communications in a vacuum as the OCA suggests and considers the events surrounding the communication to determine whether it was an effort to influence the Commission's decision on the substantive issues in a contested proceeding. For example, in *In Re Duquesne Light Co.*, Docket No. A-110150, 1998 WL 456680 (June 26, 1998) ("*Duquesne*"), the Commission determined that an

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[12] *See* Motion at ¶ 31.

[13] *See Application of Silver Water Co and Pub. Serv. Water Co, Application of Hickory Water Co and Pub. Serv. Water Co., Application of PFE Water Co. and Pub. Serv. Water Co., Wild Acres Lakes Property Owners Ass'n v. Hickory Water Co.*, Docket Nos. A-210025F004 et al. 1993 Pa. PUC LEXIS 143, at *27-*28 (cautioning counsel for homeowner's association about submitting a letter replete with new factual averments to the presiding ALJ after the close of the record but finding it was not an ex parte communication because the complaining party, Public Service Water Company, was copied on the correspondence); *Chester Cmty. Charter School v. Hardy*, 38 A. 1079, 1082 (Pa. Commw. Ct. 2012) (discussing ex parte telephone conversation between an appeals officer and a Right-to-Know-Law ("RTKL") requester); *Haverstick v. Pa. Office of Attorney Gen.*, 273 A.3d 600 (Pa. Commw. Ct. 2022) (describing ex parte correspondence between appeals officer of the Office of Attorney General regarding RTKL request).

explanatory communication between one party and Commission staff did not constitute an ex parte communication regarding the merits or any fact in issue in Duquesne Light Company's ("DLC's") restructuring proceeding. In that case, DLC's director of regulatory affairs *wrote a memorandum and provided it to PUC staff* after the Commission adopted a motion and issued a subsequent order in which DLC alleged there were computational errors in the Commission's decision regarding the amortized return of taxes. *The Commission found that the memorandum was not an ex parte communication* because (1) there was no request by DLC to alter the substance of the adopted motion in the communication, and (2) there was no effort to influence the Commission to change its decision on the substantive issues addressed in the motion. Applying the Commission's logic in *Duquesne* here, the Video should not be considered an ex parte communication since the Video simply provided a brief update on the progress of a receivership that is the subject of a separate uncontested docketed proceeding. As a cursory review of the transcript in Appendix B reveals,[14] the Video does not mention PAWC's pending base rate proceeding in any way, let alone specifically address PAWC's management performance for ratemaking purposes.[15]

Second, the Video is not an ex parte communication because it does not address the merits of PAWC's rate case or any fact at issue in this proceeding. The OCA grossly mischaracterizes the nature of the Video, alleging that it contains information regarding PAWC's "managerial performance, capital contributions, operational expenses, and improvements to the EDWA system" that is not in the record in an attempt to influence the Commission's

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[14] *See* 60 Day Video Script, East Dunkard Water Authority, PA American Water (May 10, 2024), attached hereto as Appendix B

[15] In *Duquesne*, out of an abundance of caution, the Commission served the memo on the parties to that proceeding and provided them with an opportunity to respond. Here, PAWC's receivership of EDWA has already been established on the record, others have had the opportunity to respond (and the OCA did), and the Video is publicly available and has been provided to the Secretary and all parties. *See* fn. 9, *supra*.

forthcoming decision on PAWC's requested rate increase.[16] In reality, the Video briefly describes the dire circumstances facing the EDWA system that culminated in PAWC taking over the system in a receivership role and the Company's ongoing commitment to invest in improvements to bring the EDWA system back into compliance and deliver safe drinking water to customers served by EDWA without delay.[17] The issues facing the EDWA system and the fact that PAWC is addressing those issues as receiver are already on the record in this proceeding, uncontested, and therefore are not "at issue."

PAWC witness Ashley E. Everette testified regarding the 4,200 residents who were without adequate service from the EDWA system and the fact that the Company began acting as receiver for EDWA.[18] While the Video contains some commentary from Senator Camera Bartolotta about "cries of desperation" from residents who had been dealing with various water issues and PAWC's professional efforts to address these issues quickly, likening PAWC to a "S.W.A.T. team," Representative Bud Cook made similar points at a public input hearing in these proceedings[19] and the Recommended Decision noted that "Representative Cook testified that PAWC took control of the failing East Dunkard Water Authority and is providing safe drinking water to the residents in his district."[20]

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16 *See* OCA Motion, pp. 7-8.

17 *See* Appendix B.

18 *See* PAWC St. No. 1, pp. 43-45; PAWC St. No. 1-R, pp. 13-14.

19 *See*, e.g., Tr. 1646-52 ("One of my areas in my district faced un unexpected breakdown of the East Dunkard Water Authority's water system. As a result, the residents were left without access to water for regular activities such as showering, cooking, and running their day-to-day businesses, even the fire service was affected. The East Dunkard Water Authority has had water quality problems for some time, and my constituents had no confidence in its ability to provide the level of service that the Pennsylvania American Water customers expect and receive.").

20 Recommended Decision, *Pa. P.U.C. v. Pa.-Am. Water Co.*, Docket Nos. R-2023-3043189 (Water) and R-2023-3043190 (Wastewater) (May 7, 2024) ("Recommended Decision").

The existence of the EDWA receivership is also referenced by the Company on the record in this case among the many reasons that the Company believes support an upward adjustment to its ROE of 25 basis points for superior management performance and operational efficiency.[21] In support of this ROE adjustment, PAWC witness Everette extensively described PAWC's management and operational achievements related to its (i) industry-leading low-income assistance programs, (ii) strong safety performance, (iii) strong environmental record and ongoing commitment to water quality, (iv) commitment to operational and water efficiency, (v) significant infrastructure investment, (vi) community engagement and consumer education initiatives, (vii) efforts to extend service to meet the needs of customers without safe and reliable water service, and (viii) efforts to support the Commission and the Department of Environmental Protection to alleviate the problems of small, troubled, and nonviable water systems.[22] Accordingly, the OCA's contention that spotlighting the EDWA receivership for a few minutes during a panel at the NAWC-PA Annual Meeting represents an attempt to introduce extra-record evidence and influence the outcome of this rate case is simply wrong. PAWC does not seek – and has not sought – to have the Commission consider any of PAWC's actions as receiver in East Dunkard in this proceeding other than what is on the record in this proceeding.

If the OCA's unreasonably broad definition for ex parte communications is accepted, PAWC would essentially be prohibited from communicating with the Commission – and arguably the general public, since Commission staff could also be exposed to communications like the Video on social media – regarding all ongoing operations during a rate case. This is an

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[21] The OCA addressed the record evidence regarding PAWC's assistance to the community served by EDWA in its Exceptions as part of its opposition to any upward adjustment to PAWC's authorized ROE considering the performance factors under Section 523 of the Code. *See* OCA Exc., p. 21.

[22] PAWC St. No. 1, pp. 33-46.

absurd result and would preclude the Commission from performing its statutory duties. For example, the Commission required PAWC to provide the Commission with periodic updates regarding PAWC's actions as receiver of EDWA and PAWC did so on April 8, 2024, after the close of the record in this proceeding.[23] The almost 50 page 60-Day Report addresses, in significant detail, many of the topics covered at a *very* high-level in the Video. The 60-Day Report is not part of the record of this proceeding and should not be considered or relied upon by Commission Staff or the Commissioners in reaching a decision in this proceeding, but the Company notes its existence to show the absurdity of the OCA's claim that the presentation of the Video could be construed to be an ex parte communication. As the regulator of PAWC, the Commission must be permitted to obtain timely information regarding all water and wastewater systems currently operated by PAWC.

Finally, it is telling that no Commission staff present at the NAWC-PA Annual Meeting expressed any ex parte concerns regarding the Video. In *Duquesne*, the Commission explained that the Public Utility Code requires Commissioners to avoid ex parte communications and direct its staff to observe the same "standards of fidelity and diligence that apply to a Commissioner."[24] Consistent with the Code, if an ex parte communication occurs, it is the responsibility of Commissioners and their staff to remove themselves from that communication. PAWC is not aware of any Commission staff member who attended the NAWC-PA Annual Meeting leaving

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[23] *See*, *e.g.*, 60-Day Initial Status Report of Pennsylvania-American Water Company regarding East Dunkard Water Authority, Docket No. P-2023-3043950 (April 8, 2024) (the "60-Day Report"). PAWC also provided the Transaction Notice Pursuant to Paragraph 19 of Receivership Order, Docket P-2023-3043950 (June 7, 2024) (notifying the Commonwealth Court and the Commission of PAWC's intent to proceed with preparing and filing an application for approval to acquire the EDWA system).

[24] *Duquesne* at 2 ("Section 319(a)(3) of the Public Utility Code directs each Commissioner to '[a]void all ex parte communications prohibited in this part.'…Section 319(a)(5) of the Public Utility Code further explicitly mandates that each Commissioner 'require staff and personnel subject to his direction to observe the standards of fidelity and diligence that apply to the commissioner…' 66 Pa. C.S. § 319(a)(5).").

during the Video presentation due to ex parte concerns, further underscoring that the Video does not constitute an ex parte communication. The OCA errs in its patronizing position that Commission staff is incapable of recognizing an ex parte communication and differentiating between a public recitation of facts that are not in dispute in this proceeding from an attempt to affect the Commission's resolution of a substantive issue in this proceeding.[25] If any party is to be "admonished," it should be the OCA for wasting the Commission's time and resources addressing a frivolous motion.

III. ANSWERS TO THE AVERMENTS IN THE NUMBERED PARAGRAPHS OF THE OCA'S MOTION

1. Denied as stated. PAWC proposed Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 and Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16. The remaining averments of Paragraph 1 are admitted.

2. Admitted.

3. Denied as stated. Evidentiary hearings were convened beginning on March 7, 2024. The remaining averments of Paragraph 3 are admitted.

4. Denied as stated. The ALJs' Order on Briefs and Closing of the Record speaks for itself.

5.-9. Admitted.

10. Denied as stated. Reply Exceptions to the Recommended Decision were filed on May 22, 2024.

11. Admitted.

12. Denied as stated. Section 334(b) of the Code speaks for itself.

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[25] *See id.* at 3.

13. Denied as stated. Section 334(c) of the Code speaks for itself.

14-21. It is not necessary to specifically admit or deny averments of law.

22. Admitted in part, denied in part. The Company admits that the Video was the only video played during the NAWC-PA Annual Meeting presentations. The rest of the averments set forth in this paragraph are denied. In further answer and as explained more fully in Section II, *supra*, the Video provided a very high level description of PAWC's receivership role. Furthermore, the Video speaks for itself. Please see Appendix B and East Dunkard Water Authority Receivership: Taking Action to restore a community's water system, available at https://www.youtube.com/watch?v=NcmE6-YS2LA.

23. Denied as stated. The Company is requesting a management performance adjustment of no less than 25-basis points.[26] In further answer, the Company's willingness to act as receiver of EDWA is one of the many examples that the Company asked the Commission to consider in its evaluation of the Company's requested management performance adjustment. The fact that PAWC is receiver of the EDWA system is not in dispute. *See* Section II, *supra.*

24 Denied as stated. The cited Company testimony speaks for itself. By way of further response, as described in Section II, *supra*, PAWC witness Everette testified regarding the 4,200 residents who were without adequate service from the EDWA system and the fact that the Company began acting as receiver for EDWA.

25. Denied as stated. The Company's Main and Reply Briefs speak for themselves. By way of further response, the "compliance of the system" prior to receivership is discussed in the direct testimony of PAWC witness Everette.[27]

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[26] *See* PAWC Main Br., pp. 52-53; PAWC Reply Br., pp. 43-47.

[27] PAWC St. 1, p. 44.

26. Denied as stated. The Company's Reply Brief speaks for itself. In further answer, the Company's willingness to act as receiver of EDWA is one of the many examples that the Company asked the Commission to consider in its evaluation of the Company's requested management performance adjustment. *See* Section II, *supra.*

27. Denied as stated. The Recommended Decision speaks for itself. In further Answer, the Recommended Decision notes that "State Representative Bud Cook testified that PAWC took control of the failing [EDWA] and is providing safe drinking water to the residents and businesses in his district."[28]

28. Denied as stated. The Recommended Decision speaks for itself. In further answer, the Recommended Decision also describes the factual circumstances surrounding PAWC's appointment as receiver of EDWA.[29]

29. Denied as stated. *See* paragraph 22 above.

30. Denied as stated. As further explained in Section II, *supra*, the Video was not a presentation of "evidence" for this proceeding.

31. It is admitted that the NAWC-PA Annual Meeting was open only to those with an invitation. The Company does not have sufficient knowledge regarding any invitation received by the OCA or fee payment by the OCA.

32. Denied as stated. In further answer, over 100 individuals were present at the NAWC-PA Annual Meeting. These individuals included Commission staff, OCA staff, OSBA staff, and other members and non-members of NAWC-PA.

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[28] Recommended Decision, pp. 48 & 174; Tr. 1646-52.

[29] *Id.*, p. 174.

33. The Company does not have sufficient knowledge regarding invitations to the NAWC-PA Annual Meeting to admit or deny the averments set forth in this paragraph.

34. Admitted in part, denied in part. The Company admits to the averments in subpart a. Regarding the averments in subparts c. and d., the Company admits that the instant proceeding constitutes a contested, on-the-record proceeding where hearings have been conducted, the record has been closed, and the matter is still pending before the Commission. It is not necessary to specifically admit or deny the averments of law in subparts c. and d. PAWC specifically denies the averments in subpart b. for the reasons set forth in Section II, *supra*, which are incorporated herein by reference as if set forth at length.

35. Denied as stated. Sections 334(b) and 334(c) of the Code speak for themselves.

36. Denied. The Company denies the averments set forth in this paragraph for the reasons set forth in Section II, *supra*, which are incorporated herein by reference as if set forth at length. Further, it is not necessary to specifically admit or deny averments of law. By way of further response, as explained in Section II, *supra*, the Video is already publicly available, and on May 28, 2024, the Company formally provided the Secretary a digital copy of the Video and served a letter to the Commission on all parties that contained a YouTube link for viewing the Video.

37. It is not necessary to specifically admit or deny averments of law. In further Answer, the Company acknowledges that in certain prior proceedings where there was an alleged ex parte communication, such communications were distributed to all parties to the proceeding to remove the possibility that such communication would taint the final decision. The Company has no objection to providing the Video to all parties to the instant proceeding and on May 28, 2024, the Company formally provided the Secretary a digital copy of the Video and served a

letter to the Commission on all parties that contained a YouTube link for viewing the Video. Any party may also view the Video through the Company's website, YouTube, or any of the Company's social media accounts.

38. It is not necessary to specifically admit or deny averments of law. In further answer, the Company acknowledges that in certain prior proceedings, the Commission has admonished parties for violating the Commission's rules of practice and procedure.

39. Admitted in part; denied in part. The Commission should not consider admonishment of PAWC. The presentation of the Video was not an ex parte communication for the reasons set forth in Section II, *supra*, which are incorporated herein by reference as if set forth at length. The Company admits to the averment in subpart a. The Company denies the averments set forth in sub parts b. and c. for the reasons set forth in Section II, *supra*, which are incorporated herein by reference as if set forth at length. The Company denies subpart d. as stated. Mr. Ladner was not "obligated" to address PAWC's role as receiver of EDWA as part of his presentation, but appropriately did so as it is an issue of interest to the Commonwealth's water industry community. The Company denies subpart e. as stated and denies subpart f. for the reasons set forth in Section II, *supra*, which are incorporated herein by reference as if set forth at length.

40. Denied. In further answer, *see* paragraph 37 above.

41. Admitted.

42. Denied as stated. As further explained in Section II, *supra*, the Video was not a presentation of "evidence" for this proceeding and did not address the merits of this proceeding or any fact in issue.

43. *See* paragraph 33.

44. It is not necessary to specifically admit or deny averments of law.

45. It is not necessary to specifically admit or deny averments of law. In further Answer, the Company acknowledges that in certain prior proceedings where there was an ex parte communication, following circulation of the ex parte communication to all parties, the Commission offered in its decision that the information contained in the communication was not considered when reaching the final determination.

46. Paragraph 46 constitutes a prayer for relief and, as such, an answer is not required. Nonetheless the Company does not object to the Commission providing assurances that neither it, nor its staff, considered or relied upon the Video in making recommendations or determinations in this proceeding.

47. Denied, as the Company denies that it failed to follow the instructions set forth in the ALJs' March 11, 2024 Order. In further answer, the March 11, 20204 Order speaks for itself.

48. Denied. As further explained in Section II, *supra*, the Video was not a presentation of "evidence" for this proceeding and did not address the merits of this proceeding or any fact in issue.

49. Denied. As set forth in greater detail in Section II, *supra*, and paragraph 47, which are incorporated herein by reference as if set forth at length, the Video was not an ex parte communication, the Company did not attempt to inject extra-record evidence into this proceeding, the Video did not contain any information regarding the Company's management performance adder or any other fact at issue in, or addressing the merits of, this proceeding, and the Company's request for a management performance adjustment is not premised on the Company's specific actions as receiver of the EDWA system shown in the Video.

50. Paragraph 50 constitutes a prayer for relief and, as such, an answer is not required.

WHEREFORE, for the foregoing reasons, the OCA's Motion should be denied.

Respectfully submitted,

Elizabeth R. Triscari (PA I.D. No. 306921)
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Counsel for
Pennsylvania-American Water Company

Dated: June 18, 2024

VERIFICATION

I, Justin L. Ladner, hereby declare that I am the President of Pennsylvania-American Water Company; that I am authorized to make this verification on behalf of Pennsylvania-American Water Company; that the facts set forth in the foregoing Answer are true and correct to the best of my knowledge, information and belief; and that I make this verification subject to the penalties of 18 Pa.C.S. § 4904 pertaining to false statements to authorities.

Date: June 18, 2024

Justin L. Ladner

Justin L. Ladner

APPENDIX A

National Association of Water Companies, Pennsylvania Chapter, Annual Meeting and Luncheon Agenda

Active Member Companies

Aqua Pennsylvania
Columbia Water Company
Newtown Artesian Water Company
Pennsylvania American Water
Veolia
The York Water Company

NAWC Chapter Goals

1. Conduct research in and to keep its members informed of economic, legal and regulatory developments and trends affecting its segment of the water supply and wastewater industries.
2. Encourage communication among those interested in or active in the management of investor-owned water and wastewater companies.
3. Keep member companies informed so that they may understand each other's problems and learn how individual companies may be strengthened and their service to the public improved.
4. Bring about mutual understanding between its members and the members and staffs of the various regulatory agencies.
5. Maintain and enhance the correct image of investor-owned water and wastewater companies in the eyes of the public so that the companies will be recognized as organizations ready, able and eager to offer excellent service to their communities with economic efficiency.

NAWC
PENNSYLVANIA
National Association of Water Companies

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Annual Meeting and Luncheon

Commonwealth Keystone Building
Hearing Room 1
Harrisburg, PA
May 20, 2024

Annual Meeting and Luncheon

8:30 a.m. **REGISTRATION**
(water, coffee and juices)

9:00 a.m. **ANNUAL MEETING**

Moderator: Marc Lucca, Chairman, PA Chapter, National Association of Water Companies

Speakers (15 minutes each/5 minutes each for questions):

- Stephen DeFrank, Chairman, PA Public Utility Commission *(PUC Update)*
- Jeff Plewes, Principal, Charles River Associates *(Benefits of Private, PUC-Regulated Water Utilities in Pennsylvania)*

Speakers (30 minutes each/5 minutes each for questions):

- Patti Kay Wisniewski, Drinking Water, Preparedness and Resiliency Coordinator, US EPA Region 3 *(AWIA/Cybersecurity/CCR Revisions)*

10:25 a.m. **BREAK**
(water, coffee and juices)

- Dennis O'Connor, Water Division, Drinking Water Section, US EPA Region 3 *(Update on New Regulations – LCRR/LCRI)*
- William Richardson, Section Chief, Water Division, Drinking Water Section, US EPA Region 3 *(Update on New Limits for PFAS)*

11:45 a.m. **Executives' Panel Discussion**
Moderator: Marc Lucca

- Larry Finnicum, Vice President & General Manager, Veolia
- Justin Ladner, President, Pennsylvania American Water
- JT Hand, President & CEO, The York Water Company
- David Lewis, President & General Manager, Columbia Water Company

12:30 p.m. **LUNCHEON**

Invocation
Larry Finnicum, Vice Chairman, PA Chapter, National Association of Water Companies

LUNCH

Introduction of Guests: Marc Lucca

1:30 p.m. **ADJOURN**

NAWC - PENNSYLVANIA CHAPTER OFFICERS
Marc Lucca, Chairman
Larry Finnicum, Vice Chairman
Matthew E. Poff, Treasurer
Elizabeth Triscari, Secretary

APPENDIX B

60 Day Video Script, East Dunkard Water Authority, Pennsylvania American Water

(May 10, 2024)

FINAL 60 Day Video Script
East Dunkard Water Authority
PA American Water
May 10, 2024

Video	**Audio**
Title:	Intro music
(stock) running tap water (stock) family engaged in activity EDWA building *(Plant footage 32:05)*	Clean and reliable drinking water is an essential part of life. It is no different for the residents of Greene County, Pennsylvania, who have experienced issues over the past several years stemming from the water provided by the East Dunkard Water Authority.
Stills of newspaper headlines and DEP citation documents	The Pennsylvania Commonwealth Court appointed Pennsylvania American Water as a receiver to operate the troubled authority in February 2024 at the request of the Pennsylvania Department of Environmental Protection due to numerous issues with the operation of the system. The system's 1,600 customers had grown frustrated.
PA Senator Camera Bartolotta (Interview footage :55 -1:10)	"I heard the cries of desperation from so many people who live in this area who were dealing with boiled water advisories, for 60 days sometimes at a stretch, brown water and all of these other concerns. It was just ongoing."
Worker looking over plans (*Plant footage* 25:58) Equipment and supplies (*Plant footage* 32:46) Finished water pipe (*Plant footage* 37:59)	As the new operator of the system, Pennsylvania American Water immediately took action on significant capital and operational improvements to bring the system into compliance and reestablish the community's trust in their drinking water.
Dan talking (*Plant footage* 1:03:10) Workers (*Plant footage* 24:37) Inside plant pan (*Plant footage* 45:58) Chemical feed (*Plant footage* 52:19)	With a team of experienced employees and company-wide resources, Pennsylvania American Water has worked alongside the existing authority employees to make substantial plant upgrades and process improvements during the first 60 days of operations to enhance service, water quality and reliability for customers.

Christine Dafonzo, Secretary/Treasurer, Dunkard Township (4:25 – 4:37) (DropBox Dafonzo #1)	"Being an East Dunkard customer myself, I have noticed a world of changes. Just the quality of the water coming into my home has made a difference and a better impact on myself and my family."
Screen shots of website, direct mail piece, Facebook and stock of person on mobile phone	Residents previously complained about poor communication. Pennsylvania American Water significantly improved communication by enhancing EDWA's website and Facebook page and sending notifications through the mail, voice calls, texts, and emails.
PA Senator Camera Bartolotta (Interview footage 2:21 – 2:44)	*"I am blown away by the difference that has been made in such a short amount of time. When you bring in Pennsylvania American Water who are professionals at this, they know what they are doing, they swooped in. And actually, someone earlier, I can't remember who it was said, they're like a SWAT team. And they just came in and made a huge difference, not just in the plant, but in the lives 1,600 customers in this area.*
(suggestions)	Additional improvements at the authority's plant and throughout the distribution system are scheduled for the coming months.
(suggestions)	Pennsylvania American Water remains focused on its commitment of working diligently every day to deliver reliable and safe drinking water to the customers of East Dunkard Water Authority.
Justin Ladner (Meeting footage 9:49 – 9:56)	"What we are doing is uplifting this system to a standard this community deserves, and I'm very proud of that."
Pennsylvania American Water logo	Music

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	**DOCKET NOS.: R-2023-3043189 (Water)**
	:	**R-2023-3043190 (Wastewater)**
v.	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a true and correct copy of the **Answer of Pennsylvania-American Water Company to Motion for Relief of the Office of Consumer Advocate** on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code Section 1.54:

VIA ELECTRONIC MAIL

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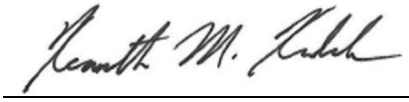

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Dated: June 18, 2024