PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Pennsylvania Public Utility Commission
Office of Consumer Advocate
Office of Small Business Advocate, *et al.*

Public Meeting held July 11, 2024
3043189-OSA

v.

Pennsylvania American Water Company

STATEMENT OF COMMISSIONER KATHRYN L. ZERFUSS

In evaluating this rate case, the Commission has a duty to ensure that the rates Pennsylvania American Water Company (PAWC or Company) proposes to charge its customers will be just and reasonable and will ensure that PAWC is able to provide adequate, efficient, safe, and reasonable service to its customers. While the law permits a public utility to recover costs that it invests in improving its infrastructure and running its operations to provide water and wastewater service,[1] the rate increase of $202.4 million that PAWC seeks in this case is untenable. I believe the Commission has struck a balance today by approving a significantly lower rate increase than PAWC requested[2] and by conditioning PAWC's rate increase on enhanced customer protections that will help make bills more affordable and a Commission investigation into the Company's water service problems.[3]

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[1] *Pennsylvania Gas and Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975); *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 692-93 (1923); *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

[2] Our decision today will result in an increase in PAWC's overall revenues of $99.3 million, or 9.99% - broken down into an increase of $88.1 million, or approximately 10.7%, for water customers, and $11.2 million, or approximately 6.4%, for wastewater customers.

[3] The Commission has broad discretion in determining whether a public utility's rates are just and reasonable and can consider rate affordability when setting rates in a rate case. 66 Pa. C.S. §§ 501(b) and 1301; *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996). The Commission also considers the adequacy of a public utility's service and can order improvements to service as a condition of a rate increase. 66 Pa. C.S. § 523; *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00005654 (Order entered November 22, 2000).

PAWC's requested increase of $202.4 million in operating revenues is not just and reasonable, particularly when PAWC's customers have raised numerous concerns with the quality of water service PAWC is providing, particularly in the City of Scranton and the greater Lackawanna County region, and the affordability of PAWC's current rates for water and wastewater. I attended both public input hearings in Scranton, and I heard the numerous complaints about PAWC's poor water service quality and dirty water. At the public input hearings in Scranton and the greater Lackawanna County region, customers voiced concerns about having to buy filtered water because their water has rust contaminants, is dirty, is cloudy, smells funny, tastes like metal, and is not fit to drink or to use for household purposes. Customers also testified about poor water pressure and hard water, resulting in the use of water softeners and secondary filtration systems. Several customers stated that they were afraid to consume the water because of the odor and appearance. A PAWC customer in Scranton testified that because her water is so expensive, she has begun "bathing once a week … [and her family] stopped flushing the toilet after urinating. We bought a dishwasher to save money. And in the summertime, we can't even fill up a little baby pool because we cannot afford the water." Tr. at 451-452.

Many customers and various government officials also testified about affordability, especially since PAWC's last rate increase became effective so recently in January 2023. State Representative Maureen Madden testified that:

> I am an American-Water customer. I've lived in my district for roughly 20 years. When I first moved, my water bill was anywhere between $68 and $73. Now, this last bill was $233. That's $100 more than my electric bill. And unfortunately, like my friend and colleague, Marty Flynn, it's not a double bill. That is my bill for one month, $233. Put that on top of a $400 to $600 electric bill in the wintertime and all the other responsibilities that my constituents have with a median income of $33,000. And quite frankly, I'd like to hear some answers, how are they going to keep the water running? I implore you to really listen to the testimony that's being given here today, because beyond the statistics, we're talking about real people who are struggling every single day to make ends meet, and their income is not growing as quickly as the rate of inflation. So, you have the power in your hands.

Tr. at 426-427.[4]

In addition to customer testimony at the public input hearings on affordability, some of the Parties in the evidentiary hearings conducted affordability analyses and provided evidence on affordability. For instance, Mr. Harry Geller, stated that income-eligible customers face excessive and unaffordable water and wastewater burdens, often exceeding twenty percent of household income, depending on household size and usage. Mr. Geller testified that PAWC's water and wastewater burden levels for income-eligible customers greatly exceed acceptable burden levels, and these high burdens leave economically vulnerable Pennsylvania families with insufficient funds to pay for housing, energy, food, medicine, childcare, and other basic needs. [5]

Based on the record in this case, I wholeheartedly support the additional customer protections and the investigation into PAWC's service in the City of Scranton and the greater Lackawanna County region that have resulted from the Commission's decision in this proceeding. For example, PAWC will expand the eligibility for its Hardship Fund and the eligibility and payment assistance levels for its H2O Bill Discount Program (BDP). The Hardship Fund eligibility will expand to include households with incomes up to 250% of the FPL (an increase from up to 200% of the FPL). The BDP eligibility will also expand to include customers up to 200% of the FPL (an increase from up to 150% of the FPL) and will increase bill discount levels.[6] The Office of Consumer Advocate and CAUSE-PA recommended these improvements to achieve a more reasonably affordable bill and to reduce water and wastewater burdens, so that households are not spending a disproportionate amount of their incomes on water and wastewater service.

Additionally, I strongly encourage PAWC to increase its annual funding for the Company's Hardship Fund by $1 million. This $1 million increase to the Hardship Fund would

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[4] Senator Marty Flynn, Representative Bridget Kosierowski, Representative James Haddock, and Representative Kyle Mullins also provided compelling testimony during the public input hearings.

[5] CAUSE-PA St. 1 at 27-28; CAUSE-PA Exh. 1.

[6] For a family of four, a monthly household income of $3,900.01-$5,200 falls between 150% to 200% of the FPL, and a monthly household income of $5,200.01-$6,500 falls between 200 to 250% of the FPL.

help PAWC's more vulnerable customers, with incomes at or below 250% of the Federal Poverty Level (FPL), to pay their water bills and keep their water service on. PAWC's donation would be in addition to the $750,000 annual amount already included in the Hardship Fund and would not be passed through as an additional charge to PAWC's customers in Pennsylvania. Because we are expanding the number of customers that will be eligible for the Hardship Fund, it makes sense for PAWC to increase the amount of funding for this program. By directing extra money to its Hardship Fund, PAWC would also be acting as a good community partner by making sure its customers are in a better position to pay their water and wastewater bills.

Moreover, in order to fully address the quality-of-service concerns PAWC customers voiced on the record in this case, the Commission will conduct an investigation into the quality-of-service PAWC is providing, with a focus on the City of Scranton and the greater Lackawanna County region. I thank all of the customers and public officials for putting the time and effort into bringing your concerns to the Commission. We take your concerns very seriously and are taking proactive steps to address the problems you testified about during the public input hearings.

While I fully support and appreciate the Commission exercising its authority in this rate case to make improvements to PAWC's quality of service and the customer protections in place for PAWC's customers, I would like to see more protections in place to shield PAWC's customers from another rate increase in the near future. This is PAWC's third case in four years. PAWC has been granted rate increases in February 2021, February 2022, and January 2023, and with this rate increase, rates will increase again in August 2024. *See* OCA St. 1 at 18. Some of the Parties addressed the frequency of PAWC's rate increase requests; however, none of the Parties proposed a rate case stay-out provision to prevent PAWC from coming in next year or for a period longer than one year. Given the frequency of PAWC's rate case filings, and the customer concerns outlined above and in the record, I implore the Company to be extremely strategic and judicious in deciding when they make their next rate filing with the Commission.

DATE: July 11, 2024

Kathryn L. Zerfuss, Commissioner