



COMMONWEALTH OF PENNSYLVANIA

July 15, 2024

E-FILED

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

Re: Application of Pennsylvania-American Water Company under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the East Dunkard Water Authority's assets, properties and rights related to its water system to Pennsylvania-American Water Company, and (2) the right of Pennsylvania-American Water Company to begin to offer or furnish water service to the public in Dunkard, and portions of Monongahela, Greene, Cumberland, Perry, and Whiteley Townships, all in Greene County, Pennsylvania / Docket No. A-2024-3049759

Dear Secretary Chiavetta:

Enclosed please find an Amended Protest and Verification, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Rebecca Lyttle

Rebecca Lyttle
Assistant Small Business Advocate
Attorney ID No. 201399

Enclosures

cc: Kevin Higgins
Parties of Record

2. Representing the OSBA in this proceeding is:

Rebecca Lyttle, Esq.
Assistant Small Business Advocate
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-0253
(717) 783-2831 (fax)
relyttle@pa.gov

3. The Pennsylvania-American Water Company's Application was filed with the Pennsylvania Public utility Commission ("PUC") on June 21, 2024 and its Amended Application that was filed with the PUC on July 2, 2024, under Section 1102(a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a), for approval of (1) the transfer, by sale, of substantially all of the East Dunkard Water Authority's ("EDWA") assets, properties and rights related to its water system to Pennsylvania American Water Company for \$5,000,000, and (2) the right of Pennsylvania- American Water Company to begin to offer or furnish water service to the public in Dunkard, and portions of Monongahela, Greene, Cumberland, Perry, and Whiteley Townships, all in Greene County, Pennsylvania. PAWC further requests, pursuant to Code Section 507, 66 Pa. C.S. § 507, the issuance of Certificates of Filing for approvals for the following agreement, as amended between PAWC and a municipal corporation: Asset Purchase Agreement By and Between the East Dunkard Water Authority as Seller, and Pennsylvania- American Water Company, as Buyer, Dated as of July 23, 2023, including the First Amendment dated as of November 3, 2023, Second Amendment dated as of January 25, 2024, and Third Amendment dated June 13, 2024.

4. EDWA is a municipal authority established on December 6, 2010, under the laws of the Commonwealth of Pennsylvania. It furnishes water service to approximately 1,593

customers. PAWC is currently the Receiver of EDWA, as authorized by the Commission by Order dated November 1, 2023 following a Joint Application by PAWC and the Pennsylvania Department of Environmental Protection (“PADEP” or the “Department”) at Docket No. P2023-3043950 (“PUC Receivership Proceeding”), and upon having been appointed as such by the Pennsylvania Commonwealth Court (“Commonwealth Court”) by Order dated February 8, 2024, Docket Nos. 557 MD 2022 and 490 ND 2023 (consolidated) (“Commonwealth Court Receivership Proceeding”).

5. Section 1102(a) of the Public Utility Code, 66 Pa. C.S. § 1102(a), permits a public utility to undertake certain actions only upon Commission approval evidenced by a certificate of public convenience. Among the activities that require Commission approval is the following:

(3) For any public utility or an affiliated interest of a public utility . . . to acquire from, or to transfer to, any person or corporation . . . by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.

66 Pa. C.S. § 1102(a)(3).

6. When a certificate of public convenience is required under Section 1102, Section 1103(a) of the Public Utility Code, 66 Pa. C.S. § 1103(a), allows the Commission to issue the certificate only upon a finding or determination that the granting of such certificate is “necessary or proper for the service, accommodation, convenience, or safety of the public.” According to the Pennsylvania Supreme Court, satisfying this standard requires the Commission to find that a proposed acquisition would “affirmatively promote the ‘service, accommodation, convenience, or safety of the public’ in some substantial way.” *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 141, 295 A.2d 825, 828 (Pa. 1972). In addition, Section 1103(a)

allows the Commission to impose upon its issuance of a certificate of public convenience “such conditions as it may deem to be just and reasonable.”

7. The Application raises issues of concern that may require the Commission to reject the proposed transaction or to approve it only after imposing conditions. Of particular concern is whether the transaction would unreasonably increase the water and wastewater rates of the EDWA, as well as provide payment protections for the small business customers of the EDWA.

8. The OSBA reserves the right to raise additional issues as they arise throughout this proceeding.

WHEREFORE, the OSBA respectfully requests that the Commission reject the Application as filed.

In the alternative, the OSBA respectfully requests that the Commission conduct a full investigation, including evidentiary hearings, into the Application.

Respectfully submitted,

/s/ Rebecca Lyttle

Rebecca Lyttle
Assistant Small Business Advocate
Attorney I.D. No. 201399

For: NazAarah Sabree
Small Business Advocate

Commonwealth of Pennsylvania
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101

Date: July 15, 2024

VERIFICATION

I, NazAarah Sabree, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 15, 2024



(Signature)

Elizabeth Rose Triscari, Esquire
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com

DATE: July 15, 2024

/s/ Rebecca Lyttle
Rebecca Lyttle
Assistant Small Business Advocate
Attorney I.D. No. 201399