BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PETITION TO RECONSIDER AND AMEND JULY 11, 2024 ORDER OF THE CITY OF SCRANTON

Filed on behalf of:

The City of Scranton

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Dated: August 6, 2024

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I. INTRODUCTION

On November 8, 2023, Pennsylvania-American Water Company (hereafter "PAWC" or "Company" or "Petitioner") filed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5 (Supplement No. 45) with the Pennsylvania Public Utility Commission ("PUC" or "the Commission") to become effective January 7, 2024. On or about December 21, 2023, the PUC ordered an investigation into the request and suspended the implementation of the rate increases until August 7, 2024. On or about January 8, 2024, the City of Scranton (hereafter "City") petitioned to intervene as an active party, and participated as an active party, to the rate cases.

On or about May 7, 2024, the Administrative Law Judges ("ALJs") issued their recommended opinion. On or about May 17, 2024, the City filed and served its exceptions to the recommendations of the ALJs in this matter challenging the burden of proof analysis provided by the ALJs.

On or about July 11, 2024, the P.U.C. issued its final Order. During the July 11, 2024 Public Meeting, following a motion of Chairman Stephen M. DeFrank, the Commission held that the Northeastern Corridor of Pennsylvania was deserving of further investigation as to the quality of service issues raised throughout the proceedings in the area. In its dispositions, the Commission, adopting Chairman DeFrank's motion, held that:

> "Based upon the cumulative number of quality-of-service concerns raised in this proceeding via hearing, comments, and complaints, we find that further investigation by this Commission is warranted. Forty percent of such comments, and thirty-eight percent of such complaints raised pertain to the Lackawanna County region. As such, an investigation is necessary to determine the cause of these service quality issues, and, to ensure the Company effectively manages these issues toward remediation. In an effort to carry out this task, we shall direct the Commission's Law Bureau, in conjunction with the Bureau of Technical Utility Services (TUS), to implement an investigation into the quality-of-service issues in PAWC's northeastern service territory. Such investigation may entail conferencing with the utility, issuing data requests, or any other action deemed

> necessary by Commission Staff to explicate these issues. The Law Bureau, in conjunction with TUS, should coordinate with the Pennsylvania Department of Environmental Protection (PADEP), as it deems necessary, and should complete the investigation within nine months of the effective date of rates in this proceeding. This investigation should culminate with the issuance of a root cause analysis report exhibiting any key findings. Further, the Bureaus' Staff may make recommendations for future actions by PAWC, including but not limited to, modification to Company practices, procedures, or its Long-Term Infrastructure Investment Plan (LTIIP). Finally, the Law Bureau, in conjunction with TUS, may refer its findings to I&E, the PADEP, or both, should it deem such action necessary."
> *July 2024 Order, p. 13.* A true and accurate copy of the *July 2024 Order* and the *Motion of Chairman DeFrank* are attached and incorporated hereto, collectively, as Exhibit A.

Commissioner Zerfuss also authored an independent statement regarding this instant case. Therein, Commissioner Zerfuss recalled her attendance at the public hearings and outlined some of the particularly troubling testimonies from Scranton and surrounding areas, including but not limited to the following:

> "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.."
> *Statement of Commissioner Zerfuss, p. 2.* A true and accurate copy of *Commissioner Zerfuss' Statement* is incorporated and attached hereto as Exhibit B.

Notably, Vice Chair Barrow cast a dissenting vote on the overall rate increase, requesting "that PAWC seriously consider the balance between [Section 1329] acquisitions and rate case filings as well as customer rates and affordability." The Vice Chair also acknowledged the frequency of PAWC's rate cases despite the arsenal of rate recovery tools, such as the

Distribution System Improvement Charge, currently being utilized by the company. *Please see:* *https://www.puc.pa.gov/press-release/2024/puc-dramatically-cuts-rate-changes-for-pennsylvania-american-water-launches-investigation-into-service-quality-issues* Specifically, Vice Chairman Barrow stated that "[t]he record developed in this proceeding is signaling that this top-notch operator may have taken its eye off the goal of making sure that it delivers reasonable service to all parts of its service territory. I have to wonder if the company is so busy growing its rate base (through acquisitions) that it has shirked its obligations to deliver that best-in-class service to all parts of the system, such as the City of Scranton, Dunmore, Carbondale. I hope that's not the case, but time will tell[1]."

II. LEGAL STANDARD

The Public Utility Code establishes a party's right to seek relief following the issuance of a decision pursuant to *66 Pa. Stat. and Cons. Stat. Ann. § 703*, which states that:

> "**(g) Rescission and amendment of orders.--**The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders." *66 Pa. Stat. and Cons. Stat. Ann. § 703*.

Such requests for relief must be consistent with Section 5.572 of the Commission's regulations and/or Section 703(g) of the Public Utility Code. It is well settled that petitions made pursuant to Section 703(g) may properly raise any matters designed to convince the Commission

[1] PAWC has filed a Petition for Approval of Lead Service Line Replacement Program, Related Tariff Changes, and Modification of Long-Term Infrastructure Improvement Plan since the July 11, 2024 Commission Meeting. In its July 22, 2024 filing, PAWC outlines the areas requiring lead abatement, which includes a significant number of properties in the Northeastern Pennsylvania Service Area.

that it should exercise its discretion under the Public Utility Code to rescind or amend a prior order in whole or in part.5 The standard for granting a petition for reconsideration, modification or clarification were set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553 (1982). What the Commission expects in petitions for reconsideration are new and novel arguments not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. *Id.* Additionally, a Petition for Reconsideration, or Amendment, is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances. *Id*. "However, there is no requirement that the petitioner allege there is new evidence for the PUC to consider a petition for rescission or amendment." *W. Penn Power Co. v. Pennsylvania Pub. Util. Comm'n*, 659 A.2d 1055, 1065 (Pa. Commw. Ct. 1995).

III. **REQUEST FOR RECONSIDERATION AND AMENDMENT**

1. The City of Scranton respectfully requests that this Honorable Commission, in light of its motion to order an investigation and observations supporting the same, reconsider and/or amend its July 11, 2024 Order to continue to stay the rate increases so ordered by the Commission in the Northeast Pennsylvania Service Region, and particularly in Scranton, Pennsylvania, unless and until the investigation is complete.
2. While the City appreciates the investigative inquiry into the serious quality issues raised during the hearings and throughout this case, in light of the request for the same, the City respectfully requests that the PUC amend its order to refrain from the City's residents being responsible for rate increases to their bills while the

investigation is ongoing.

3. " The commission may, in any proceeding involving the rates of a public utility brought either upon its own motion or upon complaint, after reasonable notice and hearing, ... fix, determine, and prescribe temporary rates...." *S. Pittsburgh Water Co. v. Pennsylvania Pub. Util. Comm'n*, 4 Pa. D. & C.2d 495, 507 (Pa. Com. Pl. 1956).
4. Thus, the Commission is permitted to amend the July 11, 2024 Order, as requested, pursuant to *66 Pa. Stat. and Cons. Stat. Ann. § 1504*.
5. "Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and **safety** of its patrons, employees and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such services shall be in conformity with the regulations and orders of the commission." *Rohrbaugh v. Pennsylvania Pub. Util. Comm'n*, 556 Pa. 199, 205–06, 727 A.2d 1080, 1084 (1999),**emphasis added**.
6. On or about July 11, 2024, Commissioner Zerfuss reminded parties involved in this instant proceeding that the Commission was not presented with a request to stay any further rate increases in light of the frequency with which PAWC has requested rate increases in recent years.
7. Commissioner Zerfuss' remarks regarding a stay have thus inspired this instant petition, as the City of Scranton, upon the final ruling and remarks of the Commission, believes it to be in the City's best interests of her residents to refrain

from paying an increased water and wastewater bill while PAWC is ordered to engage in an investigation into water quality that my or may not involve the Department of Environmental Protection.

8. It is further believed and therefore averred that, since the closing of the record on this case, PAWC has entered into a Consent Order and Agreement with the Department of Environmental Protection to address sediment release that affected the waterways throughout the City of Scranton and her neighbors this past Spring.
9. In light of the volume of complaints from residents regarding the poor water quality in the City and its surrounding region, and in light of the opportunity to stay rate increases as suggested by Commissioner Zerfuss, the City respectfully requests reconsideration and amendment of the *July 11, 2024 Order* to prevent City of Scranton residents and taxpayers from paying an increased rate during the investigation into water quality.

IV. CONCLUSION

WHEREFORE, based on the foregoing, the City of Scranton respectfully requests that the Commission grant this Petition for Reconsideration and Amendment and:

1. Stay the rate increase for the City of Scranton and her neighbors pending the investigation into water quality ordered by the Commission on or about July 11, 2024;
2. Hold the rate increase in abeyance unless and until the investigation concludes and there are findings published for the City of Scranton and for her neighbors demonstrating that the quality-of-service issues are not violative of Pennsylvania Clean Streams Law (P.L

1987, Act 394 of 1937, as amended (35 P.S. §§ 691.1 et seq.)), the federal Clean Water Act (33 U.S.C. §1251 et seq. (1972)), and/or other state and federal laws governing safe drinking water, without imposing an order entitling the PAWC to backpay thereafter; and

3. Should the investigation so ordered find that there are quality-of-service issues violative of Pennsylvania Clean Streams Law (P.L 1987, Act 394 of 1937, as amended (35 P.S. §§ 691.1 et seq.)), the federal Clean Water Act (33 U.S.C. §1251 et seq. (1972)), and/or other state and federal laws governing safe drinking water, schedule a rehearing on this instant case for the northeast service region for redetermination; and
4. Grant any other relief in favor of the Company as may be just and proper under the circumstances.

Respectfully submitted,

CITY OF SCRANTON
LAW DEPARTMENT

Date: August 6, 2024

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EXHIBIT A

Please find a copy of this Honorable Commission's July 11, 2024 Order by and through this link:

https://www.puc.pa.gov/pcdocs/1838564.pdf

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120

Pennsylvania Public Utility Commission	**Public Meeting of July 11, 2024**
Office of Consumer Advocate	**3043189-OSA**
Office of Small Business Advocate, *et al.*	**Docket Nos. R-2023-3043189, *et al.***

v.

Pennsylvania American Water Company

MOTION OF CHAIRMAN STEPHEN M. DeFRANK

Before the Commission are the Exceptions filed to the Recommended Decision in the general rate increase proceedings filed by Pennsylvania American Water Company (PAWC or Company). PAWC proposed base rate changes that would increase its total operating revenues by $202.4 million, or approximately 20.0% – broken down into an increase of $198.9 million, or 24.1%, for water customers and $3.5 million, or 1.9%, for wastewater customers.

The Commission took extensive public input throughout the course of this rate case proceeding and hosted the following public input hearings:

- January 29, 2024 – two in-person hearings in Port Vue;
- January 30, 2024 – two in-person hearings in Scranton;
- January 31, 2024 – two in-person hearings in Exeter Township;
- February 5, 2024 – two telephonic hearings;
- February 6, 2024 – two in-person hearings in Harrisburg; and
- February 7, 2024 – two telephonic hearings.

A total of 217 customers provided public input testimony: 32 in Port Vue, 52 in Scranton, 58 in Exeter, 10 in Harrisburg and 65 by telephone. The Recommended Decision tallied the content of these customers' comments into four categories: affordability, quality of service, PAWC supportive, and other. The results are exhibited as Appendix A to this motion.

Quality of Service

I wish to focus on the quality of service from the Company, particularly in the northeastern Pennsylvania region of PAWC's service territory encompassing the City of Scranton and the greater Lackawanna County region. Reviewing the transcripts of the various public-input hearings uncovers a trend of customers claiming negative quality of service experiences mainly due to a lack of water quality. Examples include:

Scranton Hearings – January 30th

- Senator Marty Flynn testified about dirty water issues. Tr. at 400.
- Scranton City Councilmember Jessica Rothchild testified that PAWC is providing dirty water to customers. Tr. at 645-646.
- Scranton School Board Director Sean McAndrew testified that several times throughout the summer he had dirty water or no water at all. Tr. at 670.
- Several PAWC customers complained of having to buy filtered water because their water has rust contaminants, is cloudy, smells funny, tastes like metal, and is not good to drink nor use. Tr. at 539, 554-555.
- Several PAWC customers in Scranton claimed their water is dirty, lacking quality, is unpalatable, and smells of excessive chlorine. They noted they were afraid to consume it because of the odor and appearance. Tr. at 677, 726.

Telephonic Hearings

- Customers claimed poor water quality, averred there were dirt particles in the water, a chlorine odor, and hardness causing harm to appliances. Tr. at 1170, 1270.
- Customers contended poor water quality with a chlorine odor and mineral deposits found in toilet water tanks. Tr. at 1701, 1712.
- Customers claimed there was strong chlorine odor and taste. Tr. at 1847.

Further, a review of the various comments and complaints filed in this case exhibit a trend in customer concerns for the quality of service provided in PAWC's northeastern territory. Over thirty complaints and over fifty comments were filed asserting negative quality of service. A summary of these comments and complaints is attached to this motion as Appendix B. Examples of these comments and complaints include the following.

Comments

- Susan Brace from Dunmore stated her water is yellow, has an overwhelming chlorine smell, and therefore she installed a whole-home water filter.
- Sheila Eboli from Dunmore asserted the company had multiple water main breaks, her water is often brown, it smells like chlorine, is not drinkable, and she filters water for her pets.
- Marian Reidenback from Scranton submits her water is dirty and that she has to buy water to drink.

Complaints

- Michelle R. Miller from Carbondale stated that she needs filters to drink water and that old pipes are not replaced until there is an issue.
- Gary Shiner of Scranton asserts that he needs to buy bottled water to drink, his water is rusty, and that he is unable to do his laundry or dishes.
- Frank Sislo of Scranton submits that his water smells like iodine. He states he purchases his drinking water and filters the tap water.

I believe the cumulative number of quality-of-service concerns raised in this proceeding; via hearing, comments, and complaints, warrants further investigation by this Commission. Forty percent of such comments, and thirty-eight percent of such complaints raised pertain to the Lackawanna County region. As such, an investigation is necessary to determine the cause of these service quality issues, and, to ensure the Company effectively manages these issues toward remediation. In effort to carry out this task, I propose to direct the Commission's Law Bureau, in conjunction with the Bureau of Technical Utility Services, to implement an investigation into the quality-of-service issues in PAWC's northeastern service territory. Such investigation may entail conferencing with the utility, issuing data requests, or any other action deemed necessary by Bureau Staff to explicate these issues. The Law Bureau, in conjunction with the Bureau of Technical Utility Services, should coordinate with the Department of Environmental Protection as it deems necessary and complete the investigation within nine months of the start of new rates under this proceeding.

This investigation should culminate with the issuance of a root cause analysis report exhibiting any key findings. Further, the Bureaus' Staff may make recommendations for future actions by PAWC, including but not limited to, modification to Company practices, procedures, or its Long-Term Infrastructure

Improvement Plan. Finally, the Law Bureau, in conjunction with Bureau of Technical Utility Services, may refer its findings to the Commission's Bureau of Investigation and Enforcement, the Department of Environmental Protection, or both, should it deem such action necessary.

Management Performance Adder

I also find it prudent in this motion to discuss and evaluate the ten-basis point adder awarded to the Company's return-on-equity (ROE) in the Recommended Decision. PAWC sought an increase to its ROE to reflect its business risks and management performance. The Company claims it has presented evidence demonstrating its performance in a variety of critical areas related to providing safe and reliable service, including but not limited to water quality, operational efficiency, and infrastructure investments. It is well settled that the Commission may provide ROE adders for company and management performance. However, in light of the substantial negative input from the public regarding PAWC's quality-of-service, I find it inappropriate to award an adder to the Company's ROE in this case. I find awarding such an adder would conflict with precedent for granting such ROE adders, wherein utilities may be awarded when a case clearly shows extraordinary service worthy of recognition and reward.[1] While PAWC has exhibited evidence to substantiate a rate increase in this matter, the record evidence along with the public input do not exhibit service quality and effectiveness to a level warranting an ROE basis point adder.

Hardship Fund

I also wish to address the issue of affordable access to service for income-eligible customers. In the proceeding, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) witness, Mr. Harry Geller, states that income-eligible customers face burdens affording water and wastewater service. Mr. Geller testified that PAWC's water and wastewater burden levels for income-eligible customers leave economically vulnerable Pennsylvania families with insufficient funds to pay for housing, energy, food, medicine, childcare, and other basic needs.[2] Noting these concerns, CAUSE-PA recommends increasing annual funding for the Company's Hardship Fund by $1 million.

While this proceeding does make enhancements to PAWC's programs for income eligible customers, I do find it appropriate to strongly encourage the Company to set a target donation of an additional $1 million into its Hardship Fund. This voluntary payment would be in addition to the Company's annual Hardship

[1] See 66 Pa.C.S. § 523. Also see R-2021-3027385 Opinion and Order entered May 16, 2022 in the Aqua Pennsylvania Inc rate case decision at page 380.
[2] CAUSE-PA St. 1 at 27-28; CAUSE-PA Exh. 1.

Fund contribution of $750,000. These additional dollars, if donated, will serve to make water and wastewater service more affordable for income-eligible customers in most need of assistance.

Low-Income Customer Outreach, Screening, and Intake

The increased Hardship funding proposed above necessitates further consideration of the PAWC's low-income customer outreach, screening, and intake. Both the Office of Consumer Advocate (OCA) and CAUSE-PA contend that the outreach for the Company's Bill Discount Program (BDP) and Arrearage Management Plan (AMP) programs is lacking. As of November 2023, twenty five percent of PAWC's estimated low-income customers and 40% of its confirmed low-income customers were enrolled in BDP.[3] Such statistics highlight that additional outreach efforts are appropriate.

Accordingly, I agree with a number of the recommendations made by OCA and CAUSE-PA to address low-income customer outreach.[4] First, I believe PAWC should develop call scripting and checklists for its Customer Service Representatives to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including BDP and the Hardship Fund, before placing customers on a payment arrangement. Second, PAWC should make personal contact with any confirmed low-income customer facing termination of service for nonpayment and these customers should be informed of and given the opportunity to enroll in the BDP and the AMP as an alternative to disconnection. Finally, moving forward, customers enrolled in the BDP should also be informed of the AMP and enrolled in it as well if they are eligible and so choose.

Conclusion

In conclusion, I submit that the modifications proposed above, coupled with the numerous other adjustments and determinations detailed in our Opinion and Order, provide an end result in this proceeding that is just and reasonable. These adjustments include, but are not limited to, the removal of a number of pending acquisitions from rate base as well as expanding customer benefits and access to the Company's various assistance programs. In summary, such determinations would 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.

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[3] CAUSE-PA M.B. at 63 (citing CAUSE-PA St. 1 at 54).
[4] See OCA Exception 21 and CAUSE-PA Exception 3.

THEREFORE, I MOVE THAT:

1. The Commission's Law Bureau, in conjunction with the Bureau of Technical Utility Services, implement an investigation into the quality-of-service issues in Pennsylvania American Water Company's northeastern service territory, culminating in the issuance of a root cause analysis report exhibiting any key findings, within nine (9) months after the effective date of rates resulting from this rate proceeding, *i.e.*, by no later than May 7, 2025.

2. That the Law Bureau, in conjunction with the Bureau of Technical Utility Services, may refer the findings of the investigation described in the previous paragraph to the Commission's Bureau of Investigation and Enforcement, the Department of Environmental Protection, or both, should it deem such action necessary.

3. That Pennsylvania American Water Company should strive to set a target donation of $1 million into its Hardship Fund.

4. The Office of Special Assistants draft an Opinion and Order consistent with this motion.

July 11, 2024
Date

Stephen M. DeFrank
Chairman

Appendix A – Public Input Hearing Summary

Location (Date/Time)	Affordability	Quality of Service	PAWC supportive	Other
Port Vue (1/29/24 1pm)	10	3	7	1
Port Vue (1/29/24 6pm)	12	2	0	7
Scranton (1/30/24 1pm)	23	11	6	11
Scranton (1/30/24 6pm)	22	16	0	12
Exeter (1/31/24 1pm)	31	18	1	22
Exeter (1/31/24 6pm)	17	6	1	10
Telephonic (2/5/24 1pm)	9	3	13	4
Telephonic (2/5/24 6pm)	4	0	2	2
Harrisburg (2/6/24 1pm)	1	2	4	1
Harrisburg (2/6/24 1pm)	1	0	3	1
Telephonic (2/7/24 1pm)	6	3	11	3
Telephonic (2/7/24 6pm)	9	3	5	7
TOTAL	**145**	**67**	**53**	**81**

Appendix B – Comments and Complaints Regarding Quality of Service

Quality of Service Comments		
Customer Name	Town	Notes
Diane McLaughlin	Mechanicsburg	Water bubbly with soap suds in it
Arthur Lucarelli	Old Forge	Water occasionally dirty, cloudy
Anthony Rashes	Moscow	Cloudy water; air in lines; excessive chlorine. Leak in line closer to home.
Nadine Ghosn	Dunmore	Water is discolored, yellow on occasion.
Jeff Verasesky	Scranton	Water stains everything
Teresa and Eldon Parks	Morrisdale	Poor water pressure
William Robison	Camp Hill	Had to install a whole house filter to make water drinkable and not hard on plumbing
Sheila Ebott	Dunmore	Subjected to multiple water breaks; water often brownish; water smells like chlorine and is not drinkable; filters water for her pets
Johanna F. Salazar and Jorge H. Salazar	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/brown; stains appliances and clothing; chlorine taste and smell
Joanne Schneider	Scranton	discolored water numerous times out of the year
Lucinda Clahr	Annville	Water is whitish and cloudy; feels that it is not safe to drink due to chemicals
Natalya Krapman	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/brown; stains appliances and clothing; chlorine taste and smell
David and Mary Lazarony	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/brown; stains appliances and clothing; chlorine taste and smell
Mark Johansen	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/brown; stains appliances and clothing; chlorine taste and smell
Raymond Volsario	East Stroudsburg, PA	Quality of water is subpar; water color is yellow/brown; stains appliances and clothing; chlorine taste and smell
Loreta and Thomas Kaczmarek	Grindstone	Water smells like chlorine; customer buys bottled water
Marian Reiderbach	Scranton	Dirty, unclean water; has to buy water to drink
Albert Collins	Dunmore	Water quality is subpar; has to buy water to drink
Louise Kunschke	Scranton	Water is cloudy and dirty
Dominic Farino	Scranton	Water is dirty; reliability issues
Andrea Sabia	Scranton	Discolored water after pipe replacement; pipes break every winter; has to go without water or with cloudy/dirty water for hours
Kelly Way	Clarks Summit	Deals with water main breaks every few months. Water is dirty and laundry needs to be re-washed.
Walter Garner	Hackensport	Water smells like chlorine and other odors. Purchases water to drink.
Lynn Dorozy	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Nancy A. Edmunds	Archbald, PA	Water is undrinkable; contains sediment
John Orbin	Dickson City	Water tastes poor and ruins the taste of food if food is boiled in the water
Ronald Pankiska	Washington, PA	Bad water quality; undrinkable; has to use filters
Joanne Galeno	Morrison	2-day water outage resulted in a factory repair that caused a leak in her utility closet
Andrew K. Lake	Coatesville	Water has a foul odor; stains bad.
Nita Sabin	Coatesville	Water smells like chlorine; uses water filter
Mariam Mahmoud	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Erin Maloney	Scranton	Experiences brown water 1 to 2 times per month. Significant increase in undrinkable/unusable water despite increased pricing
Jennifer Dougherty	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Jessica Pohl	East Stroudsburg	Lines are frequently flushed producing a brown sediment and residue; Water is high in iron and copper leaving rust and lime colored stains. Filtered water still tastes like chlorine
Elizabeth and Sergio Ferro	East Stroudsburg	Lines are frequently flushed producing a brown sediment and residue; Water is high in iron and copper leaving rust and lime colored stains. Filtered water still tastes like chlorine
Melissa Cornell Fox	Scranton	Has dirty water
Daniel Tedesco	Shiremanstown	There are days when the water is cloudy and has a slight odor
Guillaume Durand	East Stroudsburg	Water is subpar; yellow/brown stains on appliances and clothing; water smells and tastes like chlorine
Carl Barbisione	McDonald	He alert that customer was under a boil water advisory after a water main break occurred
James DeFrancesco Jr.	Pittsburgh	Water is undrinkable; brown color
Robert and Emily Ott	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Marylo Bonadonna	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Shanna McDonald-Campbell	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Michael Grier	Douglassville	Bad water quality
Scott Repella	Carbondale	Water has a mildew, rotten egg smell on a daily basis
Anthony Pennino	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Susan Brace	Dunmore	Water is yellow and has an overwhelming chlorine smell. Installed a whole-home water filter
Neil Bossart	McDonald	Does not have access to safe, clean, and reliable drinking water
James Faye	Hanscom	Water has a strong chlorine taste. Needed to install a whole home filtration system. Has a buildup of solid sludge like substance that forms in the screens in the faucets and toilets.
Jessica Diaz	East Stroudsburg	Water is yellow and brown and stains clothing and appliances
Debra Borosky	Dallas	Corrosion ruined faucets and tiles in bathrooms; water has strong chlorine smell and is not drinkable
Anthony Bullardi	Roaring Brook	Water flows grey from the tap; dark brownish sludge builds up and almost blocks the faucet. Water is not drinkable.

Quality of Service Complaints		
Customer Name	Town	Notes
Michelle R. Miller	Carbondale, PA	Needs filter to drink water; old pipes not replaced until there is an issue
Raymond Volsario	East Stroudsburg, PA	Unclean water; has to change filter every 3 weeks
Nicole Gump	Reading, PA	Water is "very hard" and tastes "awful"
Susan Gilday	Scranton	Water is discolored; dirty
Gary Shiner	Scranton	Needs to buy bottled water to drink; water is rusty and sometimes is unable to do laundry or dishes
Gene and Patricia Nalaspina	Coatesville, PA	Water tastes like chlorine
Paul Walaski	Forest City	Water smells, is discolored and has residue
Mary Ann Maro	Scranton	Pipes are dirty; has purchased water when there is a water main break and no water available
Roberta Brentano	Scranton	Has experienced no water due to broken lines
Tara and Tom Schuster	Scranton	Water line in front yard has been shut off and on, resulting in a subsidence; company not responsive to complaint
Deborah and Robert M. Hay	Scranton	Dirty water notifications
LeRoy James Waters III	West Norriton	Company "does nothing to protect the watersheds from pollution of stormwater"; previous stormwater flooding complaints remain unfixed
James McDermott	Scranton	Poor service; dirty water
Gerald Fabricatore	Scranton	Overpriced for quality of service received
Julie Janosy	Scranton	Strong chlorine smell; afraid to drink water unfiltered
Gary Graziano	Scranton	Water smells like chemicals
Frank Sirlo	Scranton	Water smells like iodine. Purchases drinking water and filters tap water
Janice Reynolds	Reading, PA	Water is yellow or brown
Michael and Mary Weishner	Washington, PA	Dirt in water; had to replace filters multiple times
Paula Krammes	Reading, PA	Water not safe to drink without being filtered
Miranda Connors	Pittsburgh, PA	Lack of support or service; company does not "fix any type of water lines"
Nelson Hoeller	Reading, PA	Lack of improvement or extension in water or sewer services
Randy McDaniels	West Mifflin, PA	Water is dirty and smells; needs to purchase a filter to drink it. Water leaks have lasted for many months before addressed.
Vicki DiArchangelo	Reading, PA	Water is distasteful; needs to purchase water from store. Has a whole house water softener and filter but this still does not help
Robert Boni	Reading, PA	Low water quality; must filter drinking water
James Metzer	West Mifflin, PA	Water lines ruptured and unfixed for months; water smells like chlorine; had to purchase water filter
Andrea Devlin	Reading, PA	Water quality hard; needed to purchase a water softener
Gerald R. Fabricatore	Scranton	Bad quality of service; details not provided
Robert Barry	Scranton	Claims that "water quality is terrible"
Keith Sauer	Reading, PA	Bad water quality; uses bottled water for unboiled consumables
Jim Davidson	Reading, PA	Unjustified rate increases compared to the poor water quality
Lynn Mugno	Reading, PA	Bad water flavor and smell; added an "expensive treatment just to shower and do laundry"
Anh Duong	Reading, PA	Water quality is "hard" and "borderline undrinkable"
Laura Semel	Pittsburg, PA	Long sewer line replacement times; brown and white water in pipes; had to run the water to clear sediment "due to their constant interruption of service (without notification)"
Robert Bilano	Archbald, PA	Low water pressure
Debora A. Sokol	Reading, PA	Bad water quality; water has "oily film to it"

EXHIBIT B

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