



Teresa K. Harrold
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VIA eFiling

September 12, 2024

Rosemary Chiavetta, Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

In re: Pennsylvania-American Water Company, Township of Towamencin and Towamencin Municipal Authority – Mutual Release and Termination Agreement dated September 12, 2024

Docket No: U-2024-_____

Dear Secretary Chiavetta:

Enclosed, for filing with the Commission is a Mutual Release and Termination Agreement executed by Pennsylvania-American Water Company, the Township of Towamencin and Towamencin Municipal Authority (“Agreement”). This filing is being made under Section 507 of the Public Utility Code for contracts between public utilities and municipalities.

As a courtesy, this Agreement is being served on the parties at Docket No. A-2023-3039900, et al., because this Agreement terminates the underlying transaction of that proceeding.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa K. Harrold".

Teresa K. Harrold

Enclosures

cc: Certificate of Service

MUTUAL RELEASE AND TERMINATION AGREEMENT

THIS MUTUAL RELEASE AND TERMINATION AGREEMENT (this “**Agreement**”) is made and entered into as of September 16, 2024, by and among Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law (the “**Township**”), Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the “**Authority**”), and Pennsylvania-American Water Company (“**PAWC**”). For purposes of this Agreement, PAWC, the Township and the Authority shall be referred to collectively as the “**Parties**” and, individually, as a “**Party**.”

BACKGROUND

WHEREAS, the Authority and the Township owned and operated a wastewater collection and treatment system (the “**System**”);

WHEREAS, the Township and the Authority negotiated and entered into that certain Asset Purchase Agreement with NextEra Water Pennsylvania, LLC (formerly known as NextEra Towamencin Wastewater, LLC), a Delaware limited liability company (“**NextEra**”), dated as of June 14, 2022, as amended by that certain First Amendment (collectively the “**Asset Purchase Agreement**”), pursuant to which the Township would convey the System to NextEra and NextEra would begin providing wastewater service in the territory served by the System;

WHEREAS, the Township, the Authority, NextEra and PAWC negotiated and entered into an Assignment and Assumption of the Asset Purchase Agreement (the “**Assignment**”), by which the rights and obligations of NextEra pursuant to the Asset Purchase Agreement, as amended, were assigned to and assumed by PAWC (the “**Proposed Transaction**”);

WHEREAS, the Parties worked together to prepare an application, which was filed with the Pennsylvania Public Utility Commission (the “**PA PUC**”) on May 15, 2023, seeking all required approvals for the Proposed Transaction (the “**Application**”), in which each Party expects to participate as an applicant or intervenor;

WHEREAS, the Parties now desire to mutually terminate the Asset Purchase Agreement and Proposed Transaction (the “**Termination**”) due to unforeseen changes in the regulatory approval process and memorialize such termination in this Agreement.

NOW, THEREFORE, for good and valuable consideration and the consideration of the premises and the mutual promises contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Definitions. Capitalized terms used in this Agreement but otherwise not defined in this Agreement shall have the meanings ascribed to such terms in the Asset Purchase Agreement.
2. Termination the Asset Purchase Agreement. In accordance with Section 14.01(a) of the Asset Purchase Agreement, the Parties hereby mutually consent to and do hereby terminate, effective as of Effective Date, the Asset Purchase Agreement. The Asset Purchase Agreement was not terminated because of any willful breach of the Asset Purchase Agreement. Therefore, in accordance with Section 14.01 of the Asset Purchase Agreement, the Parties are released from all obligations and liabilities under the Asset Purchase Agreement. The Parties hereby acknowledge that

the Asset Purchase Agreement shall no longer have any force or effect and all rights and obligations of the Parties thereunder are terminated as of the Effective Date as defined in Paragraph 3 herein. All post-termination rights and obligations under the Asset Purchase Agreement are also terminated as of the Effective Date, without regard to the provisions of the Asset Purchase Agreement. Each Party shall promptly execute, acknowledge and deliver, at the reasonable request of another Party, such additional documents, instruments, conveyances and assurances and take such further actions as such other Party may reasonably request to carry out the provisions of this Agreement and to give effect to the transactions contemplated by this Agreement.

3. Conditions to Termination. The Parties acknowledge and hereby agree that this Agreement, including the Termination hereunder, is expressly conditioned upon the Parties receipt of a certificate of filing or approval from the PA PUC pursuant to Pennsylvania Public Utility Code, 66 Pa. C.S. § 507, and the grant of leave by the PA PUC for withdrawal of the Application (the “**Approval**” and the date on which the Parties receive the Approval, the “**Effective Date**”). The Parties shall cooperate as reasonably necessary to obtain the Approval in a timely manner, including, but not limited to the prompt execution, acknowledgment and delivery, at the reasonable request of another Party, such additional documents, instruments, conveyances and assurances as may be required or, in the sole discretion of PAWC, beneficial to the Parties’ prompt receipt of the Approval.

4. Release. Each Party (on behalf of itself and its Affiliates and any of its and their respective equityholders, officers, directors, managers, employees, representatives and agents and all of the successors and assigns of the foregoing) (collectively, the “**Releasing Parties**”) hereby unconditionally and irrevocably acquits, discharges and forever releases, effective as of the Effective Date, the other Parties and their respective Affiliates and any of its and their respective equityholders, officers, directors, managers, employees, representatives and agents and all of the successors and assigns of the foregoing (collectively, the “**Released Parties**”) from any and all actions, claims, potential claims, demands, debts, costs, expenses, liabilities and causes of action of every nature and description whatsoever, that are in any way due to, related to or arising from the Asset Purchase Agreement, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated and whether due or to become due, regardless of when asserted, or arising under any Law, contract, arrangement, commitment or undertaking, such Releasing Party has (or may have had or may in the future have) against the Released Parties arising out of or otherwise in connection with the Asset Purchase Agreement or any actions or omissions related thereto.

5. Representations and Warranties. Each party hereto represents and warrants to the other parties as follows:

(a) Such party has not assigned, transferred, conveyed, pledged or encumbered any of its rights or delegated any of its obligations under any of the Asset Purchase Agreement to any person or entity which is not a party to this Agreement.

(b) To the extent such party is an entity, the making and performance of this Agreement has been duly authorized by all requisite action and will not violate or conflict with its charter or other governing documents or with any statute, order, governmental rule or regulation, or agreement, instrument or other document by which it or its properties are bound.

(c) This Agreement constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, subject to bankruptcy, insolvency,

fraudulent conveyance or other similar laws or equitable principles affecting generally the enforcement of creditors' rights.

(d) Such party has consulted with counsel of its own choosing prior to entering into this Agreement, and has entered into this Agreement freely and voluntarily, and without fraud, duress or undue influence.

6. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania without reference to the conflicts of laws principles of such state. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement.

(b) Successors and Assigns. None of the Parties to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Parties, and any purported assignment or purported delegation without prior written consent is void. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

(c) Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

(d) Amendments; Waivers. This Agreement may only be amended, changed or supplemented by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.


(e) Severability. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, such determination shall not affect the remaining provisions of this Agreement, all of which shall remain in full force and effect and shall be enforceable without regard thereto.

(f) Gender, Etc. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

(g) Execution in Counterparts. This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to each Party. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Parties by electronic mail or facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such electronic mail or facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the date first above written.

**TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY**

By: 
Name: H. Charles Wilson, III
Title: Chairman

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____
Name:
Title:

**PENNSYLVANIA-AMERICAN WATER
COMPANY**


By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the date first above written.

**TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY**

By: _____
Name:
Title:

TOWAMENCIN MUNICIPAL AUTHORITY

By: 
Name: JEFFREY A. SCHOPP
Title: CHAIRMAN

**PENNSYLVANIA-AMERICAN WATER
COMPANY**

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the date first above written.

**TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY**

By: _____

Name:

Title:

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____

Name:

Title:

**PENNSYLVANIA-AMERICAN WATER
COMPANY**

By: Justin L. Ladner

Name: Justin L. Ladner

Title: President

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Pennsylvania-American Water :
Company, Township of Towamencin and : Docket No. U-2024-_____ :
Towamencin Municipal Authority – Mutual :
Release and Termination Agreement :

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing Mutual Release and Termination Agreement, upon the parties, listed below in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

SERVICE BY E-MAIL ONLY

Carrie B. Wright
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
carwright@pa.gov
(VIA electronic mail)

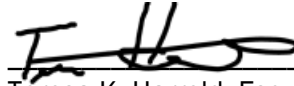
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Dated: September 12, 2024



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