

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Pennsylvania-American Water :
Company under Sections 1102(a) and 1329 of the :
Pennsylvania Public Utility Code, 66 Pa C.S. §§ 1102(a) :
and 1329, for approval of (1) the transfer, by :
sale, to Pennsylvania-American Water Company, of :
substantially all of the assets, properties and rights related :
to the wastewater treatment plant and collection system : Docket No. A-2023-3038717, *et al.*
owned and operated by the Elizabeth Borough Municipal :
Authority, and (2) the rights of Pennsylvania-American :
Water Company to begin to offer or furnish wastewater :
service to the public in the Borough of Elizabeth, and :
portions of the Borough of Lincoln and the Townships of :
Elizabeth and Forward, in Allegheny County, :
Pennsylvania :

**DIRECT TESTIMONY OF
MARCUS KOHL, ON BEHALF OF
PENNSYLVANIA-AMERICAN WATER COMPANY**

Date: September 27, 2024

PAWC Statement No. 1

**DIRECT TESTIMONY OF
MARCUS KOHL**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.**

2 **A.** My name is Marcus Kohl, and my business address is 852 Wesley Drive, Mechanicsburg,
3 PA 17055.

4

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 **A.** I am employed by Pennsylvania-American Water Company (“PAWC” or the “Company”)
7 as Director of Business Development.

8

9 **Q. WHAT ARE YOUR RESPONSIBILITIES AS DIRECTOR OF BUSINESS**
10 **DEVELOPMENT?**

11 **A.** I develop and maintain necessary contacts to stay abreast of new business opportunities.
12 I manage the acquisition from initial contact, responding to Requests for Qualifications,
13 Requests for Proposals, Requests for Bids, preparation of the Application for submission
14 to the Pennsylvania Public Utility Commission (“Commission”) and manage the
15 workflows required to close the acquisition. These responsibilities necessitate that I
16 maintain a working knowledge of regulatory and technical developments, recent
17 technologies and current trends as they affect water and wastewater utility industries, and
18 that I be familiar with legislation, regulations and public policy affecting business
19 opportunities.

1 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL EDUCATION AND EXPERIENCE.**

2 **A.** I received my Bachelor of Science in Speech Communications from Millersville
3 University in 2001. Prior to my role as Director of Business Development for
4 Pennsylvania-American Water Company, I served as the Director for Water Quality and
5 Environmental Compliance. In that role, my primary responsibilities included the oversight
6 of drinking water and wastewater compliance and reporting, which included aiding
7 operations staff in the application of proper treatment techniques necessary to maintain
8 compliance with applicable permits. Before joining Pennsylvania-American Water
9 Company, I served in various roles, including leadership positions, within the Pennsylvania
10 Department of Environmental Protection (“PA DEP”). In my nearly 20 years with PA
11 DEP, I held roles in the Office of Water Management, including participation in the
12 development of policy, guidance, and regulations applicable to both drinking water and
13 wastewater. Much of my career with PA DEP was in the role of Director for the
14 Northcentral Region. In this capacity, I was responsible for all aspects of regulatory
15 oversight for safe drinking water, clean water, waste management, air quality, waterways
16 engineering and wetlands, and environmental cleanup and storage tanks programs within
17 the 14-county region. In this capacity, I supervised nearly 130 staff directly or indirectly.

18

19 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA**
20 **PUBLIC UTILITY COMMISSION?**

21 **A.** Yes, I have previously testified in prior Commission proceedings, including the Joint
22 Application for the acquisition of the Manwalamink Water and Manwalamink Sewer
23 Companies (Docket Nos. A-2023-304418, A-2023-304419, A-2023-304421, A-2023-

1 304422) and the Joint Application for the acquisition of Appalachian Utilities Inc. (Docket
2 Nos. A-2024-3046084 and A-2024-3046092).

3
4 **DESCRIPTION OF THE APPLICATION**

5 **Q. HAS PAWC FILED AN APPLICATION WITH THE COMMISSION FOR**
6 **REGULATORY APPROVAL TO ACQUIRE THE WASTEWATER SYSTEM**
7 **OWNED AND OPERATED BY THE ELIZABETH BOROUGH MUNICIPAL**
8 **AUTHORITY (“AUTHORITY”) AND RELATED APPROVALS?**

9 **A.** Yes. PAWC filed its Application on September 27, 2024 for approval of PAWC’s
10 acquisition of the Authority’s wastewater collection and treatment system (the “System”).
11 I will refer to the acquisition in my testimony as the “Transaction.”

12 The Application was prepared and filed under my direct supervision. As indicated
13 in my Verification attached to the Application, the Application and its numerous
14 appendices are true and correct to the best of my knowledge, information, and belief. We
15 used PAWC records, as well as the Authority’s records, to prepare the Application. For
16 purposes of having a complete evidentiary record in this proceeding upon which the
17 Commission can base its decision, I submit the Application and all of its appendices
18 (Appendices A through K) as **PAWC Exhibit MK-1**. Certain appendices contain
19 proprietary information and are, therefore, labeled as **CONFIDENTIAL**.

20
21 **Q. WHAT IS PAWC SEEKING IN ITS APPLICATION?**

22 **A.** There are four requests. First, PAWC is requesting approval of the acquisition under
23 Section 1102 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102, similar

1 to many requests that come before the Commission. Specifically, PAWC seeks approval
2 to acquire the System and to obtain the right to begin service in the areas currently served
3 by the Authority (the “Service Area”). The Application contains a *pro forma* tariff
4 supplement under which the Authority’s rates at the time of closing on the Transaction
5 (“Closing”) would be initially adopted.

6 Second, pursuant to Act 12 of 2016, 66 Pa. C.S. § 1329 (“Section 1329”), PAWC
7 is seeking to utilize fair market value for the ratemaking rate base of the System. As
8 explained more-fully below, fair market value under Section 1329 is the lesser of the stated
9 purchase price in the Asset Purchase Agreement (“APA”), or the average of the appraisal
10 of the Authority’s Utility Valuation Expert (“UVE”) and the appraisal of PAWC's UVE.

11 Third, PAWC is seeking the accrual and deferral of certain post-acquisition
12 improvement costs. Specifically, PAWC is seeking the accrual of Allowance for Funds
13 Used During Construction (“AFUDC”) for post-acquisition improvements (which will not
14 be recovered through its Distribution System Improvement Charge (“DSIC”)) for book and
15 ratemaking purposes, as well as the deferral of depreciation related to post-acquisition
16 improvements (which will not be recovered through the DSIC) for book and ratemaking
17 purposes.

18 Fourth, PAWC is seeking Certificates of Filing or approvals under Section 507 of
19 the Code, 66 Pa. C.S. § 507, for the APA, an amendment to the APA, and certain municipal
20 agreements to be assumed by PAWC as a result of the Transaction.

21
22 **Q. IS PAWC PROPOSING THAT ITS APPLICATION BE EVALUATED USING THE**
23 **FAIR MARKET VALUE PROVISIONS OF SECTION 1329?**

1 A. Yes. PAWC's Application has been prepared in accordance with the fair market value
2 provisions of Section 1329. Specifically, PAWC is requesting that the ratemaking rate
3 base related to the System be based on the lesser of the average of the UVE fair market
4 value appraisals included in the Application or the APA purchase price.¹ I note, however,
5 that PAWC reserves its right to make alternative ratemaking proposals in future
6 proceedings as may be permitted under the Code and regulations.

7
8 **Q. WHAT DOES SECTION 1329 REQUIRE TO BE INCLUDED IN THE**
9 **APPLICATION?**

10 A. Section 1329 requires that the Application include (1) copies of the two UVE appraisals,
11 (2) the purchase price, (3) the ratemaking rate base, (4) the transaction and closing costs,
12 and (5) the proposed tariff. However, the Commission has expanded the filing
13 requirements beyond those specifically required by the statute.

14
15 **Q. WHAT DOES THE COMMISSION REQUIRE BE INCLUDED IN A SECTION**
16 **1329 APPLICATION?**

17 A. In its Final Supplemental Implementation Order entered February 28, 2019, at Docket No.
18 M-2016-2543193 (“2019 FSIO”), the Commission attached as Appendix A an extensive
19 list of specific Section 1329 “Filing Requirements” for items to include with an Application
20 for it to be processed in a six-month time frame. PAWC's Application is structured around
21 those Filing Requirements. On July 2, 2024, the Commission issued a new Final

¹ As further discussed on pages 6-7 *infra*, PAWC is not seeking to recover its full purchase price based on its Reasonable Review Ratio (“RRR”) analysis pursuant to the Commission’s Final Supplemental Implementation Order entered July 2, 2024 at Docket No. M-2016-2543193, as well as the *Report on the Reasonableness Review Ratio For the Year Ended 12.31.2023* dated August 2, 2024 at Docket No. M-2024-3050303.

1 Supplemental Implementation Order (“2024 FSIO”) at the same docket, which modified
2 Appendix A and adopted a new Reasonableness Review Ratio (“RRR”). **Appendix A** to
3 the Application and its sub-appendices directly address each of the Filing Requirements.
4

5 **Q. WHAT IS A REASONABLENESS REVIEW RATIO?**

6 **A.** In the 2024 FSIO, the Commission explains that the RRR is a guidepost for analyzing and
7 making a final determination on the overall prudence of Section 1329 applications. A new
8 RRR will be set annually by the Commission. On August 9, 2024, the Commission issued
9 its first Report on the Reasonableness Review Ratio at Docket No. M-2024-3050303,
10 which established an RRR of 1.68. When considering if a 1329 application is prudent, the
11 Commission will multiply the depreciated original cost (“DOC”) of a system by 1.68 and
12 compare it to the purchase price of the system.
13

14 **Q. DID PAWC CONDUCT AN RRR ANALYSIS OF THIS TRANSACTION?**

15 **A.** Yes, PAWC conducted an RRR analysis for this transaction. The RRR established by the
16 Commission is 1.68. The average of the appraisals’ DOC of the EBMA wastewater system
17 is \$16,649,511. The RRR multiplied by the DOC is \$27,971,178. This amount is
18 approximately \$29,000 below the purchase price in the APA of \$28,000,000.
19

20 **Q. HAS PAWC MODIFIED ITS COST RECOVERY PROPOSAL IN LIGHT OF THIS**
21 **SLIGHT DIFFERENTIAL BETWEEN THE PURCHASE PRICE AND THE RRR**
22 **CALCULATION?**

1 A. Yes. In recognition of the Commission’s RRR, PAWC is only seeking approval to record
2 \$27,971,178 on its books rather than the full purchase price.

3

4 **DESCRIPTION OF TESTIMONY FILED WITH THE APPLICATION**

5 **Q. IS PAWC FILING AS PART OF ITS APPLICATION TESTIMONY PREPARED**
6 **BY THE AUTHORITY?**

7 A. Yes. PAWC's Application includes at **Appendix A-13-a** the written direct testimony of
8 Timothy Guffey, Chairman of the Authority, and President of Council for Elizabeth
9 Borough (the “Borough”), and at **Appendix A-13-b** the written direct testimony of the
10 Authority’s selected UVE, Mr. Harold Walker III, Manager, Financial Studies, for Gannett
11 Fleming Valuation and Rate Consultants, LLC. PAWC is not sponsoring the testimony of
12 Mr. Guffey or Mr. Walker, but has included their testimony in the Application pursuant to
13 the *2019 FSIO* and in anticipation of the Authority's intervention and participation in the
14 proceeding. PAWC reserves the right to submit rebuttal testimony regarding the
15 Authority’s testimony, as appropriate.

16

17 **Q. PLEASE IDENTIFY THE OTHER PAWC WITNESSES WHO WILL BE**
18 **PROVIDING WRITTEN DIRECT TESTIMONY AND THEIR SUBJECT**
19 **MATTER AREAS.**

20 A. In addition to my direct testimony, PAWC will submit the written direct testimony of
21 Mr. Daniel J. Hufton, P.E., an Engineering Manager for PAWC (PAWC Statement No. 2),
22 and Ms. Stacey D. Gress, American Water Works Service Company, Director of Rates and
23 Regulatory (PAWC Statement No. 3). PAWC is also sponsoring direct testimony by its

1 selected UVE, Mr. Jerome C. Weinert, Principal and Director of Weinert Appraisal &
2 Depreciation Services LLC, d/b/a AUS Consultants (PAWC Statement No. 4).

3 Mr. Hufton will describe engineering and environmental challenges associated with
4 the System, support PAWC's technical fitness to operate the System, and explain certain
5 commitments and improvements to be made by PAWC. Mr. Hufton will also address the
6 anticipated day-to-day operation of the System once it is acquired by PAWC, including
7 staffing and the customer service enhancements that PAWC intends to implement for the
8 benefit of the Authority's customers. Ms. Gress will address the initial rates, rules, and
9 regulations for the Authority's customers as well as the impact of the Transaction on
10 PAWC's existing customers. Ms. Gress will also discuss the financing of the Transaction,
11 recording the acquisition at the net value of the assets, and PAWC's overall financial
12 fitness. Mr. Weinert will provide supporting testimony for his fair market valuation report.

13
14 **Q. ASIDE FROM AUTHENTICATING THE APPLICATION FOR ITS ADMISSION**
15 **INTO THE EVIDENTIARY RECORD AND IDENTIFYING ITS REQUESTS FOR**
16 **RELIEF, WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**
17 **PROCEEDING?**

18 **A.** My direct testimony describes the Transaction. I will explain why the Transaction is in the
19 public interest and provides an affirmative public benefit of a substantial nature, and why
20 the Transaction should be promptly approved by the Commission. I will also discuss why
21 PAWC is legally, financially, and technically fit to acquire and operate the System.

DESCRIPTION OF THE TRANSACTION

Q. TO THE BEST OF YOUR KNOWLEDGE, WHY DID THE AUTHORITY WANT TO SELL ITS SYSTEM?

A. As further discussed by Mr. Guffey, it is my understanding that the Authority wanted to avoid significant future costs and eliminate existing debt. My colleague, Mr. Daniel J. Hufton will describe in his testimony that the Authority's treatment works are currently in hydraulic and organic overload, resulting in numerous combined sewer overflow (“CSO”) events that occur annually at the System's five combined sewer outfall/regulator structures. In 2022 alone, there were 268 untreated sewage discharges into the Monongahela River.

To address these issues, a Long-Term Control Plan (LTCP) was developed in 2004 and approved by PA DEP. The LTCP was updated and revised in 2017, with PA DEP approving the final version in July 2018. The approved LTCP aimed to meet the US Environmental Protection Agency's CSO Policy performance standards by limiting CSO discharges to an average of four per year during heavy precipitation events on a system-wide annual average basis.

To satisfy the LTCP, the Authority estimated a capital investment of \$19.6 million (2018 dollars) would be needed for improvements to the treatment works. This included replacing the existing 1.2 MGD plant with a new 2.0 MGD plant (with a peak capacity of 10 MGD), improving the collection and conveyance system to convey most weather flows to the plant, building new pump stations at CSOs #5 and #8, constructing a raw sewage pump station to manage both dry and wet weather flows, and building a 660,000-gallon wet weather flow equalization and storage tank at the plant.

1 The Authority moved forward with the first project (the raw water pump station)
2 and secured loans to cover the construction and engineering. The Authority increased rates
3 to offset debt service associated with the loans and completed the project in 2021.
4 However, the Authority has fallen three years behind schedule in meeting the LTCP
5 implementation dates. PAWC estimates that the remaining improvement projects would
6 be more expensive than originally estimated and rates would have to be adjusted higher
7 than anticipated to compensate for the increased expense.

8 To avoid this, the Authority explored the possibility of selling the system. A
9 consultant provided a valuation of the system's worth, and the Authority concluded that
10 selling the system, eliminating system debt, and allowing the new owner to bring financial
11 and technical expertise to complete the LTCP requirements would be the best path forward.

12 By selling the System, the Authority and its customers will receive numerous
13 benefits, including:

- 14 • Low-income residents will have access to PAWC's customer assistance
15 programs that will help them pay bills.
- 16 • All of the Authority's current long term debt liability (approximately
17 \$12,778,778) will be eliminated.
- 18 • PAWC will obtain necessary permits to operate the Authority's wastewater
19 systems and implement the PA DEP-approved LTCP.
- 20 • All Authority employees involved in the operation of the System will be
21 offered employment with PAWC, subject to PAWC's existing standard hiring policies and
22 procedures.

1 In April of 2024, the Authority completed a cost analysis of addressing the needed
2 upgrades to the System and the impact those costs would have on rates if the Authority did
3 not sell the System. The results of that study indicate that rates would rise to approximately
4 \$95.80/month, or 62%, should the Authority retain ownership and have to invest in the
5 LTCP. Finally, even with increased funding available due to rate increases, the Authority
6 remains significantly behind schedule in addressing the LTCP. It is likely that the
7 environmental impacts of the raw sewage entering our waterways during heavy rain events
8 will persist for some time impacting the waterway, recreational users of the waterway, and
9 downstream water users. It is certainly possible, and has proven true in the past, that the
10 Authority will continue to miss milestones and struggle to finance the necessary upgrades
11 in a timely and cost-effective manner.

12
13 **Q. PLEASE PROVIDE A DESCRIPTION OF THE TRANSACTION NEGOTIATION**
14 **PROCESS.**

15 **A.** This transaction was handled as a bid. PAWC was sent a Request For Proposals document
16 on November 28, 2021 that described the System, the assets to be sold and the anticipated
17 timeline. PAWC then participated in a pre-bid meeting on December 1, 2021 with other
18 bidders. PAWC toured the facility on December 15, 2021 and proceeded with our
19 evaluation. After completing our due diligence, PAWC submitted a bid on July 12, 2022.
20 EBMA notified PAWC that it was selected as the winning bid several days later. Over the
21 next several months, PAWC and EBMA negotiated the APA, which was executed in
22 January 2023.

1 **Q. DID THE AUTHORITY CONDUCT PUBLIC HEARINGS REGARDING THE**
2 **ACQUISITION IN ADVANCE OF EXECUTING THE APA?**

3 **A.** Yes. Prior to executing the APA, EBMA held three public meetings on June 15, 2022,
4 August 9, 2022, and November 8, 2022 to address, evaluate and approve the Transaction.
5 The meetings provided an opportunity for public comment. No members of the public and
6 only one member of the media provided comments at these meetings. The public meetings
7 were held at venues within the municipal boundaries of the Seller. The Commission was
8 not notified regarding these public meetings, because no such notification requirement
9 existed at the time of these meetings.

10

11 **Q. PLEASE PROVIDE AN OVERVIEW OF THE APA.**

12 **A.** The APA is attached as **Appendix A-24-a** to the Application (**PAWC Exhibit MK-1**).
13 The APA sets forth the terms and conditions pursuant to which the Authority will sell, and
14 PAWC will purchase, the System, as well as substantially all assets, properties and rights
15 that Authority owns and uses in connection with the System. The APA sets forth the entire
16 understanding of the parties with respect to the Transaction. Under the APA, the Closing
17 of the Transaction will occur after the receipt of all applicable governmental approvals,
18 including approvals from this Commission, and after all applicable conditions have been
19 met (or waived) by the parties. Upon Closing, PAWC will take ownership of the System
20 and begin rendering wastewater services to the Authority's current customers and the
21 Authority will permanently discontinue providing or furnishing wastewater service to the
22 public.

1 **Q. PLEASE PROVIDE A SUMMARY OF THE APA'S PROVISIONS GOVERNING**
2 **THE TRANSFER OF ASSETS.**

3 **A.** The specific properties, assets and rights to be transferred to PAWC are defined and
4 described in the APA's Section 1.2, while the excluded assets are defined in Section 1.4 of
5 the APA. Generally, the APA states that every asset, property, business, goodwill and right
6 owned by the Authority and used in the provision of sanitary wastewater service, whether
7 real, personal, mixed, tangible or intangible, and including all the physical plant, property,
8 equipment and facilities comprising the System owned by the Authority shall be conveyed
9 to PAWC. The Engineering Assessment (**Appendix A-15-a**) contains a list of the
10 wastewater system inventory used in connection with the System to be conveyed to PAWC.
11 All interests in real estate, including leases, easements and access to public rights-of-way,
12 owned by the Authority and relating to the System are defined and described in Schedule
13 4.1(l)(i)-(iii), as well as all assigned contracts to be conveyed to PAWC in Schedule 5.1(c).
14 I note, however, that some contracts in Schedule 5.1(c) are non-material and PAWC
15 continues to review such contracts to determine whether assumption of such contracts is
16 cost-effective and in the best interest of PAWC's customers.

17 Items that will not be transferred include, among other items: the Retained WWTP
18 Assets (the non-moving structural portion of the DUPERON® FLEXRAKE® FPFS Full
19 Penetration Fine Screen unit consisting of the base, vertical supports, and back/side plates)
20 and the Authority's cash, including accounts receivable.

21
22 **Q. HAS PAWC AGREED TO ASSUME ANY LIABILITIES OF THE AUTHORITY**
23 **AS PART OF THE TRANSACTION?**

1 A. Yes. PAWC is accepting certain “Assumed Liabilities” as part of this Transaction on the
2 day of and after Closing on the Transaction. Per Section 1.3(b) of the APA, PAWC will
3 assume all liabilities and obligations associated with the Assigned Contracts on and after
4 Closing. PAWC will not assume or be liable for any liabilities or obligations other than
5 the Assumed Liabilities.

6
7 **Q. PLEASE SUMMARIZE THE APA'S PROVISIONS GOVERNING THE**
8 **NEGOTIATED PURCHASE PRICE OF THE TRANSACTION?**

9 A. The consideration for the purchase of the System as set forth in Section 2.1 of the APA is
10 the negotiated purchase price of \$28,000,000. An amount to be determined will be placed
11 in a Missing Easement Escrow for all of the easements that are missing as of Closing as set
12 forth in Section 4.1(1)(vii) of the APA. In addition, since the Authority plans to dissolve
13 on or shortly after Closing, Section 11.4(b) of the APA provides that the Authority will
14 place \$1,120,000 in escrow to cover any claims or damages of any PAWC Indemnified
15 Party for a period of up to two years after Closing.

16
17 **Q. PLEASE DESCRIBE IN MORE DETAIL HOW MISSING EASEMENTS WILL BE**
18 **HANDLED AFTER CLOSING.**

19 A. As of the Closing Date, the Authority will fund an easement escrow fund in the amount of
20 Two Thousand Dollars (\$2,000) for each missing easement. APA Section 11.4(a).

21
22 **Q. PLEASE EXPLAIN THE RATES THAT WILL APPLY TO THE AUTHORITY’S**
23 **CUSTOMERS FOLLOWING THE CLOSING OF THE TRANSACTION.**

1 A. As will be explained more fully in the Direct Testimony of Ms. Stacey D. Gress, PAWC
2 Statement No. 3, PAWC has committed to implement, upon Closing of the Transaction,
3 the Authority’s wastewater rates then in effect at Closing.

4 Immediately upon Closing, the Authority’s customers will be subject to PAWC’s
5 prevailing wastewater tariff on file with the Commission with respect to miscellaneous fees
6 and charges and rules and regulations for wastewater service, including but not limited to
7 PAWC’s Industrial Pretreatment Program (“IPP”). The Authority’s customers will not be
8 charged the DSIC prior to the first revision of PAWC’s Long Term Infrastructure
9 Improvement Plan after Closing or the effective date of PAWC’s next Commission-
10 approved base rate increase, whichever is sooner. The Authority’s customers will continue
11 to be billed on a monthly basis. The monthly rates are shown in PAWC’s *pro forma* tariff
12 in **Appendix A-12** to the Application.

13
14 **Q. HAS PAWC MADE ANY COMMITMENTS IN THE APA THAT WILL BE**
15 **IMPLEMENTED AFTER THE CLOSING OF THE TRANSACTION?**

16 A. Yes. PAWC has committed to offer employment to eligible Authority employees
17 following the Closing of the Transaction, subject to certain conditions. Section 7.1(a).

18 My colleague, Mr. Daniel J. Hufton, P.E., will discuss capital investment
19 commitments in greater detail in his written direct testimony, PAWC Statement No. 2.
20 Mr. Hufton also will discuss anticipated day-to-day operation of the System once it is
21 acquired by PAWC, including staffing.

1 **Q. WILL PAWC BE ASSUMING ANY CONTRACTS AS PART OF THE**
2 **TRANSACTION?**

3 **A.** Yes, **Appendix A-25** lists all Authority contracts that PAWC currently intends to assume
4 at Closing. Prior to Closing, PAWC will review all contracts and a final determination will
5 be made on which contracts will be assumed and which will be terminated or revised.
6

7 **BACKGROUND INFORMATION ON PAWC AND THE SYSTEM**

8 **Q. PLEASE PROVIDE AN OVERVIEW OF PAWC.**

9 **A.** PAWC, a subsidiary of American Water Works Company, Inc. (“American Water”), is the
10 largest regulated public utility corporation duly organized and existing under the laws of
11 the Commonwealth of Pennsylvania, engaged in the business of collecting, treating,
12 storing, supplying, distributing, and selling water to the public, and collecting, treating,
13 transporting and disposing of wastewater for the public. Water and wastewater services
14 are furnished by PAWC to the public in a service territory encompassing more than
15 417 communities in 37 counties. Overall, PAWC serves a combined population of over
16 2.3 million people across the Commonwealth and is American Water’s largest subsidiary.

17 PAWC currently employs approximately 1,150 professionals with expertise in all
18 areas of water and wastewater utility operations, including engineering, regulatory
19 compliance, water and wastewater treatment plant operation and maintenance, distribution
20 and collection system operation and maintenance, materials management, risk
21 management, human resources, legal, accounting, and customer service. PAWC has the
22 expertise, the record of environmental compliance, the commitment to invest in necessary
23 capital improvements and resources, and the experienced managerial and operating

1 personnel necessary to provide safe and reliable wastewater services to the residents of the
2 Service Area. In addition, PAWC currently provides water service to many of the
3 Authority’s wastewater customers.

4 PAWC takes pride in being a good corporate citizen by sponsoring and
5 participating in local community events, providing environmental and firefighting support
6 grants, offering the “H2O Help to Others Assistance Program” to help low-income
7 customers pay their bills, and supporting economic growth through infrastructure
8 improvements in the communities served by PAWC. In 2023, PAWC donated nearly
9 \$845,000 to organizations in the communities it serves through grants, scholarships, and
10 general charitable giving, and over \$650,000 to assist customers in paying their water or
11 wastewater bills. Through collaboration with the American Water Charitable Foundation,
12 the company helped provide an additional \$481,900 in funding to approximately 350 non-
13 profit organizations across Pennsylvania.

14 Financial support is not the only way PAWC supports the communities it serves.
15 Through partnerships, programming and volunteerism, the Company demonstrates its
16 commitment to being a good neighbor. In fact, in 2023 employees dedicated nearly 1,300
17 hours to volunteering in or around communities that we serve. The Company and its
18 dedicated employees play active roles in supporting environmental and education
19 initiatives related to water, from watershed clean-ups to educational programs focused on
20 drinking water and source water protection., as well as supporting youth education, health
21 and wellness initiatives, community sustainability projects and more to address
22 community-specific needs, PAWC is eager to partner with municipalities in the Service

1 Area in providing a sustainable long-term future for the System. Customers of the System
2 will benefit from a stable company with a robust business model and reliable service.

3
4 **Q. HOW MANY CUSTOMERS DOES THE SYSTEM CURRENTLY SERVE AND**
5 **HOW MANY CUSTOMERS DOES PAWC CURRENTLY SERVE?**

6 **A.** As of August 31, 2024, the System furnished wastewater services to approximately 672
7 direct customers and approximately 1,504 indirect customers. As of August 31, 2024,
8 PAWC furnished wastewater service to approximately 98,314 residential, commercial,
9 industrial, municipal and bulk customers in Pennsylvania. As of August 31, 2024, PAWC
10 furnished water service to approximately 686,065 customers in Pennsylvania.

11
12 **THE TRANSACTION IS IN THE PUBLIC INTEREST**

13 **Q. PLEASE EXPLAIN WHY THE PROPOSED TRANSACTION IS IN THE PUBLIC**
14 **INTEREST.**

15 **A.** The Transaction will result in an affirmative public benefit of a substantial nature. First,
16 PAWC, as a large and long-established public utility, has the managerial, technical, and
17 financial fitness to operate the System in a safe and efficient manner in compliance with
18 the Code, the Pennsylvania Clean Streams Law, and all other applicable statutory and
19 regulatory requirements. PAWC has extensive experience in the operation of wastewater
20 collection and treatment systems including specific experience with the types of treatment
21 technologies employed in the System. As will be explained in more detail by my colleague,
22 Mr. Daniel J. Hufton, P.E., the system has been responsible for numerous CSOs, which
23 directly impact water quality. PAWC Statement No. 2. PAWC has reduced these

1 overflows in other systems we have acquired previously. In this instance, both current
2 customers of EBMA as well as PAWC will benefit from our reduction in these overflows
3 as the reduction will improve local water quality and the water quality of downstream
4 drinking water intakes, including PAWC's Pittsburgh drinking water system intake.

5 PAWC continues to expand its expertise in developing and administering IPP
6 programs. While the Authority does not currently have a program, discussions with PA
7 DEP's Southwest Regional Office revealed that one should be in place. PAWC will
8 develop and implement an IPP program in the System, meeting regulatory requirements.
9 Because PAWC is currently undertaking the same effort in its McKeesport system, its
10 experience and established processes will improve our efficiency in IPP implementation.
11 PAWC continues to develop expertise for the benefit of the Commonwealth through its
12 current operation of 38 wastewater treatment plants providing service to approximately
13 98,314 customers in Pennsylvania.

14 Second, the Authority's current customers will benefit in several ways from
15 becoming PAWC wastewater customers. Because the existing territory of the Authority is
16 within the PAWC water footprint, customers will receive one bill from one company for
17 water and wastewater. As will be noted later, increased bill payment options and extended
18 hours for customers service calls will be available to them as wastewater customers as they
19 have been for them as water customers. PAWC is a large, financially-sound company that
20 has the capacity to finance necessary capital additions and improvements that will benefit
21 its customers. In addition, given its size, its access to capital, and its recognized strengths
22 in system planning, capital budgeting, and construction management, PAWC is well-
23 positioned to ensure that high quality wastewater service meeting all applicable state and

1 federal regulatory requirements is being discharged to the local waterway. As was noted
2 above, the provision of wastewater service meeting these requirements will benefit
3 downstream water intakes, such as ours. There is also a general public benefit of PAWC
4 being subject to the jurisdiction of the Commission, which requires PAWC to provide
5 adequate, efficient, safe and reliable service at just and reasonable rates. Currently, the
6 Authority has no such regulatory oversight.

7 Third, the Authority's current customers will benefit from the enhanced and proven
8 customer service that PAWC provides. My colleague, Mr. Daniel J. Hufton, P.E., discusses
9 these customer service enhancements in more detail in PAWC Statement No. 2.
10 Nevertheless, I would like to note that they include, but are not limited to, extended
11 customer service and call center hours, enhanced customer information and educational
12 programs and access to PAWC's customer assistance programs. Additionally, through
13 community giving, partnerships and volunteering, PAWC demonstrates its commitment to
14 programs that address community-specific needs. One example is PAWC's H2O – Help
15 to Others Program, which for more than twenty-five years has assisted low-income
16 customers. In 2011, the program was expanded to include wastewater customers. My
17 colleague, Ms. Stacey D. Gress, will provide more details about these programs in her
18 testimony. PAWC Statement No. 3.

19 Fourth, residents of the area will benefit from the tax revenues that PAWC will pay
20 to municipal governments in the area. The Authority's facilities are not subject to tax.
21 Utility operational costs are higher, in part, due to these expenses, but there is a public
22 benefit of having more private property on the tax rolls as a result of the Transaction.

1 Finally, the Transaction will benefit PAWC’s existing wastewater customers in the
2 long-term by expanding PAWC’s customer base. There will be no immediate rate impact
3 on PAWC’s existing customers. By adding additional connections to the entire PAWC
4 system, there are more customers to share future infrastructure investment costs, which
5 promotes stable rates across the entire PAWC system. Customers who benefit from near-
6 term improvements will one day help pay for improvements on behalf of other customers
7 on other parts of the PAWC system. Being able to spread the costs of investing in and
8 maintaining public wastewater systems over a growing customer base, particularly in a
9 time of increased environmental requirements, is essential to the continued success and
10 longevity of wastewater systems and maintaining reasonable rates for customers. As a
11 matter of public policy, the Pennsylvania Legislature recognized the importance of
12 consolidation and cost sharing in the passage of Act 11 of 2012. As the Commission stated
13 in a recent PAWC base rate case:

14 We also agree with the Company’s argument that, in the circumstances,
15 applying Section 1311(c) in conjunction with Section 1329 is in the public interest
16 because otherwise, larger viable public utilities would be discouraged from
17 acquiring municipal and wastewater systems and contravene the legislative intent
18 and the Commission’s policy of encouraging consolidation and regionalization.

19 *Pa. Pub. Util. Comm’n v. PAWC*, Docket Nos. R-2020-3019369, *et al.* (Opinion and Order
20 entered Feb. 25, 2021) p. 82.

21 There is also a clear legislative intent associated with Section 1329 and its
22 allowance of fair market valuation for ratemaking purposes. The General Assembly
23 intended to facilitate the acquisition of municipal water and wastewater systems by
24 investor-owned utilities for the benefit of municipal corporations and their residents.
25 Several of these benefits to the customers of the Authority, and the citizens residing in the
26 area, are described in the direct testimony of the Authority, and PAWC’s witnesses.

1 **Q. PLEASE EXPLAIN WHY THE TRANSACTION WOULD FOSTER THE**
2 **COMMISSION’S GOAL OF PROMOTING THE REGIONALIZATION AND**
3 **CONSOLIDATION OF WASTEWATER SYSTEMS?**

4 **A.**

5 The acquisition fosters the Commission’s stated goal of consolidating and regionalizing
6 water and wastewater systems to provide greater environmental and economic benefits to
7 customers. My colleague, Mr. Daniel J. Hufton, P.E., discusses this in detail in his
8 testimony. PAWC Statement No. 2. After Closing, PAWC’s Elizabeth Borough Water
9 System employees will report to the same management and support teams that oversee our
10 McKeesport wastewater operations. Employees of both departments will support each
11 other when appropriate and necessary, particularly in emergency situations. The
12 Authority’s wastewater treatment plant is located approximately 7 miles from PAWC’s
13 McKeesport Wastewater Treatment Plant. PAWC can draw upon a much broader range of
14 engineering and operational experience than can the Authority, as well as deeper financial
15 resources, to address operational challenges and support growth and development.
16 Additionally, the system is within the existing PAWC water footprint. This will allow for
17 better coordination of construction projects, more efficient repairs of infrastructure, and the
18 provision of utility services on a long-term, cost-effective basis. In addition, long-term
19 regionalization and consolidation benefits exist if PAWC acquires additional wastewater
20 systems in this region, which have the capability of connecting to PAWC’s McKeesport
21 Wastewater Treatment Plant. Should PAWC be the future owner of these systems,
22 additional physical interconnections may create further consolidation benefits, including

1 improved water quality due to the transfer of wastewater streams to a state-of-the-art
2 wastewater treatment plant.

3
4 **Q. DOES THE REGIONALIZATION AND CONSOLIDATION OF WASTEWATER**
5 **SYSTEMS BENEFIT THE PUBLIC?**

6 **A.** Yes, it does. I am advised by counsel that the Commission has a Statement of Policy at 52
7 Pa. Code § 69.721, which states that the Commission believes that further regionalization
8 and consolidation of water and wastewater systems may result in greater environmental
9 and economic benefits to customers. Regionalization and consolidation have economic
10 benefits for customers because they allow the use of better management practices and they
11 allow greater economies of scale. Examples of economies of scale include:

- 12 • PAWC's ability to obtain supplies (such as mains, treatment chemicals and
13 purchased power costs (electricity, natural gas and diesel fuel)) at lower
14 rates because it is able to buy in bulk;
- 15 • PAWC's size gives it greater purchasing power, allowing it to negotiate
16 better rates for purchases than the System;
- 17 • PAWC can move equipment (such as emergency generators, portable
18 pumps, excavating equipment, and vacuum-jetter trucks) around its system,
19 whereas the Authority currently must buy or rent any equipment it needs;
- 20 • PAWC's size allows it to spread fixed costs across a larger asset platform
21 and customer base.
- 22 • PAWC's staffed engineering department allows it to perform planning,
23 design construction management services internally rather than contracting
24 the work out at higher cost to consulting engineers.

25 In addition, regionalization and consolidation have environmental benefits for
26 customers and the public-at-large. Small public utilities and local water and wastewater
27 providers are challenged in keeping up with a changing regulatory landscape and with
28 necessary investment in the system. This System in particular has not complied with the
29 schedule in the existing LTCP and has failed to establish an IPP program. Both of these

1 items are put in place by the PA DEP to ensure that local waterways are protected, both
2 from the discharge of raw sewage during heavy rain events and through the potential for
3 pass-thru pollution from an industrial discharger to the system. Consolidation promotes the
4 acquisition of these systems by qualified system operators with the ability to meet
5 established compliance deadlines and increasingly stringent environmental requirements
6 in the future.

7
8 **PAWC’S LEGAL, FINANCIAL AND TECHNICAL FITNESS**

9 **Q. PLEASE TELL US WHY PAWC IS LEGALLY FIT TO ACQUIRE AND**
10 **OPERATE THE SYSTEM.**

11 **A.** PAWC is a Commission-regulated public utility with a good compliance history. There
12 are no pending legal proceedings that would suggest that PAWC is not legally fit to provide
13 service to customers on the Authority’s System.

14
15 **Q. CAN YOU EXPLAIN WHY PAWC IS FINANCIALLY FIT TO ACQUIRE AND**
16 **OPERATE THE SYSTEM?**

17 **A.** Yes. PAWC is the largest water and wastewater provider in Pennsylvania. It has a long-
18 demonstrated history with the Commission of financial stability.

19 As part of the Application, PAWC provided the audited internal balance sheet, as of
20 December 31, 2023 for PAWC (**Appendix D**), as well as the audited income statement, as
21 of December 31, 2023, for PAWC (**Appendix F**). Those documents show that PAWC had
22 total assets of approximately \$7.3 billion as of December 31, 2023. Further, they show
23 that PAWC had operating income of approximately \$465 million and net income of

1 approximately \$300 million for the 12 months ending December 31, 2023. These figures
2 further demonstrate that PAWC has the financial stability and wherewithal to acquire the
3 System and operate it in the public interest. My colleague, Ms. Stacey D. Gress, will
4 provide additional details on the financial health of PAWC and its ability to access capital
5 in PAWC Statement No. 3.

6
7 **Q. PLEASE EXPLAIN WHY PAWC IS TECHNICALLY FIT TO OPERATE THE**
8 **SYSTEM.**

9 **A.** As I discussed earlier, PAWC is engaged in the business of collecting, treating, transporting
10 and discharging wastewater for the public. PAWC is the largest investor-owned water and
11 wastewater utility in the Commonwealth of Pennsylvania and PAWC already has
12 significant water and wastewater operations throughout Pennsylvania. PAWC is
13 experienced in undertaking and completing water and wastewater system acquisitions with
14 public and private sector owners and successfully integrating those assets into our business
15 operations. In fact, PAWC is often called upon by the Commission to step in and resolve
16 troubled water and wastewater systems (such as East Dunkard Water Authority, the
17 Delaware Sewer Company, and the Winola Water Company), resolving compliance issues,
18 and providing the high standard of service that customers expect and deserve. My
19 colleague, Mr. Daniel J. Hufton, P.E., will explain in greater detail in PAWC Statement
20 No. 2 how PAWC intends to operate the System once acquired.

1 **DESCRIPTION OF THE SERVICE AREA**

2 **Q. PLEASE EXPLAIN THE SERVICE AREA SOUGHT BY PAWC IN THE**
3 **APPLICATION.**

4 **A.** As part of its Application, PAWC is seeking the right to provide service to the customers
5 currently served by the Authority as shown in the maps and descriptions attached as
6 **Appendices A-16-a through e and A-16-f (CONFIDENTIAL)**. No municipal authority,
7 corporation, partnership or individual other than the Authority is now furnishing or has
8 corporate or franchise rights to furnish service similar to that to be rendered by PAWC in
9 the Service Area covered by the Application, and no competitive condition will be created.
10 As discussed above, upon Closing of the Transaction, the Authority will permanently
11 discontinue all wastewater service to the public.

12
13 **APPROVAL OF CONTRACTS WITH MUNICIPAL CORPORATIONS**

14 **Q. HAS PAWC REQUESTED CODE SECTION 507 CERTIFICATES OF FILING OR**
15 **APPROVALS AS PART OF ITS APPLICATION?**

16 **A.** Yes. In addition to the approvals sought under Sections 1102(a) and 1329 of the Public
17 Utility Code, 66 Pa. C.S. §§ 1102(a), 1329, the Application requests Certificates of Filing
18 or approvals under Section 507 of the Code. 66 Pa. C.S. § 507. According to PAWC's
19 counsel, the APA, the First Amendment to the APA, and any contract with a municipal
20 corporation that will be assumed by PAWC must be filed with the Commission pursuant
21 to Section 507. Aside from the APA and the First Amendment thereto, PAWC has
22 identified six contracts requiring Certificates of Filing or approvals under Section 507 (see
23 **Appendices A-25.1 through A-25.6 to PAWC Exhibit MK-1**).

1 **Q. PLEASE DESCRIBE THE MUNICIPAL CONTRACTS TO BE ASSUMED BY**
2 **PAWC.**

3 **A.** PAWC is seeking Commission approval under Section 507 of the following additional
4 municipal contracts: (a) Service Agreement dated January 25, 2000, by and between the
5 Borough of Elizabeth and the Sanitary Authority of Elizabeth Township (attached hereto
6 as Appendix A-25.1); (b) Fallen Timber Run Watershed Area Interceptor Sewer Project
7 Agreement between the Borough of Elizabeth, Elizabeth Borough Municipal Authority,
8 the Township of Forward, the Township of Elizabeth, and the Sanitary Authority of
9 Elizabeth Township (attached hereto as Appendix A-25.2); (c) Agreement dated
10 December 15, 1987, by and between the Borough of Elizabeth, Elizabeth Borough
11 Municipal Authority and the Borough of Lincoln (attached hereto as Appendix A-25.3);
12 (d) Agreement dated November 26, 1957, by and between Borough of Elizabeth,
13 Elizabeth Borough Municipal Authority, the Township of Elizabeth and Sanitary
14 Authority of Elizabeth Township (attached hereto as Appendix A-25.4); (e) Agreement
15 dated January 23, 1958, by and between Borough of Elizabeth, Elizabeth Borough
16 Municipal Authority and the Township of Forward (attached hereto as Appendix A-25.5);
17 and (f) *Pro Forma* Lease Agreement by and between the Elizabeth Borough Municipal
18 Authority and Pennsylvania-American Water Company (attached hereto as Appendix
19 A-25.

20 The Authority is currently taking the steps necessary to assign the contracts to
21 PAWC upon Closing. Commission approval of the continuation of these contracts is
22 necessary in order for PAWC, after Closing, to provide wastewater service as the
23 Authority has previously done. Approval is reasonable and serves an important public

1 purpose because the services provided under the contracts are essential to the provision
2 of wastewater service in neighboring communities. To the extent that PAWC
3 renegotiates contracts with municipalities, PAWC will promptly file such contracts for
4 Commission approval under Section 507.

5
6 **CONCLUSION**

7 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

8 **A.** Yes. However, I reserve the right to supplement my direct testimony as additional issues
9 or facts arise during the course of this proceeding. Thank you.

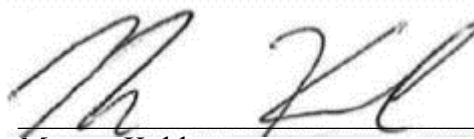
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania-American :
Water Company under Sections 1102(a) and :
1329 of the Pennsylvania Public Utility Code, :
66 Pa C.S. § § 1102(a) and 1329, for approval :
of (1) the transfer, by sale, to Pennsylvania- :
American Water Company, of substantially :
all of the assets, properties and rights related :
to the wastewater treatment plant and :
collection system owned and operated by the : Docket Nos. A-2023-3038717, *et al.*
Elizabeth Borough Municipal Authority, :
(2) the rights of Pennsylvania-American :
Water Company to begin to offer or furnish :
wastewater service to the public in the :
Borough of Elizabeth, and portions of the :
Borough of Lincoln, and the Townships of :
Elizabeth and Forward, in Allegheny County, :
Pennsylvania :

VERIFICATION

I, Marcus Kohl, hereby state that the facts set forth in PAWC Statement No. 1 and accompanying exhibits, if any, are true and correct to the best of my knowledge, information, and belief. I understand that this verification is made subject to the provisions and penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: September 27, 2024



Marcus Kohl
Director of Business Development
Pennsylvania-American Water Company