



COMMONWEALTH OF PENNSYLVANIA

October 31, 2024

E-FILED

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

Re: Application of Pennsylvania-American Water Company under 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 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 / Docket No. A-2023-3038717

Dear Secretary Chiavetta:

Enclosed please find the Protest, Notice of Intervention, Public Statement and Verification, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-referenced proceeding.

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

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

Sincerely,

/s/ Rebecca Lyttle

Rebecca Lyttle
Assistant Small Business Advocate
Attorney ID No. 201399

Enclosures

cc: Kevin Higgins
Parties of Record

PAWC’s right to begin to offer and furnish Industrial Pretreatment Program (“IPP”) in Forward Township, and (C) PAWC’s right to make effective upon closing a *pro forma* tariff.

1. The OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interests of small business consumers as a party in proceedings before the Commission.

2. Representing the OSBA in this proceeding is:

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Office of Small Business Advocate
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3. PAWC is a regulated public utility corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and is engaged in the business of collecting, treating, storing, supplying, distributing, and selling water to the public, and collecting, treating, transporting, and disposing of wastewater for the public.

4. EBMA is a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act in the Commonwealth of Pennsylvania. EBMA owns and operates the system to provide wastewater services throughout the service area. As of March 2023, the System furnished wastewater service directly to approximately 2,200 direct and indirect customers.

5. The Public Utility Code, 66 Pa. C.S. § 1329, permits a public utility to undertake certain actions only upon Commission approval evidenced by a certificate of public convenience

when a wastewater system is being acquired (upon agreement of the acquiring and selling utilities), to establish a fair market value of the selling utility by utilizing the list of utility valuation experts maintained by the Commission, and to require the acquiring utility to submit to the Commission the following information when acquiring a wastewater system prior to the Commission's decision to approve or deny the proposed acquisition of a public utility and issue a certificate of public convenience:

(i) Copies of the two appraisals performed by the utility valuation experts under §1329(a) of the Public Utility Code, 66 Pa.C.S. §1329(a).

(ii) The purchase price of the selling utility as agreed to by the acquiring public that will be included in its rate base.

(iii) The ratemaking rate base determined pursuant to §1329(c) of the Public Utility Code, 66 Pa.C.S. §1329(c).

(iv) The transaction and closing costs incurred by the acquiring public utility that will be included in its rate base.

(v) A tariff containing a rate equal to the existing rates of the selling utility at the time of the acquisition and a rate stabilization plan, if applicable to the acquisition.

§1329(d) of the Public Utility Code, 66 Pa.C.S. § 1329(d).

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

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

66 a. C.S. § 1102(a)(3).

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

9. The Application raises issues of concern that may require the Commission to reject the proposed transaction or to approve it only after imposing conditions. Of particular concern is whether the transaction would unreasonably increase wastewater rates of EBMA’s small business customers.

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

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

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

Respectfully submitted,

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

For: NazAarah Sabree
Small Business Advocate

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

Date: October 31, 2024

In support of this Notice of Intervention, the OSBA avers as follows:

1. The OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Commission.
2. Representing the OSBA in this proceeding is:

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Respectfully submitted,

/s/ Rebecca Lyttle

Rebecca Lyttle
Assistant Small Business Advocate
Attorney ID No. 201399

For: NazAarah Sabree
Small Business Advocate

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

Date: October 31, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 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 : **Docket No. A-2023-3038717**

**PUBLIC STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE**

The Small Business Advocate is authorized and directed to represent the interest of small business consumers of utility services in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (the “Act”). The Act further provides that the Small Business Advocate is to issue publicly a written statement stating concisely the specific interest of small business consumers to be protected by her initiation of or intervention in any proceeding involving those interests before the Public Utility Commission (“PUC”) or any other agency or court.

This Public Statement relates to the filing (“Petition”) to the PUC on September 27, 2024, by Pennsylvania-American Water Company (“PAWC”) for its acquisition of substantially all the assets, properties and rights related to the wastewater treatment plant and collection system owned and operated by the Elizabeth Borough Municipal Authority (“EBMA”). This filing is made pursuant to Sections 507 (related to filing of contracts with municipal corporations), 1102 (related to certificates of public convenience), and 1329 (determination of fair market value for ratemaking purposes) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. §§ 507, 1102, 1329.

The Small Business Advocate files this Public Statement to protect the interests of the EBMA’s small business customers that could be affected by the request set forth in the Petition.


The Small Business Advocate will participate in proceedings before the Public Utility Commission to investigate the reasonableness of proposals set forth in the Petition. The Small Business Advocate will ask the Commission to deny any aspect of the Petition that are not proven to be lawful, just, reasonable, and non-discriminatory.

Dated: October 31, 2024

VERIFICATION

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

Date: October 31, 2024



(Signature)

David P. Zambito, Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
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DATE: October 31, 2024

/s/ Rebecca Lyttle _____
Rebecca Lyttle
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Attorney ID No. 201399