

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
HARRISBURG, PA 17120**

Public Meeting held November 7, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Application of The York Water Company – Wastewater for approval of the right to: (1) acquire certain wastewater system assets of the York Haven Sewer Authority; and (2) begin to offer, render, furnish or supply wastewater service to the public in portions of York Haven Borough and Newberry Township, York County, Pennsylvania

Docket No.  
A-2023-3044173

**Public Version**

**ORDER**

**BY THE COMMISSION:**

By the application (Application) filed with the Pennsylvania Public Utility Commission (Commission) on November 10, 2023, The York Water Company – Wastewater (York Water-WW), Utility Code 230087, seeks certificates of public convenience pursuant to Sections 1102(a)(1)(i) and 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 1102(a)(1)(i) and 1102(a)(3), evidencing Commission approval of York Water-WW's right to: (1) acquire certain wastewater system assets of the York Haven Sewer Authority (YHSA); and (2) begin to offer, render, furnish or supply wastewater service to the public in portions of York Haven Borough and Newberry Township, York County, Pennsylvania.

## **I. AFFECTED ENTITIES AND BACKGROUND**

York Water-WW is a regulated public utility company, duly organized and existing under the laws of the Commonwealth with a mailing address of 130 East Market Street, York, Pennsylvania 17401. York Water-WW furnishes wastewater service to approximately 6,166 customers in all or portions of 12 municipalities throughout Adams, Lancaster, Franklin, and York Counties. York Water-WW is a division of The York Water Company (York Water), Utility Code 213550, which provides water service in various municipalities throughout portions of Adams, Lancaster, Franklin, and York Counties.

YHSA is a municipal authority, duly organized and existing under the Pennsylvania Municipality Authorities Act, with a mailing address of 2 North Front Street, P.O. Box 394, York Haven, Pennsylvania 17370. YHSA owns and operates a wastewater collection, conveyance and treatment system (YHSA System) that furnishes wastewater service to approximately 227 customers. In the Application, York Water-WW indicated that Newberry Township provides wastewater service within its municipal limits. However, due to the absence of nearby facilities in a portion of Newberry Township, YHSA furnishes wastewater service to the Newberry Properties.<sup>1</sup> In supplemental information filed with the Commission, York Water-WW clarified that YHSA serves 216 residential and five commercial customers in a portion of York Haven Borough, and five residential and one commercial customers in a portion of Newberry Township. Water service for YHSA customers is provided by York Water or on-lot wells.

York Water-WW submitted proofs of publication and service to the appropriate entities. Notice of the Application was published in the *Pennsylvania Bulletin*, 53 Pa.B.

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<sup>1</sup> In supplemental information filed with the Commission, York Water-WW clarified the Newberry Properties include six properties identified by York County Parcel Nos. 39-000-24-0043.00-00000, 39-000-24-0001.00-00000, 39-000-24-0009.00-00000, 39-000-24-0008.00-00000, 39-000-24-0017.00-00000, and 39-000-24-0038.00-00000.

7343, on Saturday, November 25, 2023. The protest period ended December 11, 2023. No protests were filed, and no hearings were held.

## **II. LOCATION AND DESCRIPTION OF THE REQUESTED TERRITORY**

The Application's Exhibit C contained a map depicting York Water-WW's requested wastewater service territory (Requested Territory) along with a written description of the territory's boundaries by bearing angles and distances. In supplemental information filed with the Commission, York Water-WW indicated that the Requested Territory consists of 193.9 acres of land. The Requested Territory is situated in the central and southern portions of York Haven Borough and in the southeast portion of Newberry Township, York County. Additionally, the Requested Territory generally follows the alignment of Landvale Street (State Route 382), and River Drive and South Front Street (State Route 181).

## **III. DESCRIPTION OF FACILITIES FOR FURNISHING SERVICE**

York Water-WW will acquire certain wastewater system assets of YHSA, including a wastewater treatment plant (YHSA WWTP), four pump stations, land, valves, manholes, mains, laterals, curb boxes, and other related appurtenances. In supplemental information filed with the Commission as Attachment A-20-1, York Water-WW expanded the breakdown of the YHSA System assets by the collection and conveyance system (YHSA Conveyance System) and the YHSA WWTP. Specifically, the force main portion of the YHSA Conveyance System consists of approximately 270 linear feet (LF) of one and one-quarter-inch-diameter ductile iron (DI) pipe and 2,040 LF of two and one-half-inch-diameter DI pipe, and the gravity portion consists of approximately 662 LF of six-inch-diameter DI pipe, 772 LF of eight-inch-diameter DI pipe, 3,214 LF of eight-inch-diameter polyvinyl chloride (PVC) pipe, and 1,490 and 2,738 LF of six-inch-diameter and eight-inch-diameter pipe of unknown material, respectively. Additionally, the YHSA Conveyance System includes approximately 46 sewer manholes, six cleanout manholes, and 4,260 LF of four-inch-diameter PVC pipe for service laterals. Further, the YHSA WWTP includes the following components: one equalization tank, two aeration

tanks, two clarifiers, one chlorine contact tank, two well pumps, four equalization pumps, two five horsepower (HP) blowers, four 15 HP blowers, and other associated appurtenances.

York Water-WW included copies of YHSA's Pennsylvania Department of Environmental Protection (DEP) National Pollutant Discharge Elimination System (NPDES) Permit No. PA0081566 and DEP Water Quality Management (WQM) Permit No. 6784405 for the YHSA WWTP in the Application's Exhibit E. The YHSA WWTP has a permitted hydraulic design capacity and an effluent limitation for Outfall 001 of 0.08 million gallons per day (MGD) along with an organic load design capacity of 136 pounds of five-day biological oxygen demand per day (lbs. BOD<sub>5</sub>/day). In supplemental information filed with the Commission, York Water-WW provided a copy of YHSA's 2022 Municipal Wasteload Management Report (2022 Chapter 94 Report) filed with DEP. The 2022 Chapter 94 Report indicated that the YHSA WWTP had a peak monthly average flow of 0.0354 MGD and organic load 78 lbs. BOD<sub>5</sub>/day. Additionally, the 2022 Chapter 94 Report also indicated a projected growth of one equivalent dwelling unit per year for the next five years, or a projected increase in wastewater flows of 0.0005 MGD.

In the Application, York Water-WW indicated that it expected to be able to meet projected requirements for wastewater service through the year 2036. Therefore, it appears the YHSA WWTP has adequate capacity to continue to provide treatment service to the YHSA Conveyance System and meet future growth requirements.

#### **IV. ASSET PURCHASE AGREEMENT**

On July 17, 2023, York Water-WW and YHSA entered an Asset Purchase Agreement (APA) for York Water-WW to acquire certain YHSA System assets for a purchase price of \$330,000. York Water-WW provided a confidential copy of the APA as the Application's Exhibit D. York Water-WW averred that the APA was based on arm's length negotiations, and that York Water-WW and YHSA are not affiliated. York

Water-WW detailed that the purchase price is apportioned as follows: \$100,000 for the 1.14-acre parcel of land for the YHSA WWTP and \$230,000 for the YHSA System. Additionally, York Water-WW indicated that it paid YSHA an additional sum of \$10,000 upon the execution of the APA toward the reimbursement of YHSA's closing costs. York Water-WW averred that York Water-WW and YHSA will split equally the cost of any realty transfer tax due on the conveyance of the real property associated with acquisition of the YHSA System. In supplemental information filed with the Commission, York Water-WW indicated that it anticipates closing costs to be approximately \$25,000, not including the \$10,000 reimbursement paid to YHSA.

York Water-WW indicated that the purchase price and transaction costs for the acquisition will be financed by internally generated funds, proceeds from the issuance of common stock under York Water-WW's dividend reinvestment and direct and employee stock purchase plans, and, if necessary, borrowings against York Water-WW's line of credit.

**[BEGIN CONFIDENTIAL]**

**[END CONFIDENTIAL]**

In supplemental information filed with the Commission, York Water-WW indicated that YHSA's audited financial statements show Contributions in Aid of Construction (CIAC) of \$557,670 from the USDA (Farmers Home Administration) and

\$82,855 in CIAC from other customers (i.e., tapping fees) for a total of \$640,525 in CIAC toward the construction of the YHSA System. York Water-WW averred that YHSA has no outstanding PENNVEST loans. The following tentative journal entries for booking the transaction in York Water-WW's accounts were provided in supplemental information filed with the Commission:

1. Record Purchase of System

Account No.	Description	Debit (\$)	Credit (\$)
105	Construction Work in Process	380,000	
131	Cash		380,000

2. Close Project to Utility Plant

Account No.	Description	Debit (\$)	Credit (\$)
101	Utility Plant in Service	1,219,703	
108	Accumulated Depreciation (Assets net of Depreciation)		356,417
271	Contributions in Aid of Construction		640,525
114	Utility Plant Acquisition Adjustment	157,239	
105	Construction Work in Process (Purchase price + other acquisition costs)		380,000

3. Record other Project Costs

Account No.	Description	Debit (\$)	Credit (\$)
105	Construction Work in Process	375,000	
224	Line of Credit Borrowings		375,000

4. Close Projects to Utility Plant

Account No.	Description	Debit (\$)	Credit (\$)
101	Utility Plant in Service	375,000	
105	Construction Work in Process		375,000

In supplemental information filed with the Commission, York Water-WW clarified that its tentative journal entry for Construction Work in Progress included

\$10,000 for the reimbursement of YHSA's closing costs, as discussed above, and \$40,000 in costs to modify the permit and treatment system to eliminate the use of chlorine gas, which are in addition to the \$330,000 purchase price. York Water-WW indicated that the YHSA System's original cost is not available from YHSA, and that it will perform an original cost study for the YHSA System to determine the original cost and accumulated depreciation. *See* 66 Pa.C.S. § 1311(a) (relating to valuation of and return on the property of a public utility). Therefore, we will direct York Water-WW to file a copy of its original cost study of the wastewater system assets acquired from YHSA with the Commission at least four months prior to the date it plans to make its next rate case filing with the Commission.<sup>2</sup> Accordingly, York Water-WW will be directed to identify this transaction for individual review in the context of its next general rate case that proposes to include the value of these assets in rate base, including capitalized transaction and closing costs, in order to evaluate the reasonableness of the original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims, pursuant to Section 1327 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1327.<sup>3</sup>

## **V. ADDITIONAL CAPITAL REQUIREMENTS**

In supplemental information filed with the Commission, York Water-WW projected capital improvement expenses of approximately \$625,000 for the first five years of its ownership of the YHSA System. In year one, York Water-WW intends to: complete improvements to change disinfection treatment from chlorine to ultraviolet light at an estimated cost between \$150,000 to \$200,000; install/replace autodialers at five locations at a cost of \$5,000 per site for a total cost of \$25,000 (5 sites x \$5,000 per site); and install a supervisory control and data acquisition system at an estimated cost of \$100,000. In years two and three, York Water-WW plans to complete a closed-circuit television inspection of the entire YHSA System, make any necessary repairs, and

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<sup>2</sup> *See*, Ordering Paragraph 6.

<sup>3</sup> *See*, Ordering Paragraph 7.

uncover manholes that are paved over for a projected expense of \$100,000. In years three through five, York Water-WW intends to: rehabilitate the exposed YHSA WWTP tanks at an estimated cost of \$50,000; and inspect and rehabilitate all four pump stations, including installing new controls and pumps, if needed, at a cost of \$25,000 per pump station for a total cost of \$100,000 (4 pump stations x \$25,000 per pump station).

## **VI. PROPOSED RATES**

York Water-WW will adopt YHSA's currently effective wastewater rates, prorated from quarterly to monthly rates, for wastewater service within the Requested Territory, and will maintain YHSA's rates until the Commission approves a new rate in a future rate case. York Water-WW provided copies of a *pro forma* tariff supplement (Pro Forma Tariff) and a customer notice (2023 Customer Notice) dated November 3, 2023, as the Application's Exhibits K and O, respectively, that detailed customers would receive a monthly bill from York Water-WW as follows: Residential - \$50, Commercial Flat Rate - \$88, and Commercial Metered - \$6.06 per 1,000 gallons.

In supplemental information filed with the Commission on August 30, 2024, York Water-WW indicated that YHSA clarified that its current rates were different than previously identified by York Water-WW in the Pro Forma Tariff and provided to YHSA customers in the 2023 Customer Notice. York Water-WW included a copy of YHSA's meeting minutes (YHSA 2022 Minutes) from August 1, 2022, as the Application's Attachment A-34-1. Specifically, the YHSA 2022 Minutes approved higher rates for commercial flat rate and metered customers as follows: Commercial Flat Rate - \$308 per quarter, or \$102.67 per month ( $\$308 \div 3$  months per quarter) and Commercial Metered - \$9.75 per 1,000 gallons. Consequently, in supplemental information filed with the Commission on September 17, 2024, as the Application's Attachments A-41-1 and A-41-3, York Water-WW provided copies of a revised *pro forma* tariff supplement (Revised Pro Forma Tariff) and an updated customer notice (2024 Customer Notice) dated September 13, 2024, respectively. The 2024 Customer Notice was sent to YHSA

customers and highlighted that the 2023 Customer Notice did not correctly reflect YHSA's rates. The Commission notes that the Residential rate of \$50 per month was consistently specified in both the 2023 and 2024 Customer Notices.

In supplemental information filed with the Commission as the Application's Attachment A-41-2, York Water-WW provided a revised estimate of anticipated revenues and expenses. York Water-WW estimated that revenues and expenses for providing wastewater service within the Requested Territory would be \$155,412 and \$93,559, respectively, resulting in an estimated annual net income of \$61,853.

## **VII. PERMITS, EASEMENTS AND RIGHTS-OF-WAY REQUIRED**

York Water-WW averred the acquisition of YHSA System assets include all authorizations and permits of or held by YHSA necessary to operate and maintain the YHSA System including all environmental authorizations and permits, such as YHSA's NPDES Permit No. PA0081566 and WQM Permit No. 6784405. York Water-WW indicated it will submit a Permit Transfer Application to DEP for both permits.

## **VIII. ACT 537 OFFICIAL SEWAGE FACILITIES PLAN AND LAND-USE PLANNING COMPLIANCE**

In supplemental information filed with the Commission in the Application's Attachment A-35-1, York Water-WW provided a copy of York Haven Borough's DEP-approved Act 537 Official Sewage Facilities Plan (York Haven Act 537 Plan), dated July 1, 1983, prepared by C.S. Davidson, Inc.. York Water-WW indicated that it reviewed the DEP official sewage plan records for Newberry Township and that Newberry Township's sewage planning history was not straightforward as it relates to YHSA's provision of wastewater service to the Newberry Properties. Specifically, York Water-WW indicated that it was not able to identify sewage facilities planning documents for the portion of Newberry Township served by YHSA. However, in the Application's Attachment A-35-2, York Water-WW provided a copy of a letter (Newberry Letter) from

Newberry Township’s solicitor, MPL Law Firm, dated July 24, 2024. In the Newberry Letter, Newberry Township confirmed that YHSA’s existing wastewater service to the Newberry Properties is compliant with Newberry Township’s Act 537 Plan. York Water-WW averred that the Requested Territory matches the territory currently served by YHSA. Further, York Water-WW averred that to the best of its knowledge, based upon communication with York Haven Borough and Newberry Township, the Application and the Requested Territory comply with the applicable Act 537 Plans for each municipality. York Water-WW clarified that no additional future capital expenditures have been identified as required under the respective Act 537 Plans for the YHSA System.

#### **IX. OPERATIONS UNDER YORK WATER-WW**

In the Application, York Water-WW indicated that it would begin to provide wastewater service in the Requested Territory following Commission approval of the Application and consummation of the transaction. York Water-WW averred that it will operate the YHSA System as a stand-alone wastewater collection, conveyance and treatment system from its main office in York, Pennsylvania, which is located approximately 11 miles from York Haven Borough. In the Application’s Exhibit N, York Water-WW provided a copy of the certificate of its certified operator that will be responsible for the future wastewater facility operations and indicated that it will work to keep the current YHSA operator after the completion of the acquisition.

#### **X. LAND-USE PLANNING COMPLIANCE**

In the Application’s Exhibit M, York Water-WW provided a copy of a letter (YCPC Letter) from the York County Planning Commission dated August 25, 2023, that indicated the Application is consistent with the adopted county or multi-county comprehensive plan. In the YCPC Letter, York County commented that the southern portion of the requested service territory along South Front Street in Newberry Township is identified as an Established Rural Area. Further, York County expressed that any

future extension of wastewater service beyond the Newberry Properties identified in the Application would be considered inconsistent with the York County Comprehensive Plan unless needed for public health, safety, and welfare. York Water also provided copies of letters sent to York Haven Borough and Newberry Township dated August 22, 2023, and August 15, 2023, respectively, that requested both municipalities verify that the Application is consistent with the applicable comprehensive plans and zoning ordinances as the Application's Exhibits M-1 and M-2. Both municipalities confirmed that the Application is consistent with the applicable comprehensive plans and zoning ordinances.

## **XI. OTHER CONSIDERATIONS**

In the Application, York Water-WW indicated YHSA is no longer willing to provide wastewater service to its customers due to the complexities of operating and maintaining high quality service as well as the difficulties maintaining a viable wastewater system for a small number of customers. Further, York Water-WW indicated that the Commission encourages utilities, such as York Water-WW, to acquire small wastewater systems.<sup>4</sup> York Water-WW averred that it will bring significant resources to the YHSA System in order to keep it in compliance with existing and proposed regulatory requirements. In supplemental information filed with the Commission, York Water-WW described that it has superior cybersecurity protocols and that it has a dedicated customer service team and customer assistance programs. York Water-WW indicated that approval of the Application will benefit its existing wastewater customers by expanding the company's customer base allowing York-WW's fixed costs to be spread over a greater number of customers. Further, York-WW clarified that no competitive condition will be created by approval of this Application.

York Water-WW has no outstanding fines or assessments due to the Commission. Also, York Water-WW is current with its annual and quarterly earnings reports and the

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<sup>4</sup> See, 52 Pa. Code § 69.721.

Commission’s security planning and readiness report filing requirements. Through Commission correspondence with the DEP’s Southcentral Regional Office, it was determined that DEP, for this regional area, does not have any pending actions or outstanding complaints against York Water-WW or YHSA.

## **XII. CONCLUSION**

Section 1103(a) of the Code authorizes the Commission to approve an application “only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa.C.S. § 1103(a). Based upon the facts that there is a need to continue to make wastewater service available within the Requested Territory; that YHSA is no longer willing to provide wastewater service to its customers; that York Water-WW has the technical, regulatory, financial, and legal fitness to operate and maintain the system assets; that York Water-WW will be able to meet the needs of new customers; that York Water-WW will expand its service territory to customers in compliance with Commission regulations; and premised upon our review of the Application, supplemental information and the proposed tariff, pursuant to 66 Pa.C.S. §§ 1101 and 1103(a); the Commission finds that granting approval of York Water-WW’s Application is necessary or proper for the service, accommodation, convenience, or safety of the public and in the public interest; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Application of The York Water Company – Wastewater at Docket No. A-2023-3044173, as supplemented, is hereby approved, consistent with this Order.
2. That a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the right of The York Water Company – Wastewater

to acquire certain wastewater system assets from the York Haven Sewer Authority, as described in the Application.

3. That within ten (10) days of closing with the York Haven Sewer Authority, The York Water Company – Wastewater shall provide written notification to the Secretary’s Bureau at Docket No. A-2023-3044173.

4. That, upon The York Water Company – Wastewater meeting the condition imposed in Ordering Paragraph 3, a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(1)(i) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a)(1)(i), authorizing The York Water Company – Wastewater to begin to offer, render, furnish, and supply wastewater service to the public in portions of York Haven Borough and Newberry Township, York County, Pennsylvania, consistent with the Application’s Exhibit C.

5. That within ten (10) days following the date of closing with the York Haven Sewer Authority, The York Water Company – Wastewater shall file a tariff supplement with the Secretary’s Bureau at Docket No. A-2023-3044173, consistent with the *pro forma* tariff supplement provided as the Application’s Attachment A-41-1, to become effective on one day’s notice.

6. That The York Water Company – Wastewater shall file a copy of its original cost study of the wastewater system assets acquired from York Haven Sewer Authority with the Secretary’s Bureau at Docket No. A-2023-3044173 upon completion of said study and at least four (4) months prior to the date that The York Water Company – Wastewater plans to file its next general rate case filing with the Commission, and shall serve copies of said study upon the Bureau of Technical Utility Services, the Bureau of Audits, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

7. That, at the time of filing its next base rate case that proposes to include the assets of this acquisition in rate base, The York Water Company – Wastewater shall provide testimony that specifically references Docket No. A-2023-3044173 and that justifies any amount claimed as an addition to rate base in order to evaluate the reasonableness of the original cost, contributions, accumulated depreciation, and any utility plant acquisition adjustment claims pursuant to Section 1327 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1327.

8. That a Certificate of Filing under Section 507 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 507 shall be issued to The York Water Company – Wastewater acknowledging a copy of the Purchase Agreement by and between York Haven Sewer Authority and The York Water Company – Wastewater, dated July 17, 2023, has been on file with the Commission since November 10, 2023.

9. That if The York Water Company – Wastewater determines that the transaction will not occur, it will promptly file notice of such determination with the Secretary’s Bureau at Docket No. A-2023-3044173 and return the Certificate of Public Convenience issued in Ordering Paragraph 2.

10. That nothing herein shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt The York Water Company – Wastewater from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

11. That a copy of this Order be served upon The York Water Company – Wastewater, the Commission’s Bureau of Audits, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania Department of Revenue’s Bureau of Corporate Taxes, the York Haven Borough Board of Supervisors, the York Haven Borough Planning Commission, the Newberry Township Board of Supervisors, the Newberry

Township Planning Commission, the York County Commissioners, the York County Planning Commission, and the Pennsylvania Department of Environmental Protection – Southcentral Regional Office and its Bureau of Regulatory Counsel.

12. That upon the issuance of the Certificate of Public Convenience as outlined in Ordering Paragraph 4, or upon the return of the Certificate of Public Convenience issued in Ordering Paragraph 2, the proceeding at Docket No. A-2023-3044173 be closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: November 7, 2024

ORDER ENTERED: November 7, 2024