

**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 : Docket No. A-2023-3038717
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 related points of bulk service :
interconnections, and a portion of Forward Township, :
limited to the administration of the Industrial :
Pretreatment Program, in Allegheny County, :
Pennsylvania :

In re: Application of Pennsylvania-American Water :
Company under Section 1329 of the Pennsylvania Public :
Utility Code, 66 Pa C.S. § 1329, for approval of the use :
for ratemaking purposes of the lesser of the fair market : Docket No. A-2024-_____
value or the negotiated purchase price of the assets :
related to the wastewater treatment plant and collection :
system owned and operated by the Elizabeth Borough :
Municipal Authority :

In re: Petition of Pennsylvania-American Water :
Company, related to its acquisition of the wastewater :
treatment plant and collection system owned and :
operated by the Elizabeth Borough Municipal Authority, :
for approval under Section 1329 of the Pennsylvania :
Public Utility Code, 66 Pa. C.S. § 1329, to (i) collect a :
distribution system improvement charge, (ii) for book :
and ratemaking purposes, accrue Allowance for Funds :
Used During Construction for post-acquisition : Docket No. P-2024-_____
improvements not recovered through the distribution :
system improvement charge, (iii) for book and :
ratemaking purposes, defer depreciation related to post- :
acquisition improvements not recovered through the :
distribution system improvement charge, and (iv) :
include, in its next base rate case, a claim for transaction :
and closing costs :

In re: Filing by Pennsylvania-American Water Company :
under Section 507 of the Pennsylvania Public Utility :
Code, 66 Pa. C.S. § 507, of (i) the Asset Purchase :
Agreement by and between Elizabeth Borough :
Municipal Authority and Pennsylvania-American Water : Docket Nos. U-2024-_____, *et al.*
Company, and the First Amendment to the Asset :
Purchase Agreement (ii) six (6) agreements with :
municipal corporations to be assumed by Pennsylvania- :
American Water Company upon closing of its :
acquisition of substantially all of the assets related to the :
wastewater treatment plant and collection system owned :
and operated by Elizabeth Borough Municipal Authority :

AMENDED APPLICATION OF PENNSYLVANIA-AMERICAN WATER COMPANY

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Pennsylvania-American Water Company (“PAWC” or “Applicant”) hereby respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) issue such Certificates of Public Convenience as necessary to evidence its approval under Section 1102(a) of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1102(a), of: (a) the transfer, by sale of substantially all of the assets, properties and rights related to the wastewater treatment plant and collection system (the “System”) owned and operated by Elizabeth Borough Municipal Authority (“EBMA” or “Authority”) to PAWC; (b) PAWC’s right to begin to offer, render, furnish and supply wastewater service in the areas served by the System in the Borough of Elizabeth, and related points of bulk service interconnections, and a portion of Forward Township, limited to the administration of the Industrial Pretreatment Program, in Allegheny County, Pennsylvania (hereinafter the “Service Area”); (c) PAWC’s right to begin to offer and furnish Industrial Pretreatment Program (“IPP”) service to qualifying industrial customers in Forward Township, Allegheny County, Pennsylvania; and (d) PAWC’s right to make effective upon closing the *pro forma* tariff supplement attached hereto as Amended **Appendix A-12**.

2. PAWC also respectfully requests that the Commission approve, pursuant to Code Section 1329, 66 Pa. C.S. § 1329: (a) the use for ratemaking purposes of the lesser of the fair market value or the negotiated purchase price of EBMA’s assets related to the System;¹ (b) the collection of a distribution system improvement charge (“DSIC”) related to the System prior to the first base rate case in which the System plant-in-service is incorporated into rate base; (c) to record the acquisition at the net value of the assets, (d) the accrual of Allowance for Funds Used During Construction (“AFUDC”) for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; (e) the deferral of depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; and (f) the inclusion, in its next base rate case, of a claim for transaction and closing costs related to the acquisition. Attached hereto as Amended **Appendix A** is the Commission’s current “66 Pa. C.S. § 1329 Application Filing Checklist - Water/Wastewater” (“Application Filing Checklist”), Appendix A to the Commission’s Final Supplemental Implementation Order in *Valuation of Acquired Municipal Water & Wastewater Systems – Act 12 of 2016 Implementation*, Docket No. M-2016-2543193 (Order entered July 2, 2024) (“2024 FSIO”). For ease of reference and review, the sub-appendices to Amended **Appendix A** (such as **Appendix A-1**, **Appendix A-2**, etc.) correspond directly with the filing requirements listed in the Commission’s Application Filing Checklist. Certain appendices contain proprietary information and are, accordingly, labeled as **CONFIDENTIAL** and filed with the Commission’s Secretary under seal.

3. PAWC further requests, pursuant to Code Section 507, 66 Pa. C.S. § 507, the issuance of Certificates of Filing or approvals for the following agreements between PAWC and a municipal corporation:

¹ PAWC reserves its right in future proceedings to make rate base claims related to the acquisition as may otherwise be permitted under the Code.

- a. Asset Purchase Agreement dated January 24, 2023, by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (attached hereto as **Appendix A-24-a.1**) (the “APA”);
- b. First Amendment to Asset Purchase Agreement, dated July 5, 2023, by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (the “First Amendment”) (attached hereto as **Appendix A-24-a.2**);
- c. Service Agreement dated January 25, 2000, by and between the Borough of Elizabeth and the Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.1**);
- d. Fallen Timber Run Watershed Area Interceptor Sewer Project Agreement between the Borough of Elizabeth, Elizabeth Borough Municipal Authority, the Township of Forward, the Township of Elizabeth, and the Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.2**);
- e. Agreement dated December 15, 1987, by and between the Borough of Elizabeth, Elizabeth Borough Municipal Authority and the Borough of Lincoln (attached hereto as **Appendix A-25.3**);
- f. Agreement dated November 26, 1957, by and between Borough of Elizabeth, Elizabeth Borough Municipal Authority, the Township of Elizabeth and Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.4**);
- g. Agreement dated January 23, 1958, by and between Borough of Elizabeth, Elizabeth Borough Municipal Authority and the Township of Forward (attached hereto as **Appendix A-25.5**);
- h. *Pro Forma* Lease Agreement by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (attached hereto as **Appendix A-25.6**).

The aforementioned agreements are referred to collectively herein as the “Section 507 Agreements.”

- 4. The name and address of the Applicant is:

Pennsylvania-American Water Company
 852 Wesley Drive
 Mechanicsburg, PA 17055

- 5. The names and addresses of PAWC’s attorneys are:

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6. 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. Water and wastewater service are furnished by PAWC to the public in a service territory encompassing more than 417 communities in 37 counties across the Commonwealth, including Allegheny County and the nearby counties of Armstrong, Beaver, Butler and Washington. PAWC serves a combined population of over 2,300,000. A description of PAWC's existing certificated water and wastewater service territory is found in **Appendix B**, along with a detailed corporate history, outlining all the mergers, acquisitions and consolidations, which have created PAWC as it exists on the date of this Application.

7. EBMA is a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act in the Commonwealth of Pennsylvania, with an office located at 1 Locust Street, Elizabeth, PA 15037. EBMA was incorporated on December 29, 1949, under the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended, and pursuant to the Ordinance of Borough of Elizabeth ("Borough"). EBMA owns and operates the System to provide wastewater service to customers throughout the Service Area.

8. As of March 2023, the System furnished wastewater service directly to approximately 700 customers. The System also had three intermunicipal agreements by which it provided service

indirectly to additional residential and commercial customers. The System's Service Area spans approximately 0.4 square miles.

9. As of August 31, 2024, PAWC furnished wastewater service to approximately 98,314 residential, commercial, industrial, municipal and bulk customers in Pennsylvania. As of August 31, 2024, PAWC furnished water service to approximately 686,065 residential, commercial, industrial, municipal and bulk customers in Pennsylvania.

10. The completion of the below-defined Transaction will confer benefits upon the long-term financial health of the Borough, while ensuring that EBMA's existing customers receive safe, adequate, and reliable wastewater service at just and reasonable rates.

A. TRANSFER, BY SALE, OF ALL OF EBMA'S ASSETS, PROPERTIES AND RIGHTS RELATED TO THE SYSTEM TO PAWC (OTHER THAN THE EXCLUDED ASSETS)

Summary of the Transaction

11. On January 24, 2023, EBMA entered into the APA, along with detailed schedules, with PAWC to sell all of EBMA's assets, properties and rights relating to the System (other than the Excluded Assets, as defined by the APA) (the "Transaction"). The APA includes a purchase price for the System of \$28,000,000.

12. EBMA and PAWC executed the First Amendment, which modified the assets, Seller's covenants and definitions.

13. The Transaction will be completed in accordance with the APA.

14. Among other things, the APA: (i) requires PAWC and EBMA to complete the Transaction after receipt of all governmental approvals (including from this Commission) and the satisfaction of all conditions precedent; (ii) requires PAWC to assume certain contracts; (iii) requires PAWC initially to adopt the rates in effect at the time of closing of the Transaction ("Closing") (see

pro forma tariff supplement attached hereto as Amended **Appendix A-12**); and, (iv) sets forth rates for the Service Area that will be fair to both EBMA’s current customers and PAWC’s current customers.²

Applicable Legal Standards

15. Under Code Section 1103, the Joint Applicants must demonstrate that PAWC is legally, technically, and financially fit. *Seaboard Tank Lines v. Pa. Pub. Util. Comm’n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. v. Pa. Pub. Util. Comm’n*, 138 A.2d 240, 243 (Pa. Super. 1958). As a currently certificated public utility, PAWC’s fitness is presumed by law to be continuing. *See, e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm’n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992).

16. The Commission may issue a certificate of public convenience upon a finding 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). Ownership and operation of the System by PAWC will “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm’n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972). The “substantial public interest” standard is satisfied by a simple preponderance of the evidence of benefits. *Popowsky v. Pa. Pub. Util. Comm’n*, 594 Pa. 583, 611, 937 A.2d 1040, 1057 (2007).

17. Code Section 1329 establishes a voluntary process whereby the acquiring public utility and the selling municipality may choose to have the fair market value of the assets established through independent appraisals conducted by Utility Valuation Experts (“UVEs”). For ratemaking purposes, the valuation will be the lesser of the average of the two appraisals or the negotiated purchase price. 66 Pa. C.S. § 1329.

² The rate commitments set forth in the APA do not fall within the definition of a “rate stabilization plan” as defined by 66 Pa. C.S. § 1329. *See* Direct Testimony of Stacey Gress, **Appendix A-14-a**, PAWC St. No. 3.

18. Code Section 1329 also allows, as a matter of law, the acquiring public utility, *inter alia*, (i) to collect a DSIC for the Service Area prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base,³ (ii) to accrue AFUDC for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes, (iii) to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes, and (iv) to include, in its next base rate case, a claim for transaction and closing costs associated with the acquisition. In order to obtain this ratemaking treatment, the acquiring public utility must produce certain documents and information as required by the Commission in the context of a future base rate proceeding. 66 Pa. C.S. § 1329; *see Implementation of Section 1329 of the Public Utility Code*, Docket No. M-2016-2543193 (Final Supplemental Implementation Order entered February 28, 2019) (“*2019 FSIO*”).

19. Code Section 507, 66 Pa. C.S. § 507, requires that contracts between a public utility and a municipal corporation, except for contracts to furnish service at a regular tariffed rate, be filed with the Commission at least 30 days before the effective date of the contract. The Commission acknowledges the contract by issuing a certificate of filing unless it decides to institute proceedings to determine whether there are any issues with the reasonableness, legality, or any other matter affecting the validity of the contract. Should the Commission initiate proceedings, the contract or agreement is not effective until the Commission grants its approval. 66 Pa. C.S. § 507.

20. On July 2, 2024, the Commission issued the *2024 FSIO*, which approved several changes to the Commission’s procedures and guidelines for filings made under Section 1329 of the Code. The *2024 FSIO* modified the Application Filing Checklist with respect to the contents of public

³ Before doing so, however, PAWC would need to file and receive Commission approval of, an amended Long Term Infrastructure Improvement Plan and a compliance tariff supplement, which incorporate the Service Area into PAWC’s DSIC tariff.

hearings and rate impact notifications and developed a reasonableness review ratio (“RRR”) that is intended to guide the Commission in its review of the prudence of the Amended Application.

21. In the *2024 FSIO*, the Commission recognized that APAs and Section 1329 applications were in various stages of negotiation and filing. The APA between PAWC and EBMA was executed on January 24, 2023, which was well before issuance of the *2024 FSIO*. This Amended Application is updated to be consistent with *2024 FSIO*, but to the extent there are aspects of the process leading up to APA execution that differ from the *2024 FSIO* guidelines, the *2024 FSIO* should not be applied retroactively.⁴

Background Financial Information

22. Attached hereto is EBMA’s balance sheet as of December 31, 2023 (**Appendix C**) and PAWC’s audited balance sheet as of December 31, 2023 (**Appendix D**).

23. Attached hereto is EBMA’s audited income statement for the 12 months ended December 31, 2023 (**Appendix E**), and PAWC’s audited income statement for the 12 months ended December 31, 2023 (**Appendix F**).

24. All the annual reports, tariffs, certificates of public convenience, applications, securities certificates and similar documents filed with this Commission by PAWC, and its predecessors are made a part hereof by reference.

Terms and Impact of the Transaction

25. As noted above, this Amended Application seeks, among other things, approval of the transfer to PAWC of substantially all of the assets, properties and rights related to the System (other than the Excluded Assets, as defined by the APA) (**Appendix A-24-a**).

26. PAWC and EBMA are not affiliated with each other.

27. The Transaction is, and was negotiated, at arm’s length.

⁴ See *2024 FSIO* at 114 (“To be clear, the provisions of this Order are not retroactive”).

28. Consistent with the 2024 FSIO, PAWC provided EBMA with information regarding the potential rate impact of this Transaction on EBMA's existing customers. EBMA understands that the Commission may shift rate allocations in a manner that differs from any commitments made in the APA or as part of this Amended Application.

29. Attached hereto as **Appendix G** is a *pro forma* balance sheet of PAWC as of December 31, 2023, giving effect to the transfer.⁵

30. Attached hereto as **Appendix H** is a *pro forma* consolidated income statement of PAWC and EBMA for the 12 months as of December 31, 2023.⁶

31. Attached hereto as **Appendix I** is a certified copy of the resolutions adopted by the Board of Directors of PAWC authorizing the execution of the APA and the consummation of the proposed transfer.

32. Attached hereto as **Appendix J** is a copy of the EBMA Board of Directors Minutes for the November 8, 2022 Board Meeting approving the execution of an asset purchase agreement for the sale of the wastewater system assets including the execution of the APA.

33. Attached hereto as **Appendix K** is an estimate of PAWC's revenues and expenses in the new Service Area during the first year after closing.

Transaction's Effect on Service and Rates and Other Affirmative Benefits

34. The Transaction is in the public interest, will provide affirmative public benefits of a substantial nature, and satisfies the applicable standard of Code Section 1103, 66 Pa. C.S. § 1103, because the benefits of the Transaction outweigh the detriments for all major stakeholder groups: (a)

⁵ The timing difference in restating the Elizabeth Borough Municipal Authority's financial statements as of December 31, 2023 is assumed by PAWC to be immaterial.

⁶ The timing difference in restating the Elizabeth Borough Municipal Authority's financial statements as of December 21, 2023 is assumed by PAWC to be immaterial.

the public-at-large, (b) EBMA and the Borough, (c) the existing customers of the System, (d) PAWC, (e) the existing wastewater customers of PAWC, and (e) the existing water customers of PAWC.

35. The Transaction will benefit the public-at-large, for the following reasons (among others):

- a. The Transaction promotes the Commission’s policy favoring regionalization and consolidation of water and wastewater systems. 52 Pa. Code § 69.721(a).
- b. The Transaction promotes the Legislature’s policy goals when it enacted Section 1329.
- c. Due to its greater financial resources and greater depth of experience in managing wastewater systems, PAWC is in a better position than EBMA to address the System’s existing environmental challenges and to maintain environmental compliance in the future. PAWC has a good record of complying with applicable environmental statutes and regulations. Improved environmental compliance will promote the rights of all Pennsylvanians, which are protected by the Environmental Rights Amendment. PA. CONST. Art. I, § 27.

36. The Transaction will benefit EBMA and the Borough for the following reasons (among others):

- a. The Transaction will result in the elimination of all EBMA debt relating to the System (approximately \$12.78 million), which will save thousands of dollars in interest payments. After closing on the Transaction (“Closing”), the Authority will be dissolved and the remaining proceeds will be transferred to the Borough, which will use them for public purposes, such as infrastructure improvements.
- b. PAWC will offer employment to active employees of the System. This was important to EBMA.
- c. The Borough will receive additional tax revenues because the System will be subject to tax after Closing. In addition, PAWC will improve the System, which will promote economic development in the area, further enhancing tax revenues to the Borough.
- d. By selling the System, the Authority can be dissolved and Borough officials and staff can focus their attention on other governmental programs and projects.

37. The Transaction will benefit the existing customers of EBMA for the following reasons (among others):

- a. The existing System customers are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
- b. PAWC has extensive local knowledge of Allegheny County, due to its ownership and operation of other water and wastewater systems in the area.
- c. System customers will become part of a large PAWC customer base. As a standalone system, System customers have to bear the burden of the System's capital improvement needs on their own. As part of a larger customer base, System customers will benefit at times but also be required to contribute to other customers at times. The sharing of costs over an extended period of time is a benefit of regionalization and consolidation of wastewater systems in the Commonwealth.
- d. Customers will receive service from a large, financially, legally and technically fit public utility. The System will be able to draw on the statewide resources of PAWC. This includes approximately 1,150 professionals with expertise in all areas of water and wastewater utility operations. In addition, since PAWC is a subsidiary of American Water Works Company, Inc., it has access to additional resources of highly trained professionals who have expertise in various specialized areas. Finally, PAWC has access to equity and other funding sources to which the System does not currently have access (such as a \$400 million line of credit through American Water Capital Corp.).
- e. Customers will receive service from a public utility, subject to the regulatory oversight of the Commission. Customers will now be able to receive assistance from the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement with service and rate issues.
- f. PAWC has more robust cybersecurity, physical security, business continuity and emergency plans than EBMA.
- g. Customers can make service calls to PAWC's customer call centers at hours when EMBA's office is closed.
- h. PAWC has more robust customer assistance programs and customer education programs.
- i. PAWC must comply with the Responsible Utility Customer Protection Act, and the Commission's regulations at 52 Pa. Code Chapter 56, whereas the System is not subject to this statute and regulations.

- j. The System's existing customers will enjoy the economies of scale that come from PAWC's greater size and purchasing power, including its ability to obtain goods and services at lower costs because it buys in large quantities.
- k. EBMA held three public meetings evaluating and approving the Transaction on June 15, 2022, August 9, 2022, and November 8, 2022. No members of the public and one member of the media provided comments at these meetings. At the June 15, 2022 meeting, a presentation was given explaining, among other things, the potential rate impact of a wastewater system sale and the PUC's jurisdiction over future rate increase requests.

38. The Transaction will benefit PAWC for the following reasons (among others):

- a. The EBMA service territory is almost entirely within PAWC's water territory footprint. Accordingly, this transaction creates several regionalization and consolidation benefits, including better coordination of construction projects and more efficient repairs.
- b. PAWC's Pittsburgh drinking water system is located downstream from the EBMA wastewater system, so environmental improvements to the EBMA system would benefit PAWC and its customers downstream.
- c. PAWC would become better positioned to eventually connect the old wastewater systems in this area to its state-of-the-art McKeesport WWTP, which would offer significant environmental benefits.

39. The Transaction will benefit the existing wastewater customers of PAWC for the following reasons (among others):

- a. PAWC's existing wastewater customers are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
- b. The Transaction will have no immediate rate impact on PAWC's existing wastewater customers; any impacts on the rates of PAWC's existing customers would occur only upon Commission approval as part of a base rate proceeding.
- c. The Transaction will add approximately 5,886 wastewater customers to PAWC's existing wastewater customer base of approximately 98,024 customers. In the long term, this will benefit existing wastewater customers by spreading the costs of the System among a larger number of customers, allowing all customers to share future infrastructure and other expenses, which permits rates for all customers to remain just and reasonable over time. It also promotes rate stability because customers in any particular wastewater system are unlikely to experience sharp rate spikes when their individual system requires extensive capital investments.

40. The Transaction will benefit the existing water customers of PAWC for the following reasons (among others):

- a. The existing water customers of PAWC are members of the public-at-large, and so will enjoy the same benefits from the Transaction as all other members of the public-at-large.
- b. The Transaction will have no immediate rate impact on PAWC's existing water customers.
- c. In the long term, the Transaction will have no impact at all on the rates of PAWC's existing water customers unless, in a future rate case, the Commission determines that an allocation of PAWC's wastewater requirement to water customers is in the public interest.

B. THE RIGHTS OF PAWC 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

41. The System provides wastewater service to approximately 2,200 direct and indirect customers in the Service Area.

42. PAWC's applied-for service territory is shown on the maps in **Appendix A-16-a through A-16-f (Appendix A-16-f is CONFIDENTIAL)** and is further described in that appendix. The applied-for Service Area will be consistent with the Act 537 Service Area for the System in the Borough of Elizabeth, and portions of the Borough of Lincoln, and the Townships of Elizabeth and Forward.

43. No corporation, partnership or individual other than EBMA is now furnishing or has corporate or franchise rights to furnish service similar to that to be rendered by PAWC in the territory covered by this Amended Application, and no competitive condition will be created. As part of this Amended Application, PAWC has requested approval to acquire, by purchase, substantially all of the assets, properties and rights related to the wastewater treatment plant and collection system (other

than the Excluded Assets, as set forth in the APA). Upon closing of the Transaction, EBMA will permanently discontinue all wastewater service to the public and EBMA will be disbanded.

C. FAIR MARKET VALUATION UNDER CODE SECTION 1329

44. **Amended Appendix A** and related Amended Application Filing Checklist appendices satisfy the filing requirements of Code Section 1329, the *2019 FSIO*, the *2024 FSIO*, and the Amended Application Filing Checklist. The Section 1329 appendices correspond directly with the numbered requirements of the Amended Application Filing Checklist (e.g., **Appendix A-1** (Requirement No. 1), **Appendix A-2** (Requirement No. 2), etc.).

45. The fair market valuation reports of the seller's and buyer's UVEs are contained in **Appendix A-5** (with electronic working documents included at **Appendix A-4** as **Appendix A-4.2 (Weinert Appraisal and Depreciation Service, LLC)** and **Appendix A-4.3 (Gannett Fleming Valuation and Rate Consultants, LLC)**). Buyer's UVE's written direct testimony in support of its report is set forth in **Appendix A-14-b**.⁷

46. PAWC's other written direct testimony in support of this Amended Application can be found in **Appendix A-14-a**.

47. As PAWC has followed the requirements of Section 1329, the 2019 FSIO, the 2024 FSIO, and the Amended Application Filing Checklist, PAWC should be permitted to: (a) use for ratemaking purposes the lesser of the fair market value or the negotiated purchase price of the assets related to the System; (b) collect a DSIC related to the Service Area prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base, (c) accrue AFUDC for post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; (d)

⁷ PAWC is submitting direct testimony of EBMA's UVE and one other piece of testimony by Timothy Guffey, Chairman of the Board of EBMA and President of Council for Elizabeth Borough. These two pieces of Direct Testimony are being submitted as directed by the 2019 FSIO. PAWC's submission of this testimony should not be considered support for or sponsorship of such testimony. PAWC anticipates that EBMA will intervene in this matter and will sponsor their respective direct testimony and exhibits. PAWC reserves its right to submit rebuttal testimony regarding the testimony of EBMA as appropriate.

defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes; and, (e) include, in its next base rate case, a claim for transaction and closing costs related to the acquisition.

48. The 2024 FSIO established an RRR as a guidepost for analyzing and evaluating the overall prudence of Section 1329 applications. On August 9, 2024, the initial RRR was published by the Commission as 1.68. The differential between PAWC's purchase price and the depreciated original cost of the system multiplied by the RRR is approximately \$29,000.

49. Accordingly, PAWC is only seeking approval to record \$27,971,178 (the depreciated original cost multiplied by the RRR) on its books. PAWC requests to record the acquisition on a net basis consistent with generally accepted accounting principles, which advise that property, plant and equipment acquired in a business combination intended to be held and used should be recognized and measured at fair value, and that the accumulated depreciation of the acquiree is not carried forward in a business combination (*i.e.*, net presentation).

D. FILING OF CONTRACTS PURSUANT TO CODE SECTION 507

50. The APA, because it is between PAWC and a municipal corporation, is required to be filed with the Commission under 66 Pa. C.S. § 507. The APA and First Amendment are attached hereto as **Appendix A-24-a.1 and a.2**, respectively. In addition, contracts between EBMA and certain municipal corporations will be assumed by PAWC upon Closing. The Section 507 Agreements are listed on **Appendix A-25** and attached hereto as **Appendices A-25.1 through A-25.6**. The municipal agreements are reasonable and otherwise lawful. Assumption of the agreements by PAWC is necessary for PAWC to abide by the existing contractual arrangements of EBMA and in order for PAWC to provide safe, adequate, and reasonable service to the Service Area customers at just and reasonable rates. Assumption of the agreements will also allow PAWC to provide the same treatment services to surrounding municipalities that EBMA historically provided. The

surrounding municipalities are dependent upon such wastewater treatment service for the convenience of their consumers. Accordingly, the Commission should issue Certificates of Filing or otherwise approve the Section 507 Agreements under 66 Pa. C.S. § 507.

E. NOTICE

51. As evidenced by the Certificate of Service accompanying this Amended Application, PAWC is serving copies of this filing electronically by emailing a One Drive link to the Office of Consumer Advocate, the Office of Small Business Advocate, and the Commission’s Bureau of Investigation and Enforcement. Once the Amended Application is reviewed and conditionally accepted by Commission Staff, PAWC will serve copies of the Amended Application upon the municipal entities required to be provided with copies by the Commission’s regulations at 52 Pa. Code § 3.501(f) and by the Amended Application Filing Checklist and upon the Pennsylvania Department of Environmental Protection (“DEP”) Central Office and Southwest Regional Office. Similarly, notice will be published in local newspapers of general circulation.

52. Upon receiving conditional acceptance of this filing by the Commission, PAWC will provide individual notice to its customers by bill insert or bill onsert and to EBMA’s customers by direct mail, in substantial compliance with the settlement in *Application of Pennsylvania-American Water Company Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Water System Assets of the Steelton Borough Authority*, Docket No. A-2019-3006889 (Order entered October 3, 2019).⁸ PAWC will verify to the Commission when individual notice to affected customers has been completed and ask that the filing be finally accepted.

53. Upon final acceptance of this filing, PAWC respectfully requests that the Commission publish notice of this filing in the Pennsylvania Bulletin as soon as possible, with a reasonable deadline for the filing of protests, interventions, etc. in this proceeding.

⁸ See Direct Testimony of Stacey D. Gress, **Appendix A-14-a**, PAWC Statement No. 3. at pp. 12-13.

F. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Pennsylvania-American Water Company respectfully requests that the Pennsylvania Public Utility Commission approve the Amended Application and order that:

(a) such Certificates of Public Convenience be issued as necessary to evidence its approval under 66 Pa. C.S. § 1102(a) of (i) the transfer, by sale, of substantially all of the assets, properties and rights related to the wastewater treatment plant and collection system owned and operated by EBMA to Pennsylvania-American Water Company, (ii) the right of Pennsylvania-American Water Company to begin to offer, render, furnish and supply wastewater service in the areas served by the wastewater treatment plant and collection system owned and operated by EBMA, and (iii) the right of Pennsylvania-American Water Company to offer and furnish an Industrial Pretreatment Program to qualifying industrial customers in Forward Township, Allegheny County, Pennsylvania;

(b) the *pro forma* tariff supplement attached hereto as Amended **Appendix A-12**, including all rates, rules and regulations regarding conditions of Pennsylvania-American Water Company's wastewater service as revised herein, be permitted to become effective immediately upon closing of the Transaction;

(c) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to use for ratemaking purposes the lesser of the fair market value or the negotiated purchase price of the assets purchased pursuant to the Transaction;

(d) pursuant to 66 Pa. C.S. § 1702, Pennsylvania-American Water Company be permitted to record the acquisition at the net value of the assets;

(e) pursuant to 66 Pa. C.S. 1329, Pennsylvania-American Water Company be permitted to collect a distribution system improvement charge prior to the first base rate case in which the Service Area plant-in-service is incorporated into rate base;

(f) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to accrue Allowance for Funds Used During Construction for post-acquisition improvements not recovered through the distribution system improvement charge for book and ratemaking purposes;

(g) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to defer depreciation related to post-acquisition improvements not recovered through the DSIC for book and ratemaking purposes;

(h) pursuant to 66 Pa. C.S. § 1329, Pennsylvania-American Water Company be permitted to include, in its next base rate case, a claim for transaction and closing costs associated with the acquisition of the System;

(i) pursuant to 66 Pa. C.S. § 507, a Certificate of Filing or approvals be issued for the following agreements between Pennsylvania-American Water Company and a municipal corporation:

- i. Asset Purchase Agreement dated January 24, 2023, by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (attached hereto as **Appendix A-24-a.1**);
- ii. First Amendment to Asset Purchase Agreement, dated as of July 5, 2023, by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (attached hereto as **Appendix A-24-a.2**);
- iii. Service Agreement dated January 25, 2000, by and between the Borough of Elizabeth and the Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.1**);

- iv. Fallen Timber Run Watershed Area Interceptor Sewer Project Agreement between the Borough of Elizabeth, Elizabeth Borough Municipal Authority, the Township of Forward, the Township of Elizabeth, and the Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.2**);
- v. Agreement dated December 15, 1987, by and between the Borough of Elizabeth, Elizabeth Borough Municipal Authority and the Borough of Lincoln (attached hereto as **Appendix A-25.3**);
- vi. Agreement dated November 26, 1957, by and between Borough of Elizabeth, Elizabeth Borough Municipal Authority, the Township of Elizabeth and Sanitary Authority of Elizabeth Township (attached hereto as **Appendix A-25.4**);
- vii. Agreement dated January 23, 1958, by and between Borough of Elizabeth, Elizabeth Borough Municipal Authority and the Township of Forward (attached hereto as **Appendix A-25.5**);
- viii. *Pro Forma* Lease Agreement by and between the Elizabeth Borough Municipal Authority and Pennsylvania-American Water Company (attached hereto as **Appendix A-25.6**).

(j) the issuance of any other approvals or certificates appropriate, customary, or necessary under the Code to carry out the Transaction contemplated in this Amended Application in a lawful manner.

Respectfully submitted,



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Dated: September 27, 2024
(amended November 26, 2024)