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March 26, 2025

**VIA ELECTRONIC FILING**

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

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. Pennsylvania American Water Company  
Docket No. C-2025-3053783**

**I&E Formal Complaint (Damage Prevention)**

Dear Secretary Chiavetta:

On behalf of Pennsylvania-American Water Company, please find its Notice to Plead, Answer and New Matter in the above-captioned proceeding.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Erin K. Fure".

Erin K. Fure

cc: All Parties on the attached Certificate of Service (*via electronic mail*)



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	Docket No. C-2025-3053783
v.	:	
	:	
Pennsylvania-American Water Company,	:	
Respondent	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.63, you are hereby notified that you have twenty (20) days from the service of the enclosed Answer and New Matter of Pennsylvania-American Water Company (“PAWC”) to file a reply to the New Matter. All pleadings, such as a reply, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PAWC, and where applicable the Administrative Law Judge presiding over the case.

**File with:**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Erin K. Fure, Esquire (PA ID #312245)  
852 Wesley Drive  
Mechanicsburg, PA 17055



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Erin K. Fure, Esquire (PA ID #312245)  
Counsel for *Pennsylvania-American Water  
Company*

Dated: March 26, 2025

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement, Complainant	: : :	Docket No. C-2025-3053783
v.	: : :	
Pennsylvania-American Water Company, Respondent	: : :	

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**ANSWER AND NEW MATTER OF  
PENNSYLVANIA-AMERICAN WATER COMPANY**

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AND NOW COMES Pennsylvania-American Water Company (“PAWC”) pursuant to 52 Pa. Code §§ 5.61 and 5.62, to file this Answer and New Matter to the Formal Complaint (“Complaint”) filed by the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”). PAWC was served with the Complaint on March 6, 2025. For the reasons set forth below, PAWC respectfully requests that the Commission dismiss the Complaint.

**ANSWER**

**I. Commission Jurisdiction and Authority**

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted

7. This Paragraph contains a statement of law to which no response is required. 73 P.S. § 177 is a written document that speaks for itself.

8. This Paragraph contains a statement of law to which no response is required. 73 P.S. § 177(5)(i) is a written document that speaks for itself.

9. This Paragraph contains a statement of law to which no response is required. 73 P.S. § 182.10 is a written document that speaks for itself.

10. This Paragraph contains a statement of law to which no response is required. 73 P.S. §§ 182.8(c)-(d) and 182.10 are written documents that speak for themselves.

11. This Paragraph contains a statement of law to which no response is required. 73 P.S. § 182.8(c)(2) is a written document that speaks for itself.

12. This Paragraph contains a statement of law to which no response is required. 73 P.S. § 182.10(b)(1)(i)-(ii) is a written document that speaks for itself.

13. This Paragraph contains a statement of law to which no response is required.

## **II. Factual Background**

14. Admitted in part. It is denied that the 1-inch copper water service line that was hit was mismarked. By way of further Answer, PAWC followed the Pennsylvania One Call Law's requirements for facility owners under 73 P.S. § 177.

15. PAWC lacks sufficient knowledge or information regarding these averments, and therefore the averments contained in Paragraph 15 are denied.

16. Admitted.

17. Admitted.

18. Admitted.

19. PAWC lacks sufficient knowledge or information regarding these averments, and therefore the averments contained in Paragraph 19 are denied. By way of further answer, although there is a tape measure present in the photograph, the markings on the tape measure are not clearly visible.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. Admitted.

### **III. Alleged Violations**

27. The averments of Paragraphs 1-26 of this Answer are incorporated herein by reference as if stated in their entirety.

#### **A. Count 1**

28. It is denied that PAWC violated Section 177(5)(i) of the Pennsylvania One Call Law, 73 P.S. § 177(5)(i). By way of further answer, facility owners have the duty to:

mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques, which may include hand-dug test holes, to determine the precise position of the underground facility owner's lines. **This shall be done to the extent such information is available in the facility owner's records or by use of standard locating techniques other than excavation.**

73 P.S. § 177(5)(i) (emphasis added). PAWC presented evidence to the Damage Prevention Investigator and Damage Prevention Committee that it marked the position of its underground

lines at the work site within eighteen inches horizontally from the outside wall of such line to the extent that such information was available in PAWC's records. The remaining averments in this paragraph constitute a prayer for relief to which no response is required.

### NEW MATTER

29. PAWC relied on its existing records, which included tap slips, as-built drawings, available historic records, Global Information System ("GIS") software, and paper mapping in locating and marking its underground facilities at the work site located in the vicinity of 108 Guadalcanal Road.

30. The water service line belonging to PAWC that was struck by R and R Pipeline on August 1, 2023 was made copper but was connected to a main which was made of transite (cement).

31. Transite does not allow for identification through standard locating techniques other than excavation, and the best option to locate an underground line made of transite is to use maps, tap slips, and historical records.

32. The rules of statutory construction and interpretation provide that "[w]ords and phrases shall be construed according to rules of grammar and according to their common and approved usage." 1 Pa. C.S. § 1903(a).

33. The Supreme Court of Pennsylvania has determined that, "Statutes are presumed to employ words in their popular and plain everyday sense and the popular meaning of such words must prevail unless the statute defines them otherwise or unless the context of the statute requires another meaning." *Harris-Walsh, Inc. v. Borough of Dickson City*, 216 A.2d 329, 335 (Pa. 1966).

34. The word "or" is given its normal disjunctive meaning unless it produces an unreasonable result. *Commonwealth v. Wise*, 171 A.3d 784, 790 (Pa. Super. 2017).

35. The use of "or" as providing two mutually exclusive options under Section 177(5)(i), i.e. that facility owners shall mark, stake, locate, or otherwise provide the position of their underground

facilities (1) to the extent such information is available in the facility owner's records or (2) by use of standard locating techniques does not produce an absurd or unreasonable result.

36. The rules of statutory construction require every statute to be construed to give effect to all of its provisions. 1 Pa. C.S. § 1921(a).

37. Ignoring that Section 177(5)(i) of the Pennsylvania One Call Law, 73 P.S. § 177(5)(i) explicitly states that providing the position of underground facilities, "shall be done to the extent such information is available in the facility owner's records or by use of standard locating techniques other than excavation" would not give effect to all of the provisions of Section 177(5)(i).

38. PAWC complied with the requirements of 73 P.S. § 177(5)(i) by marking its underground facilities at the work site located in the vicinity of 108 Guadalcanal Road to the extent such information was available in its records.

### CONCLUSION

**WHEREFORE**, for the foregoing reasons, Pennsylvania-American Water Company respectfully requests that the Commission dismiss the Complaint filed by the Bureau of Investigation and Enforcement.

Respectfully submitted,



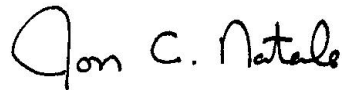
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Date: March 26, 2025

## VERIFICATION

I, Jon Natale hereby state that the facts set forth in the attached Answer 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 made herein are made subject to the penalties of 18 Pa. Cons. Stat. §4904 relating to unsworn falsification to authorities.



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Jon Natale, Senior Manager of Operations  
Pennsylvania-American Water Company

Dated:   3.26.25