

COMMONWEALTH OF PENNSYLVANIA



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May 12, 2025

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: In the Matter of the Joint Application of the York Water Company and CMV Sewage, Inc., under Sections 1102(a)(1)-(3) Public Utility Code for: (1) approval for approval of the right to transfer certain public wastewater facilities and rights from CMV Sewage Co., Inc. to the York Water Company; (2) the abandonment by CMV Sewage Co., Inc. of wastewater service to the public in its service territory in Chanceford Township, York County, Pennsylvania; and (3) approval for the York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of Chanceford Township, York County, Pennsylvania.  
Docket Nos. A-2025-3054555  
A-2025-3054556

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Protest in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby

Christy M. Appleby, Esq.

Senior Assistant Consumer Advocate

PA Attorney I.D. # 85824

Email: CAppleby@paoca.org

Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (email only: crainey@pa.gov)  
Office of Special Assistants (email only: ra-OSA@pa.gov)  
Paul Diskin, TUS (email only: pdiskin@pa.gov)  
Daniel Searfoorce, TUS (email only: dsearfoorc@pa.gov)  
Sean Donnelly, TUS (email only: sdonnelly@pa.gov)  
Paul Zander, TUS (email only: pzander@pa.gov)  
Certificate of Service

CERTIFICATE OF SERVICE

In the Matter of the Joint Application of the :  
 York Water Company and CMV Sewage, Inc., :  
 under Sections 1102(a)(1)-(3) Public Utility :  
 Code for: (1) approval for approval of the right :  
 to transfer certain public wastewater facilities :  
 and rights from CMV Sewage Co., Inc. to the :  
 York Water Company; (2) the abandonment by : Docket Nos. A-2025-3054555  
 CMV Sewage Co., Inc. of wastewater service : A-2025-3054556  
 to the public in its service territory in :  
 Chanceford Township, York County, :  
 Pennsylvania; and (3) approval for the York :  
 Water Company to begin to offer, render, :  
 furnish or supply wastewater service to the :  
 public in a portion of Chanceford Township, :  
 York County, Pennsylvania. :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Protest to the parties Joint Application, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 12th day of May 2025.

SERVICE BY E-MAIL ONLY

NazAarah Sabree  
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 Office of Small Business Advocate  
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Dated: May 12, 2025

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*Counsel for CMV Sewage*

/s/ Christy M. Appleby  
Christy M. Appleby, Esq.  
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Counsel for:  
Darryl A. Lawrence  
Acting Consumer Advocate

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of the Joint Application of the	:	
York Water Company and CMV Sewage,	:	
Inc., under Sections 1102(a)(1)-(3) Public	:	
Utility Code for: (1) approval for approval of	:	
the right to transfer certain public wastewater	:	
facilities and rights from CMV Sewage Co.,	:	
Inc. to the York Water Company; (2) the	:	Docket Nos. A-2025-3054555
abandonment by CMV Sewage Co., Inc. of	:	A-2025-3054556
wastewater service to the public in its service	:	
territory in Chanceford Township, York	:	
County, Pennsylvania; and (3) approval for	:	
the York Water Company to begin to offer,	:	
render, furnish or supply wastewater service	:	
to the public in a portion of Chanceford	:	
Township, York County, Pennsylvania.	:	

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PROTEST OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to 52 Pa. Code Sections 5.51, *et seq.*, the Office of Consumer Advocate (OCA) files with the Pennsylvania Public Utility Commission (Commission) this Protest to the Joint Application of York Water Company and CMV Sewage, Inc.. In support of this Protest, the OCA provides the following information:

1. The protestant is:  
  
Darryl A. Lawrence, Acting Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
717-783-5048

Throughout this Protest, the protestant will be referred to as the Office of Consumer Advocate or OCA.

2. The OCA's attorney is:

Christy M. Appleby  
Senior Assistant Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
717-783-5048  
CAappleby@paoca.org

3. The OCA is authorized by law to represent the interests of Pennsylvania's utility consumers in all matters before the Commission. 71 Pa. Stat. Ann. §§ 309-1 *et seq.* (Purdon's 1990).

4. Section 1102 of the Public Utility Code requires that the Commission issue a Certificate of Public Convenience as a legal prerequisite to an entity offering service, abandoning service and certain property transfers by public utilities or their affiliated interests. 66 Pa. C.S. § 1102(a)(1)-(3).

5. The Code further requires that a certificate shall only be granted upon findings 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). *See City of York v. Pa. P.U.C.*, 295 A.2d 825, 828 (Pa. 1973) (*City of York*); *see also Popowsky v. Pa. P.U.C.*, 937 A.2d 1040 (Pa. 2007). Moreover, the proposed transaction must “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York* at 828. Further, as recently decided by the Commonwealth Court, the affirmative benefits of a transaction must outweigh any potential harm that may result from the transaction. *Cicero v. Pa. P.U.C.*, No. 910 C.D. 2022, 2023 Pa. Commw. LEXIS 120 (July 31, 2023) (*Cicero*).

6. Section 1103 explicitly allows the Commission to impose conditions upon the issuance of a Certificate of Public Convenience. 66 Pa. C.S. § 1103(a). Section 1103(a) of the Code provides: “The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable.” The OCA submits that the Commission may wish to consider the imposition of conditions in order to ensure that the public interest standard is met.

7. The Public Utility Code requires that any rate charged to consumers must be just and reasonable and no unduly discriminatory and that any voluntary changes in rates be approved by the Commission. 66 Pa. C.S. §§ 1301,1304 1308. Because an increase in rates involves a substantial property right, ratepayers are entitled to notice of a Commission's administrative proceeding in which a decision is made to increase rates in a subsequent rate base proceeding. U.S. Const. amend. XIV, § 1; *McCloskey v. Pa. PUC*, 195 A.3d 1055, 1057.

8. Pursuant to the Secretarial Letter issued on April 14, 2025, the Joint Application was published on Saturday, April 26, 2025, in accordance with 52 Pa. Code Section 5.14.

9. Preliminarily, the OCA has identified the following areas that require further consideration by the Commission and must be resolved prior to Commission approval of this Joint Application.

a. The Joint Application and accompanying materials provides no information about the projected costs of the capital investment contemplated by York Water in the years following the close of the proposed transaction, what the planned projects are, and what the projected revenue deficiency (sufficiency) will be. This bears on the cost of York Water’s ownership and the reasonableness of the transaction, and the record should be clear on these issues.

b. Because the Joint Application does not provide sufficient information regarding original cost and accumulated depreciation of CMV's wastewater utility plant in service and York Water proposes to provide the results of an original cost study after the closing— it is not known what York Water's claimed addition to water rate base will be. *See* Joint Application at ¶8. The Joint Application provides scant financial details of CMV. *See* Joint Application at ¶8. Per the Commission's website, the most recent annual report including depreciated original cost was last filed in 2013 for CMV. While the amount of the rate base additions and thus the impact on revenue requirement will not be known or determined until a future York Water base rate case, when the CMV sewage assets are included, the uncertainty is compounded because it is not known definitively whether York Water will seek acquisition adjustments under Section 1327 of the Public Utility Code, 66 Pa. C.S. Section 1327, for the wastewater system. Though it does appear from the estimate provided in Paragraph 8 that the Company anticipates a utility acquisition adjustment of potentially \$161, 218. Joint Application at ¶8. The risk associated with a potential future claim for acquisition adjustments should be considered in assessing the reasonableness of the proposed transaction.

c. The Joint Application provides that the CMV Sewage customers will be charged a flat rate of \$86.90. If this proposal results in a rate increase to CMV Sewage customers immediately following the Transaction closing, customers must be noticed properly of this Application and the rate increase that can follow. Additionally, the proposed rates to be charged to CMV customers should be evaluated to determine whether the proposed rates are consistent with the principles of gradualism and whether they will result in unjust and unreasonable rates.

10. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicant.

11. The OCA and York Water have previously engaged in informal discovery regarding the asset purchase agreement. It is possible that the OCA's issues will be resolved through the continued exchange of information. Thus, the OCA files this Protest, in part, to allow the parties time to explore this possibility and collect the facts necessary to complete the record before the Commission.

WHEREFORE, the OCA respectfully requests that the Joint Application not be granted at this time due to the issues raised above and the need for additional information. The Office of Consumer Advocate further requests that the Pennsylvania Public Utility Commission investigate and hold full hearings, possibly including a public input hearing for the buyer's and seller's customers.

Respectfully submitted,

/s/ Christy M. Appleby

Christy M. Appleby

Senior Assistant Consumer Advocate

PA Attorney I.D. # 85824

Email: CAppleby@paoca.org

Counsel for:

Darryl A. Lawrence

Acting Consumer Advocate

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555 Walnut Street  
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Harrisburg, PA 17101-1923  
717-783-5048

Dated: May 12, 2025

PUBLIC STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Acting Consumer Advocate determined to file a Protest and participate in proceedings before the Commission involving the proposed acquisition by York Water Company for CMV Sewage Company.

On April 11, 2025, York Water Company and CMV Sewage Company filed a Joint Application under Section 1102(a)(1)-(3) of the Public Utility Code for approval of: (1) the right to transfer certain public wastewater facilities and rights from CMV Sewage Company, Inc. to the York Water Company; (2) the abandonment by CMV Sewage Company, Inc. of wastewater service to the public in its service territory in Chanceford Township, York County, Pennsylvania and (3) the approval of the York Water Company to begin to offer, render, furnish or supply wastewater service to the public in a portion of Chanceford Township, York County, Pennsylvania.

The objective of the Acting Consumer Advocate in filing a Protest in this matter is to protect the interests of York Water and CMV customers. Through its participation in this proceeding, the Acting Consumer Advocate seeks to prevent ratepayers from paying costs that are unreasonable or otherwise violative of the Public Utility Code. The Acting Consumer Advocate will investigate the proposed transaction and request the Public Utility Commission order all necessary and proper customer protections which are justified, reasonable, and in accordance with sound ratemaking principles.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of the Joint Application of the :  
York Water Company and CMV Sewage, :  
Inc., under Sections 1102(a)(1)-(3) Public :  
Utility Code for: (1) approval for approval of :  
the right to transfer certain public wastewater :  
facilities and rights from CMV Sewage Co., :  
Inc. to the York Water Company; (2) the :  
abandonment by CMV Sewage Co., Inc. of :  
wastewater service to the public in its service :  
territory in Chanceford Township, York :  
County, Pennsylvania; and (3) approval for :  
the York Water Company to begin to offer, :  
render, furnish or supply wastewater service :  
to the public in a portion of Chanceford :  
Township, York County, Pennsylvania. :

Docket Nos. A-2025-3054555  
A-2025-3054556

VERIFICATION

I, Darryl Lawrence, Acting Consumer Advocate, hereby state that the facts set forth in my Protest, are true and correct to the best of my knowledge, information, and belief, and that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: May 12, 2025

Signature: /s/ Darryl Lawrence  
Darryl Lawrence

Address: Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101