

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

FORWARD TOWNSHIP,

A-2025-3052983

Petitioner,

RE: Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code, 66 Pa C.S. § § 1102(a) and 1329, for approval of:(1) the transfer, by sale, to Pennsylvania-American Water Company, of substantially all of the assets, properties and rights related to the wastewater treatment plant and collection system owned and operated by the Elizabeth Borough Municipal Authority, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Borough of Elizabeth, Allegheny County, Pennsylvania

PREHEARING MEMORANDUM

Filed on behalf of:
Forward Township, Petitioner.

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Party:

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Firm No. 331

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PREHEARING MEMORANDUM**I. Introduction:**

Forward Township (“Forward”) opposes the proposed Asset Purchase Agreement between Pennsylvania-American Water Company (“PAWC”) and Elizabeth Borough Municipal Authority (“EBMA”). PAWC and EBMA request for the Commission to: (1) approve PAWC’s acquisition of EBMA’s wastewater system assets as a means to allow EBMA to strip the accumulated cash from itself and distribute it to the Borough of Elizabeth (“Elizabeth Borough”); (2) approve the right of PAWC to provide wastewater services in Elizabeth Borough and related points of service in portions of Forward, Elizabeth Township, and the Borough of Lincoln (“Lincoln”) in Allegheny County, Pennsylvania; (3) include, in its order approving the acquisition, the ratemaking base of the acquired assets as determined under Section 1329(c)(2) of the Public Utility Code; and (4) authorize PAWC to recover all expenses of operation and acquisition from PAWC’s current

residential ratepayers and the acquired ratepayers resulting in increases in fees of over 136.6% for acquired ratepayers and additional fees of 1.4% for current PAWC ratepayers.

Nothing in this transaction is designed to provide benefits to the public or the ratepayers. While PAWC claims a cost reduction will be immediate, it will be anything but. PAWC's own statements demonstrate an increase. In fact, by PAWC's admission, residential rates would rise to \$143.40 from \$60.61, an increase of 137%. Whereas, if EBMA retained ownership under the same circumstances, rates would rise to \$114.23, an increase of 88% (see PAWC's Second Discovery Responses to the OCA 35 and 2-26_A and Page 11 of Appendix A-14-a No. 1 Direct Testimony of Marcus Kohl). This is likely because substantial reserves were accumulated by EBMA over the years. Instead of proposing to use (or transfer) those funds to maintain and improve the systems, EBMA proposed that it simply takes them, thus requiring an even steeper increase in rates upon purchase.

As for Forward, it maintains its own infrastructure for wastewater and delivers to EBMA for procession via connection. Thus, not only will Forward's residents' rates increase to utilize PAWC infrastructure, but it will still be responsible for its own system. And, there is no proposal for any distribution to Forward to offset these increased costs. The case is the same for Lincoln and Elizabeth Township. Thus, the goal of regionalization will not be achieved.

PAWC will take over a system with no reserves and with no penalty; it will simply rebuild the reserves and the funds needed for capital improvements by having the ratepayers pay again. The only beneficiaries are PAWC and EBMA.

This is not to say that EBMA did not try to get Forward to sign off. EBMA offered Forward and Elizabeth Borough a total of \$3.5 million if they would support the transaction, but nothing if they did not. Because Forward refused to approve the transaction, EBMA proposes for the \$3.5

million to go solely to Elizabeth Borough since it approved the transaction and signed off. EBMA informed Forward it is no longer offering anything to Forward since Forward is opposing this transaction. Can it be conceivably said with any credibility that this transaction is for the benefit of the public when it is grounded in blackmail (See EBMA's Response to Forward's Third Set of Interrogatories)?

A review of the Application reveals it is less than forthcoming. In Paragraph 11, it alleges that PAWC is acquiring all of the EBMA assets, but fails to contain any reference to the fact that Forward is expected to retain its system and remain responsible to maintain the system. Thus, while PAWC makes a general statement in Paragraph 35 (a) that the transaction will promote regionalization, it fails in specificity to inform the Commission that it is not acquiring all the assets in the system and will isolate the Forward assets.

In Paragraph 35 (c), of its application, PAWC contends that its greater financial resources will benefit the customers, but how does the fact that the accumulated reserve of EBMA is being dissipated help the customers or public? PAWC will have to raise again the very funds that are driving EBMA to this transaction, i.e. Paragraph 36 (a); EBMA wants this transaction for the benefit of Elizabeth Borough by using the accumulated financial reserves, utilized and paid for by all customers of EBMA, to get Elizabeth Borough out of its financial hole. If, as alleged, EBMA's system has a \$28 million value, then a loan balance of less than \$13 million is not much of a burden.

PAWC is a subsidiary of American Water Works Co., Inc. ("AWK"). In its most recent quarterly report, AWK reported its ratio of debt to equity was 137.02%. At a \$28 million valuation, EBMA has a debt to equity ratio of only 45.6%. With a debt to equity ratio of almost three times that of EBMA, how can PAWC contend it has greater financial resources? Additionally, PAWC's

last annual report shows negative cash flow. Moreover, PAWC must borrow at conventional interest rates rather than benefit from municipal rates.

Aside from generalizations, PAWC has not identified any specific material benefit to its customers (potential) nor the public at large, other than utilizing all the equity from EBMA, built by ratepayers over many years, to bail out Elizabeth Borough and its taxpayers.

II. Issues:

a. Whether the proposed Asset Purchase and Asset Purchase Agreement are in the best interest of the public and confer an affirmative public benefit as set forth by Commonwealth of Pennsylvania Statutory Law and Judicial Ruling?

b. Whether the proposed Asset Purchase Agreement would achieve goals of regionalization and consolidation where PAWC is only purchasing a portion of the system?

III. Witnesses and Proposed Testimony:

a. Forward does not anticipate calling any witnesses but reserves the right to do so.

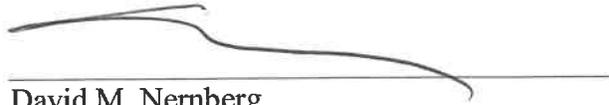
IV. Proposed Stipulations:

a. Discovery requests and responses may be referenced in Post Hearing Briefs and made part of the official record.

Respectfully submitted,

MAURICE A. NERNBERG & ASSOCIATES

Date: 06/02/25

By: 
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Counsel for Complainant, Forward Township