

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 : A-2025-3052983  
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 :  
portions of the Borough of Lincoln, and the :  
Townships of Elizabeth and Forward, in :  
Allegheny County, Pennsylvania :

**PREHEARING ORDER**

This order addresses the various procedural matters discussed at the prehearing conference held on June 3, 2025 and, additionally, provides directives for testimony, evidentiary hearings, briefs and settlement.

*Procedural Background*

On January 28, 2025, Pennsylvania-American Water Company (PAWC) filed an application (Application) with the Pennsylvania Public Utility Commission (Commission) at Docket No. A-2025-3052983, seeking Commission approval of its acquisition of the wastewater system presently owned by the Elizabeth Borough Municipal Authority (EBMA). The Application was filed pursuant to 66 Pa. C.S. §§ 507, 1102 and 1329 and includes requests for Commission approval for PAWC to: provide wastewater service in the Borough of Elizabeth, and portions of the Borough of Lincoln, and the Townships of Elizabeth and Forward, in

Allegheny County, Pennsylvania; include the ratemaking rate base of the acquired assets as determined under 66 Pa.C.S. § 1329(c)(2); recover a distribution system improvement charge; accrue Allowance for Funds Used During Construction and defer depreciation related to/for post-acquisition improvements not recovered through the distribution system improvement charge; and include, in its next base rate case, a claim for transaction and closing costs. PAWC also requests approval of the Asset Purchase Agreement (APA) dated January 24, 2023 and amended July 5, 2023 as well as other municipal agreements pursuant to Section 507 of the Public Utility Code, and requests that the Commission issue an Order and Certificate of Public Convenience approving and addressing the items requested in the Application.

On February 21, 2025, in response to a deficiency letter from the Commission's Bureau of Technical Utility Services, PAWC submitted several amended appendices to the Application.

On February 6, 2025, Steven C. Gray, Esq. and Rebecca Lyttle, Esq., filed their Notices of Appearance on behalf of the Office of Small Business Advocate (OSBA). On February 18, 2025, Christy M. Appleby, Esq. and Katie Kennedy, Esq., filed their Notices of Appearance on behalf of the Office of Consumer Advocate (OCA). On February 18, 2025, the OCA filed a Protest. On February 20, 2025, the OSBA filed a Notice of Intervention. On February 21, 2025, Michael A. Podskoch, Jr., Esq., filed a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

By Secretarial Letter issued on March 6, 2025, the Commission notified PAWC that the Application was conditionally accepted. On March 21, 2025, PAWC filed a copy of the notice that it intended to distribute to customers, which established a due date of June 3, 2025 for protests and notices of intervention.

On April 17, 2025, PAWC notified the Commission that it had complied with the service and notice requirements in the March 6, 2025 Secretarial Letter. On April 21, 2025, Forward Township filed a Petition to Intervene. On April 23, 2025, Forward Township filed a Protest.

On April 28, 2025, the Commission finally accepted the Application for filing. On May 5, 2025, EBMA filed a Petition to Intervene.

The applications were assigned to the Office of Administrative Law Judge and, on May 10, 2025, notice of the Application's filing was published in the Pennsylvania Bulletin and established a deadline of May 30, 2025 for filing formal protests and petitions to intervene. 55 Pa. B. 3329.

On May 12, 2025, the Commission issued a Prehearing Conference Notice, scheduling a telephonic prehearing conference for June 3, 2025 and assigning us as Presiding Officers.

We issued a Prehearing Conference Order on May 12, 2025, establishing the procedural rules that would govern the initial prehearing conference. The Prehearing Conference Order also directed that each party shall file and serve a prehearing memorandum by noon on Monday, June 2, 2025. Given the statutory deadline for Commission action on the application, we encouraged the parties to discuss and attempt to agree on a litigation schedule and any proposals for public input hearings. Additionally, we established expedited deadlines for discovery served on and after May 12, 2025.

On May 12, 2025, the parties submitted a joint request for a telephonic public input hearing to be scheduled on Thursday, June 5, 2025 at 6:00 p.m. The Commission approved the request and, on May 19, 2025, the Commission issued a Public Input Hearing Notice, which provided information for participating in the public input hearing.

In response to the Prehearing Conference Order, prehearing memoranda were received from PAWC, EBMA, I&E, OCA, OSBA and Forward Township.

The initial prehearing conference was held as scheduled on June 3, 2025. PAWC, EBMA, I&E, OCA, OSBA and Forward Township were represented by counsel. The parties discussed a variety of matters detailed below.

On June 3, 2025, I&E, OCA, OSBA and Forward Township pre-served written direct testimony, in accordance with the schedule jointly proposed by the parties.

On June 4, 2025, PAWC filed a Proof of Publication regarding notice that it provided for the June 5, 2025 telephonic public input hearing.

Also, on June 4, 2025, PAWC filed a Petition for Protective Order.

The public input hearing was held on June 5, 2025, as scheduled. Eight people provided sworn testimony and a total of seven exhibits were moved into the record.

#### *Intervention*

There was no objection to the petitions to intervene of EBMA or Forward Township. The petition by EBMA is granted. As Forward Township has also filed a Protest, it was discussed and determined that it is not necessary to grant its intervention.

#### *Petition for Protective Order*

As noted above, following the prehearing conference, on June 4, 2025, PAWC filed an unopposed Petition for Protective Order. That petition will be granted by separate order.

#### *Public Input Hearing Notice*

By email sent to the parties on May 16, 2025, we requested that PAWC publish notice of the date, time and registration instructions for the public input hearing as soon as possible and for two consecutive weeks, if feasible. We also instructed PAWC, and encouraged the other parties, to provide notice through available electronic means, e.g., their websites and social media. During the prehearing conference, we directed PAWC to file proof that it complied with those instructions for publication of notice of the public input hearing.

On June 4, 2025, PAWC filed a Proof of Publication showing that notice was published in the Pittsburgh Post-Gazette on May 22, 2025 and May 29, 2025. PAWC also stated that it posted a link to the Commission’s public input hearing notice on its webpage, Linked-In page, Facebook, X (f/k/a Twitter) and Instagram.

*Litigation Schedule*

As noted above, there is a statutory deadline for final Commission action in this proceeding. Using the model litigation schedule set forth in the Commission’s July 21, 2016 Tentative Implementation Order at Docket No. M-2016-2543193 as a guide, we advised the parties that the deadline for reply briefs and close of record in this matter will be on July 16, 2025 and that a Recommended Decision will be issued no later than August 22, 2025.

We approve the litigation schedule jointly proposed by the parties, as follows:

Direct Testimony of other parties	Tuesday, June 3, 2025
Telephonic Public Input Hearing	Thursday, June 5, 2025 at 6:00 pm
Rebuttal	Monday, June 9, 2025
Surrebuttal	Thursday, June 12, 2025
Outline of Oral Rejoinder	Friday, June 13, 2025
Hearing (in-person, Harrisburg)	Monday, June 16 and Tuesday, June 17, 2025
Receipt of Transcript	Wednesday, June 18, 2025
Main Brief	Thursday, July 3, 2025
Reply Brief	Wednesday, July 16, 2025

Additional testimony addressing public input hearing testimony may be submitted as Supplemental Direct Testimony/Rebuttal Testimony or Rebuttal Testimony/Surrebuttal Testimony, as determined by the parties based on timing of receipt of the hearing transcript.

### Pre-served testimony and exhibits

The parties are reminded of the Commission's requirements for the preparation, service, and filing of written testimony. 52 Pa. Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates.

Worksheets and calculations that are used as exhibits must be provided in Excel format by email to the Administrative Law Judges and other parties within two business days of the testimony being served.

No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness. Further, no discovery responses will be admitted into evidence unless accompanied by the verification of the sponsoring witness.

All parties are directed to comply with the provisions of 52 Pa. Code § 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

Confidential Security Information (CSI) as defined by 35 P.S. § 2141 *et seq.* should not be transmitted by email or other electronic means. The parties are to avoid introducing CSI into the record and should develop alternative means, such as joint stipulations or redaction when proposing testimony or exhibits. If there is no other alternative to establish a material fact other than by CSI, the parties are to contact the Administrative Law Judges immediately and in advance of the evidentiary hearing.

### Evidentiary hearings

Evidentiary hearings will be held in Harrisburg, with all participants appearing in person. The evidentiary hearings will begin promptly at 10:00 a.m. The parties must confer before commencement of the hearing to schedule their witnesses to avoid "dead time".

**No later than 3:00 p.m. on May 13, 2025**, the Joint Applicants shall email a completed daily witness listing and cross-examination grid to the Presiding Officers. Parties shall complete the daily witness listing and cross-examination grid as developed by the Applicant.

If a partial settlement is achieved, the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues. In the event a full settlement is achieved, the parties should notify the Presiding ALJs as soon as possible prior to the scheduled hearings. The parties must still plan on convening as scheduled on June 16, 2025.

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa. Code §§ 5.76; 5.243.

After the hearing, it is the responsibility of the parties to provide their admitted testimony and exhibits to the court reporter for addition to the record. Because there is a one-day turnaround for the transcript, all parties must provide their admitted testimony and exhibits to the court reporter on the date it is admitted into the record. Questions regarding how to submit public versions of your testimony and exhibits should be directed to the court reporter. All materials must be clearly marked as public or confidential. All written testimony provided to the court reporter must be accompanied by a verification from the sponsoring witness(es). No testimony should be filed with the Secretary's Bureau.

Failure to timely submit admitted testimony, exhibits and verifications to the court reporter may result in those testimonies and exhibits being excluded from the record. Exclusion from the record will preclude the presiding officers from relying on the testimony and exhibits as part of their determination on the merits.

#### Briefs and reply briefs

The parties must comply with 52 Pa. Code §§ 5.501 and 5.502, regarding the preparation and filing of briefs, except as otherwise directed by the Presiding Officers. Briefs

must include proposed findings of fact, conclusions of law and ordering paragraphs. Page limitations on briefs will be discussed on or before the last day of hearing.

### *Discovery Modifications*

In the Prehearing Conference Order, we established expedited discovery deadlines for discovery served on and after May 12, 2025. Those expedited deadlines remain in effect.

Discovery disputes may be resolved via telephone conference with the Presiding Officers without need of a motion to compel, although the propounding party may choose to file a formal motion to compel. **In either case, counsel must certify their efforts to resolve their discovery disputes informally.** If that certification is not made, the Administrative Law Judges will contact the parties and direct them to pursue informal discovery.

### *Service and Service List*

Service by email, sent by 4:30 p.m., will satisfy the in-hand requirement and no follow-up hard copy is required.

All filings and pre-served testimony,<sup>1</sup> and any accompanying schedules and exhibits, should be emailed to the presiding officers in PDF and native formats (Word and Excel). No hard copies should be served to the presiding officers unless materials are not available electronically.

### *Settlement and Stipulations*

The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa. Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. If a settlement is reached, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be

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<sup>1</sup> This requirement also applies to documents already filed by PAWC with its Application.

filed with the Secretary for the Commission and emailed to the Administrative Law Judges no later than **12:00 p.m. on Thursday, July 3, 2025.**

The parties must agree on a common outline for statements in support, including headings and subheadings. Each party need not address every issue, but the same headings and subheadings must be presented in the same order. Statements in support should be specific and explain the benefit of the settlement terms to your client beyond the savings of litigation time and expense.

As discussed above, if a partial or full settlement is achieved prior to the evidentiary hearings, the parties must still plan on convening in-person for hearings on June 16, 2025.

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing.

*Modification*

Any of the provisions of this Scheduling Order may be modified upon motion and good cause shown by any party in interest.

Date: June 9, 2025

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/s/  
Erin L. Gannon  
Administrative Law Judge

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/s/  
Steven K. Haas  
Administrative Law Judge

**A-2025-3052983 - Application of Pennsylvania-American Water Co. pursuant to Sections 507, 1102, 1329 of the Public Utility Code to Acquire the Wastewater System Assets of Elizabeth Borough Municipal Authority**

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