

COMMONWEALTH OF PENNSYLVANIA



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June 30, 2025

Via Electronic Filing

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

Re: Joint Application of American Water Works Company, Inc., Pennsylvania-American Water Company, Nexus Regulated Utilities, LLC and Community Utilities of Pennsylvania Inc., Pursuant to Sections 1102 and 1103 of the Public Utility Code, for all of the necessary authority, approvals, and certificates of public convenience to approve (1) the transfer of control of Community Utilities of Pennsylvania Inc. from Nexus Regulated Utilities, LLC to American Water Works Company, Inc.; (2) the transfer to Pennsylvania-American Water Company, by merger, of all assets of Community Utilities of Pennsylvania Inc. used or useful in the public service, (3) the right of Pennsylvania-American Water Company to begin to offer, render, furnish and supply water service to the public in portions of Stroud and Pocono Townships, Monroe County, Pennsylvania, (4) the right of Pennsylvania-American Water Company to begin to offer, render, furnish, and supply water service to the public in portions of Hanover Township, Northampton County, Pennsylvania, (5) the right of Pennsylvania-American Water Company to begin to offer, render, furnish, and supply water service to the public in portions of Lehman Township, Pike County, Pennsylvania, (6) the right of Pennsylvania-American Water Company to begin to offer, render, furnish, and supply wastewater service in portions of Stroud and Pocono Townships, Monroe County, Pennsylvania, (7) the right of Pennsylvania-American Water Company to begin to offer, render, furnish, and supply wastewater service in portions of West Bradford Township, Chester County, Pennsylvania, (8) the right of Pennsylvania-American Water Company to offer, render, furnish, and supply wastewater service in portions of Lehman Township, Pike County, Pennsylvania, and (9) the abandonment by Community Utilities of Pennsylvania Inc. of all water and wastewater service to the public
Docket Nos. A-2025-3055551; A-2025-3055552; A-2025-3055553; A-2025-3055554

Dear Secretary Homsher:

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

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy Appleby

Christy Appleby

Senior Assistant Consumer Advocate

PA Attorney I.D. # 85824

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Enclosures:

cc: Charles Rainey, Chief Administrative Law Judge, (Via Email: crainey@pa.gov)
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Certificate of Service

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Dated: June 30, 2025

/s/ Christy Appleby
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Jacob D. Guthrie
Assistant Consumer Advocate

Counsel for:
Darryl Lawrence
Consumer Advocate

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of American Water Works :
Company, Inc., Pennsylvania-American : Docket Nos: A-2025-3055551
Water Company, Nexus Regulated Utilities, : A-2025-3055552
LLC, and Community Utilities of : A-2025-3055553
Pennsylvania, Inc. for Approval Pursuant to : A-2025-3055554
1102 and 1103 of the Pennsylvania Public :
Utility Code of the Transfer of Control of :
Community Utilities of Pennsylvania, Inc. to :
American Water Works Company, Inc. and :
Subsequent Merger of Community Utilities :
of Pennsylvania, Inc. with and into :
Pennsylvania-American Water Company :

PROTEST OF THE
OFFICE OF CONSUMER ADVOCATE

Before the Pennsylvania Public Utility Commission (Commission), pursuant to 52 Pa. Code Sections 5.51, *et seq.*, the Office of Consumer Advocate (OCA) hereby files this Protest to the Joint Application of American Water Works Company, Inc., Pennsylvania-America Water Company (PAWC or Company), Nexus Regulated Utilities, LLC, and Community Utilities of Pennsylvania Inc. (CUPA) (collectively, the Joint Applicants) for PAWC to, *inter alia*, acquire the water and wastewater assets of CUPA and begin to offer water and wastewater service in CUPA’s certificated service territories (Application). The Joint Applicants request approval pursuant to 66 Pa. C.S. Sections 507, 1102, 1103, and 2102 of the Public Utility Code.

Specifically, the Joint Applicants are requesting: (1) the transfer, by sale, of all assets, property, and rights of CUPA owned and used in connection with its water system to PAWC, (2) the right of PAWC to begin to offer, render, furnish and supply water service to the public in portions of Stroud and Pocono Townships, Monroe County; Hanover Township, Northampton County; and Lehman Township, Pike County, currently served by CUPA, and (3) the

abandonment by CUPA of all water service to the public. Application at ¶ 1. The Joint Applicants are also requesting (1) the transfer, by sale, of all assets, property, and rights of CUPA owned and used in connection with its wastewater system to PAWC, (2) the right of PAWC to begin to offer, render, furnish and supply wastewater service to the public in portions of Stroud and Pocono Townships, Monroe County; West Bradford Township, Chester County; and Lehman Township, Pike County, currently served by CUPA, and (3) the abandonment by CUPA of all wastewater service to the public. *Id.* Pursuant to Section 507 of the Public Utility Code, Joint Applicants also request Commission approval for two contracts between CUPA and the City of Bethlehem for the provision of water supply to CUPA’s Westgate system. *Id.* at ¶ 2.

The OCA files this Protest to ensure that the approvals and certificates of public convenience are granted only if after investigation of the record evidence and hearings, PAWC has demonstrated that they are “necessary or proper for the service, accommodation, convenience or safety of the public,” pursuant to 66 Pa. C.S. Section 1103, and meet all other legal requirements of the Public Utility Code. Specifically, the OCA avers as follows:

1. The name and contact information of the protestant is as follows:

Darryl A. Lawrence, Consumer Advocate
Office of Consumer Advocate
555 Walnut Street,
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: 717-783-5048

Throughout this Protest, the protestant will be referred to as the OCA.

2. The names and contact information for the OCA’s attorneys for the purpose of receiving service of all documents in this proceeding are as follows:

Christy M. Appleby, Senior Assistant Consumer Advocate
Jacob Guthrie, Assistant Consumer Advocate
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555 Walnut Street, 5th Floor, Forum Place
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3. The OCA is authorized by law to represent the interests of Pennsylvania’s utility consumers in all matters before the Commission. 71 P.S. §§ 309-1 *et seq.*

4. In reaching a decision on whether to grant the requested application the Commission must give “due consideration to the interests of consumers.” 71 P.S. §309-5(2).

5. In the Joint Application, the Joint Applicants state that they intend to proceed pursuant to Section 1102 of the Public Utility Code, whereby the Joint Applicants would seek all necessary approvals and authorizations to acquire substantially all of the regulated water and wastewater assets of CUPA. Application at ¶¶ 8-9.

6. CUPA serves approximately 3,212 water customers, of which 3,164 are residential and 48 are commercial. CUPA also serves approximately 3,846 wastewater customers, 3,777 of which are residential and 69 of which are commercial. CUPA also provides water and wastewater service to a class of availability customers. *Id.*

7. PAWC provides water service to approximately 690,173 customers throughout the Commonwealth, including approximately 635,622 residential customers. PAWC provides wastewater service to approximately 115,130 customers, including approximately 105,721 residential customers. *Id.* at ¶ 6.

8. A public utility is required to first obtain a certificate of public convenience to acquire utility property and to begin to offer service within a new territory. 66 Pa. C.S. § 1102(a)(1), (3). The Commission can grant a certificate of public convenience upon finding that

the granting of such is “necessary or proper for the service, accommodation, convenience or safety of the public.” 66 Pa. C.S. § 1103(a). The proposed transaction must “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York v. Pa. P.U.C.*, 295 A.2d 825, 828 (Pa. Cmwlth. 1972) (*City of York*). The Commission can impose conditions upon the issuance of a certificate of public convenience. 66 Pa. C.S. § 1103(a).

9. The Application does not provide sufficient information to support a finding that approval of the Application would affirmatively benefit the public in some substantial way.

10. The Application provides that PAWC plans to adopt the existing tariff of CUPA. Application at App’x R, S. The Application states that the transaction will have no immediate effect on rates for waters service charged to PAWC and CUPA existing customers. Application at ¶ 35(j). PAWC will institute an accelerated main replacement program aimed at improved System reliability and reducing water loss within the System, as well as improving capabilities for CUPA’s water distribution system to provide fire protections service. *Id.* at ¶¶ 34(d), 35(e). PAWC states it would ensure compliance with Pennsylvania Department of Environmental Protection requirements pertaining to the discharge of wastewater effluent pursuant to a National Pollutant Discharge Elimination System (NPDES) permit. *Id.* at ¶ 33(c). PAWC claims that efficiencies will exist upon its acquisition of CUPA which may benefit ratepayers and the Commission. *Id.* at ¶¶ 33(f), 34(g), 35(c)(i), 36(a), 37(b).

11. PAWC further claims that the public-at-large and CUPA customers would benefit from certain aspects of PAWC’s fitness as a certificated public utility. *See, e.g.*, Application at ¶¶ 33(a), 34(b)(e), 35(a-d). For the purposes of an application for certificate of public convenience authority under Section 1103, such statements should not subsume the Commission’s analysis in determining whether the proposed Transaction would affirmatively benefit the public in some substantial way, as the fitness of an applicant under Section 1103 is a separate determination from

whether benefits inure to the public. *City of York*, 295 A.2d at 828; *Cicero v. Pa. PUC*, 300 A.3d 1106, 1112 (Pa. Cmwlth. 2023), *alloc. granted*, 320 A.3d 667 (Pa. June 14, 2024) (Nos. 47-49 MAP 2024)

12. The OCA submits that all of the claims made by the Joint Applicants about the benefits of the transaction and rate impact deserve scrutiny as to their impact on customers of CUPA and PAWC.

13. As such, the OCA submits that additional information is required to determine if approval of the Joint Application will affirmatively benefit the public in a substantial way. It is not clear from the filing that this standard has been met and further investigation is necessary to ensure that the merger will affirmatively benefit the public in some substantial way.

14. PAWC has failed to provide sufficient information in the application to fully address the rate impact associated with this case and its various rate proposals. While rates will not be determined in this case, the rate impact of the proposed acquisition must be considered in this case when weighing the relative merits of whether this application should be approved. It is also not known whether PAWC will seek acquisition adjustments under Section 1327 of the Public Utility Code, 66 Pa. C.S. Section 1327, for the water system. *See* 66 Pa. C.S. § 1327(b) (requiring that the public utility provide notice of an intent to request the purchase price of an acquired system which exceeds its depreciated original cost be included in rate base prior to the acquisition of that system). The risk associated with a potential future claim for acquisition adjustments should be considered in assessing the reasonableness of the proposed transaction, in terms of both the proposed investment into CUPA's system as well as the purchase price. 66 Pa. C.S. § 1327(a).

15. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Joint Applicants.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Public Utility Commission set this matter for hearings.

Respectfully Submitted,

/s/ Christy M. Appleby

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Counsel for:
Darryl A. Lawrence
Consumer Advocate

June 30, 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 Consumer Advocate determined to file a Protest and participate in proceedings before the Commission involving the Joint Application of Pennsylvania-American Water Company (PAWC) and Community Utilities of Pennsylvania, Inc. (CUPA) and the respective parent companies.

Under the Joint Application, PAWC is proposing to acquire CUPA's water and wastewater assets and offer water and wastewater service to CUPA's customers. The Application seeking Commission approval of the proposed acquisition was filed on May 30, 2025. The Joint Application was also published in the *Pennsylvania Bulletin* on May 30, 2025. The OCA has determined to participate in these proceedings to protect the interests of current PAWC and CUPA customers in Pennsylvania.

Through its participation in this proceeding, the OCA seeks to ensure that any approvals, granting of certificates, and other transactions occur only if it is "necessary or proper for the service, accommodation, convenience, or safety of the public" and that PAWC's and CUPA's customers are afforded the protections to which they are entitled under the Public Utility Code and the Commission's regulations. 66 Pa. C.S. § 1103(a).

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of American Water Works	:		
Company, Inc., Pennsylvania-American	:	Docket Nos.	A-2025-3055551;
Water Company, Nexus Regulated Utilities,	:		A-2025-3055552;
LLC, and Community Utilities of	:		A-2025-3055553;
Pennsylvania, Inc. for	:		A-2025-3055554;
Approval Pursuant to 1102 and 1103 of the	:		
Pennsylvania Public Utility Code of the	:		
Transfer of Control of Community Utilities	:		
of Pennsylvania, Inc. to American Water	:		
Works Company, Inc. and Subsequent	:		
Merger of Community Utilities of	:		
Pennsylvania, Inc. with and into	:		
Pennsylvania-American Water Company	:		

VERIFICATION

I, Darryl Lawrence, Consumer Advocate, hereby state that the facts set forth in my Protest and Public Statement, 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: June 30, 2025

Signature: /s/ Darryl A. Lawrence
Darryl A. Lawrence

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