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File #: 204725

July 7, 2025

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Application of The York Water Company - Wastewater for approval of the right to: (1) acquire certain wastewater system assets of Margareta MHP, LLC; and (2) begin to offer, render, furnish or supply wastewater service to the public in an additional portion of Lower Windsor Township, York County, Pennsylvania  
Docket No. A-2024-3049695**

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Dear Secretary Chiavetta:

Attached, on behalf of The York Water Company (“York Water”), is information being supplied to the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Technical Utility Services (“TUS”) in response to TUS Set III Data Requests regarding the above-captioned proceeding.

Respectfully submitted,

  
Megan E. Rulli

MER/dmc  
Attachments

cc: Matthew T. Lamb, P.E. (*Bureau of Technical Utility Services*) (*via e-mail; w/attachments*)

TUS Data Request Set 3

Application of The York Water Company – Wastewater for approval of the right to: (1) acquire certain wastewater system assets of Margareta MHP, LLC; and (2) begin to offer, render, furnish or supply wastewater service to the public in an additional portion of Lower Windsor Township, York County, Pennsylvania

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- A-35 York Water-WW’s replies to Data Requests A-1 and A-27 did not provide evidence that the Application is compliant with Act 537 Official Sewage Facilities Planning as required pursuant to 52 Pa. Code § 3.501(a)(9). Specifically, the Commission requested York Water-WW provide a copy of a DEP-approved Act 537 Official Sewage Facilities Plan (Act 537) Update, special study and/or planning modules required for the York Water- WW proposed modifications to change the wastewater treatment location from the Margareta MHP WWTP to the Lower Windsor WWTP and for providing wastewater service to the remaining portion of the requested service territory along with a copy of the associated DEP approval letter. Please provide responses to the following:
- a. Provide a copy of the DEP-Approved Act 537 Official Sewage Facilities Plan Update, Special Study and/or Planning Module required for the York Water-WW proposed modifications to change the wastewater treatment location from the Margareta MHP WWTP to the Lower Windsor WWTP and the requested service territory along with the associated DEP approval letters to include any required conditions; or
  - b. Provide evidence that York Water-WW has filed a petition with the Commission for the waiver of the subject regulation pursuant to 52 Pa. Code § 5.43 that sets forth the facts claimed to constitute the grounds requiring the regulation be waived at a new docket number P-2025 \_\_\_\_\_ to be assigned by the Commission’s Secretary’s Bureau.

**RESPONDENT:**

Mark Snyder  
VP Engineering  
The York Water Company

**RESPONSE:**

- a. Lower Windsor Township has not updated or revised its Act 537 Plan to date. York Water must first obtain the Certificate of Public Convenience authorizing provision of service to this area before Lower Windsor Township should invest over \$20,000+ to prepare and revise its Act 537 Sewage Facilities Plan, which is an involved, multi-step process that

requires engagement of a private engineer.<sup>1</sup> If York Water is not successful in obtaining the territory, the costly municipal action would have to be reversed, which requires more municipal action. PA DEP will require planning prior to permitting in this matter, as The Pennsylvania Sewage Facilities Act is that agency's statute to enforce. The Plan, if revised now, may be unimplementable if the PA PUC denies or rejects the territory Application in this matter. It is a requirement of any Act 537 Plan or Update thereto that it be implementable, 25 Pa. Code 71.32(d)(4). Because revisions reflecting commitment to the contents of this Application would fail if York Water's application were rejected, revised or not approved as submitted, an update to a municipal sewage plan relying on a utility that is not authorized to serve this area could be deemed unimplementable.

Moreover, PA DEP has sole jurisdiction to require, review and act on Act 537 Plans and modifications thereto. If PA DEP believes that planning must be completed for this project, it shall so require planning be completed prior to permitting. The legal, regulatory and administrative authority as to how the underlying project is planned, designed and permitted is fully within the jurisdiction of PA DEP. York Water believes that requiring the Township to submit an expensive Act 537 Plan or modification to PA DEP that is wholly reliant upon York Water serving this territory would be premature and a waste of administrative time and resources. Indeed, most planning reviews take many months to process, and some take years depending upon the breadth of the update. To the extent that expansion of the Company's wastewater service territory needs to be conditional on Lower Windsor Township submitting and receiving approval of any required Act 537 Plan Update, the Commission could place that condition on the certificate of public convenience issued to York Water pursuant to Section 1103 of the Public Utility Code.

- b. York Water has not filed a petition with the Commission for a waiver. Under Commission precedent, Section 3.501 of the Commission's regulations does not apply to existing certificated water and wastewater utilities. Rather, Section 3.501 only applies to applications filed by new proposed utilities that are not certificated or *de facto* utilities that are providing service without a certificate of public convenience. *See, e.g., Joint Application of Columbia Water Co. and Marietta Gravity Water Co. for approval of: 1) the transfer of the rights, service obligations, water system assets used and useful in the operation of the water system of Marietta Gravity Water Co. to Columbia Water Co.; 2) the abandonment of service by Marietta Gravity Water Co.; and 3) all other approvals or certificates as appropriate, including the approval of Securities Certificates*, Docket Nos. A-2012-2282219 *et al.*, 2012 Pa. PUC LEXIS 1147 (Order entered July 20, 2012) (finding that Section 3.501 of the Commission's regulations "does not apply to the acquisition of one certificated water utility by another"); *Application of Newtown; Artesian Water Co.*,

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<sup>1</sup>There is a legal question as to whether this Application requires the Lower Windsor Township Act 537 Plan to be updated because the current Act 537 Plan ("Plan") identifies public sewer serving the Margaretta manufactured home community at an on-site treatment plant. The Plan itself thus designates a sewage treatment facility as the sewer solution for this community. York Water's Application would shift the location of the treatment but would not alter the type of sewer solution for this community (i.e., not on-lot or holding tank, etc.). However, York Water has worked with municipalities in the past to prepare such Act 537 Plan Updates under identical and similar circumstances. York Water plans to work with the municipality to complete a Special Study to update the Lower Windsor Township Act 537 Plan.

Docket No. A-212070F004, 2004 Pa. PUC LEXIS 146, \*38 (Initial Decision dated May 13, 2004) *made final without further Commission action by* (Order entered July 13, 2004) (determining that the requirements of Section 3.501(a) were not applicable for applications seeking extension of service of an existing utility); *Joint Application of United Waterworks, Inc. et al.*, Docket Nos. A-210390F500 *et al.*, 1999 Pa. PUC LEXIS 106, \*8-9 (Opinion and Order entered Sept. 16, 1999) (finding that Section 3.501 of the Commission's regulations is "not directly applicable to an existing or a certificated utility").

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Docket No. A-2024-3049695

A-36 In response to Data Request A-27, York Water-WW indicated that Lower Windsor Township's (Lower Windsor's) response (Lower Windsor Response) dated June 5, 2024, to the York Water-WW letter dated May 14, 2024, indicated that the proposed sewer service complies with Lower Windsor's planning, indicating that planning need not be revised at this time. However, the Lower Windsor Response indicated that the proposed project is consistent with the adopted municipal comprehensive plans and/or zoning ordinances and does not include a statement by Lower Windsor regarding the DEP Sewage Facilities Planning required by the Application's change in wastewater treatment locations and the requested service territory. Please provide responses to the following:

- a. Clarify whether York Water-WW is avering that Lower Windsor has provided written documentation to York Water-WW and DEP that it is Lower Windsor's position that no additional sewage facilities planning is required to comply with Act 537 due to the changes contemplated by the Application; and
- b. If so, provide a copy of the aforementioned written documentation submitted by Lower Windsor to York Water-WW and DEP.

**RESPONDENT:**

Mark Snyder  
VP Engineering  
The York Water Company

**RESPONSE:**

- a. No, York Water is not making any representation that Lower Windsor Township has stated a position as to the requirement of additional sewage facilities planning.
- b. Not applicable.

### TUS Data Request Set 3

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A-37 Please response to Data Request A-9, York Water-WW included a copy of a preliminary cost estimate for the proposed main extension, pump station and other related appurtenances (Margareta MHP Project) that totaled approximately \$1,411,000, including a 25 percent contingency factor as the Application’s Attachment A-9-2. Additionally, York Water- WW indicated a cost for engineering design, permitting, and construction services of approximately \$282,200. Based on York Water-WW’s cost estimate assumptions, the projected total cost (Project Estimate) for design and construction is approximately \$1,693,200 (\$1,411,000 + \$282,200). Subsequently in its response to Data Request A- 31, York Water-WW provided a revised cost estimate for the pump station of approximately \$588,500 for an increase of approximately \$88,500 (\$588,500 - \$500,000), which correspondingly increased the Project Estimate to approximately \$1,781,700. Please quantify the cost per customer to complete the Margareta MHP Project based on the Project Estimate using the number of customers used in the Application’s Exhibit J, or 61 customers.

#### **RESPONDENT:**

Mark Snyder  
VP Engineering  
The York Water Company

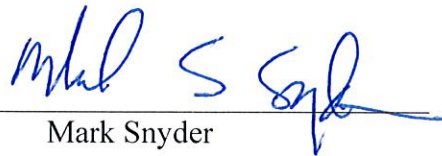
#### **RESPONSE:**

The allocation and recovery of the costs associated with the Margareta MHP Wastewater system will be addressed in a future base rate case, if and when the Company includes the associated capital costs and expenses in its rate base and expense claims. However, to the extent that the “cost per customer” referenced in this request asks the Company to prepare an analysis of the cost per customer of the 61 customers served by the Margareta MHP Wastewater system, the cost per customer for these items is approximately \$29,208.20. Notwithstanding, consistent with traditional ratemaking practices, York Water does not anticipate these costs being recovered solely from Margareta MHP Wastewater customers.

## VERIFICATION

I, Mark Snyder, VP Engineering of The York Water Company, hereby state that the facts above set forth 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 herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 7, 2025

  
Mark Snyder