

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3051816
Office of Consumer Advocate	:	C-2024-3051996
Office of Small Business Advocate	:	C-2024-3052127
Methacton School District	:	C-2024-3052711
Kyle Mathews	:	C-2024-3052713
Sylvester and Sherre Carter	:	C-2025-3053168
	:	
v.	:	
	:	
Audubon Water Company	:	

RECOMMENDED DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision recommends the Commission approve the Petition of Audubon Water Company, filed on May 30, 2025, for Leave to Withdraw Supplement No. 7 to Tariff Water – Pa. PUC No. 4, and discontinue the base rate proceedings captioned above.

HISTORY OF THE PROCEEDING

On October 25, 2024, Audubon Water Company (Audubon, the Company or Petitioner), Utility Code 210060, filed Supplement No. 7 to Tariff Water – Pa. PUC

No. 4 (Supplement No. 7) with the Pennsylvania Public Utility Commission (Commission) to become effective December 26, 2024. Supplement No. 7 would increase Audubon's total annual operating revenues for water service by approximately \$999,975, or 33.8%.

On October 31, 2024, the Commission's Bureau of Investigation and Enforcement (BIE) entered an appearance.

On November 6, 2024, the Office of Consumer Advocate (OCA) filed a public statement and Formal Complaint at Docket No. C-2024-3051996. In addition to the complaint filed by OCA, a complaint was filed by the Office of Small Business Advocate (OSBA) on November 15, 2024, at Docket No. C-2024-3052127.

On December 4, 2024, the Office of Administrative Law Judge (OALJ) scheduled a prehearing conference to be conducted telephonically on December 16, 2024; and the presiding officer issued the Prehearing Conference Order which advised the parties about various procedural matters including the necessity of filing prehearing memoranda.

By Order entered December 5, 2024, the Commission suspended the implementation of Supplement No. 7 to Tariff Water - Pa. PUC No. 4 by operation of law, pursuant to 66 Pa.C.S. § 1308(d), until July 26, 2025, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 7.

On December 16, 2024, Administrative Law Judge Katrina L. Dunderdale conducted a call-in telephonic prehearing conference with the parties in which various procedural matters were discussed, and a litigation schedule was established. Present

during the call-in telephonic prehearing conference were counsel representing Audubon, BIE, OCA and OSBA.

Since December 16, 2024, additional complaints were filed by the following:

Methacton School District	C-2024-3052711
Kyle Mathews	C-2024-3052713
Sylvester and Sherre Carter	C-2025-3053168

On December 19, 2024, the presiding officer issued the Prehearing Order memorializing the matters decided and agreed upon by the parties attending the prehearing conference. The Prehearing Order consolidated the formal complaints of OCA and OSBA with the water rate increase at Docket No. R-2024-3051816.

On January 7, 2025, Audubon filed the Unopposed Voluntary Motion to Extend Suspension Period and Procedural Schedule (Motion to Suspend) and requested the presiding officer extend the suspension period from July 26, 2025, to October 24, 2025. On January 9, 2025, the presiding officer issued the First Interim Order, granting the Motion to Suspend. Accordingly, on January 21, 2025, Audubon filed the Supplement No. 9 to Tariff Water – Pa. PUC No. 4, suspending the application of rates to October 24, 2025.

On April 1, 2025, Audubon filed the Unopposed Motion for Further Extension of Suspension Period and Procedural Schedule (Further Motion to Suspend) and requested the presiding officer extend the suspension period from October 24, 2025, to December 23, 2025. On April 2, 2025, the presiding officer issued the Second Interim Order, granting the Further Motion to Suspend and establishing the new litigation schedule to be used if Petitioner did not file a request to withdraw on or before June 1, 2025. Also, on April 10, 2025, Audubon filed the Supplement No. 10 to Tariff Water – Pa. PUC No. 4, suspending the application of rates to December 23, 2025.

On May 30, 2025, Audubon Water Company filed the Petition for Leave to Withdraw (Petition to Withdraw) Supplement No. 7 to Tariff Water – Pa. PUC No. 4 and discontinue the base rate proceeding.

On June 6, 2025, the presiding officer issued the Third Interim Order establishing a deadline for filing objections to Audubon’s Petition to Withdraw. Any party wishing to object to or comment on the Petition to Withdraw had to file any objection or comment on or before June 19, 2025. No complainant or party filed an objection or comment on the Petition to Withdraw. Accordingly, on June 23, 2025, the presiding officer issued the Interim Order to Close the record. This proceeding is ready to be adjudicated.

FINDINGS OF FACT

1. Audubon Water Company (Audubon), is a “public utility” as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and is subject to the regulatory jurisdiction of the Pennsylvania Public Utility Commission, which provides water services to customers located in its certificated service territory.

2. On October 25, 2024, Audubon (Utility Code 210060) filed Supplement No. 7 to Tariff – Water Pa. PUC No. 4 (Supplement No. 7), pursuant to Section 1308(d) of the Public Utility Code (66 Pa.C.S. § 1308(d)) requesting a general base rate increase and sought an increase in total annual operating revenues for water service by approximately \$999,975, or 33.8%.

3. Formal complaints were filed by the Office of Consumer Advocate, the Office of Small Business Advocate, Methacton School District, Kyle Mathews, and Sylvester and Sherre Carter.

4. On December 5, 2024, the Commission suspended the implementation of Supplement No. 7 to Tariff Water – Pa. PUC No. 4 by operation of law until July 26, 2025, and instituted an investigation into the lawfulness, justness and reasonableness of the rates, rules and regulations proposed in Supplement No. 7.

5. On December 16, 2024, the presiding officer conducted a prehearing conference with the parties at which the parties established a litigation schedule. The parties also discussed a separate but related proceeding (at A-2023-3043194, *et seq.*) involving a joint petition by Audubon Water Company with Pennsylvania-American Water Company involving the merger acquisition of Audubon Water Company into Pennsylvania-American Water Company.

6. On December 23, 2024, the Commission issued the Recommended Decision at Docket No. A-2023-3043194, *et seq.*, which recommended the Commission approve the joint petition for the merger acquisition of Audubon Water Company by Pennsylvania-American Water Company.

7. On January 7, 2025 and again on April 1, 2025, Audubon Water Company filed unopposed motions requesting to suspend the litigation schedule and extend the suspension period from July 26, 2025 to October 24, 2025, and then October 24, 2025 to December 23, 2025, respectively.

8. The basis for both suspension requests was to provide more time to Audubon Water Company and Pennsylvania-American Water Company to effectuate the merger acquisition approved by the Commission in Docket No. A-2023-3043194, *et seq.*

9. The presiding officer granted both requests to suspend the litigation schedule and extend the suspension date, and Audubon Water Company voluntarily filed

separate notices with the Commission (i.e., Supplement No. 9 and Supplement No. 10) extending the suspension dates.

10. By Order entered January 23, 2025, the Commission adopted the Recommended Decision at Docket No. A-2023-3043194, *et seq.*, and approved the joint petition for the merger acquisition of Audubon Water Company by Pennsylvania-American Water Company.

11. On May 30, 2025, the presiding officer received the Petition for Leave to Withdraw, which was filed by Audubon Water Company with the Secretary's Bureau, because Pennsylvania-American Water Company officially closed on the merger acquisition of Audubon Water Company on May 29, 2025.

12. The presiding officer issued the Third Interim Order on June 6, 2025, which provided all complainants and/or parties with an opportunity to comment or object to the request to withdraw, provided the comment or objection was received at the Commission on or before June 19, 2025.

13. The Office of Consumer Advocate and the Commission's Bureau of Investigation and Enforcement filed letters of non-opposition with the Secretary's Bureau on June 19, 2025, and June 20, 2025, respectively.

14. No other comments or objections were received.

15. On June 23, 2025, the presiding officer issued the Interim Order Closing the Hearing Record.

JOINT APPLICATION TO ACQUIRE AUDUBON

Audubon Water Company filed the Petition for Leave to Withdraw its base rate proceeding and sought to discontinue Audubon's proceeding requesting a general base rate increase because Audubon was acquired by another water company and no longer exists as a separate certificated public utility.

On October 25, 2024, Audubon filed for its general base rate increase after Audubon had filed an application, joint with the Pennsylvania-American Water Company (PAWC) on September 21, 2023, seeking the Commission's approval of Audubon's acquisition by merger by PAWC, at Docket Nos. A-2023-3043194 and A-2023-3043196 (Joint Application). At the time Audubon filed for the general base rate increase, Audubon acknowledged this proceeding would become moot if the Commission granted the Joint Application.

On September 30, 2024, prior to filing its general base rate increase request herein, Audubon joined as a signatory in the Joint Petition for Approval of Settlement of All Issues (Acquisition Settlement) filed in the Joint Application proceeding (Docket Nos. A-2023-3043194 and A-2023-3043196) with PAWC, OCA and OSBA. As part of the Acquisition Settlement, PAWC agreed it would apply the tariff rates applicable to Audubon's customers which were in effect on the date PAWC closed on the purchase of Audubon system.

On December 23, 2024, the Commission issued the Recommended Decision in the Joint Application proceeding (Docket Nos. A-2023-3043194 and A-2023-3043196) in which the presiding officer recommended approval of the Acquisition Settlement. On December 30, 2024, the two parties (OCA and OSBA) that were opposed to the Acquisition Settlement filed letters indicating exceptions would not be filed to the Recommended Decision in Docket Nos. A-2023-3043194 and A-2023-3043196.

On January 23, 2025, the Commission issued the Order that, *inter alia*, adopted the Recommended Decision in Docket Nos. A-2023-3043194 and A-2023-3043196, approved the Acquisition Settlement without modification, issued the Certificates of Public Convenience requested in the Joint Application and required PAWC to provide notice of when closing occurred on the acquisition.

On May 29, 2025, PAWC provided the Commission with notice (pursuant to Ordering Paragraph No. 5 of the Commission's Order entered January 23, 2025, in Docket Nos. A-2023-3043194 and A-2023-3043196) that closing on the acquisition transaction occurred on May 28, 2025, and the merger of Audubon into PAWC became effective on May 29, 2025.

ANALYSIS

Any public utility that wishes to withdraw its pleading may file a petition for leave to withdraw and serve it upon the other parties, having set forth the reasons for the withdrawal.¹ The presiding officer or the Commission will determine if the withdrawal should be permitted after considering the petition, any objection and the public interest.²

The presiding officer recommends approving the Petition for Leave to Withdraw the base rate proceeding because the withdrawal is in the public interest, conserves Commission resources, conserves the resources of the Company and statutory parties, and the approval is justified as a fair, just, lawful and reasonable resolution given the recent acquisition by merger of the Audubon Water Company by the Pennsylvania-

¹ 52 Pa. Code § 5.94.

² *Id.*

American Water Company. The base rate to be paid by Audubon's customers was determined previously in the Joint Petition proceeding, and Audubon no longer continues to exist as a separate certificated utility.

Accordingly, the presiding officer recommends the Commission approve the withdrawal of the base rate proceeding, at Docket No. R-2024-3051816.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 1308(d).
2. A public utility, wishing to withdraw its pleading, shall file a petition for leave to withdraw and serve it upon the other parties, having set forth the reasons for the withdrawal. 52 Pa. Code § 5.94.
3. After considering the petition, any objection and the public interest, the presiding officer or the Commission will determine if the withdrawal should be permitted. 52 Pa. Code § 5.94.
4. As the party seeking affirmative relief in this rate proceeding, Audubon Water Company bears the burden of proving that withdrawal of its request for a base rate increase is in the public interest. *See*, 66 Pa.C.S. §§ 332(a) and 1308(d).
5. Audubon Water Company satisfied its burden of proving the request for a base rate increase for a public utility that no longer exists has been rendered moot and is no longer a judiciable issue. 66 Pa.C.S. § 1103(a).

6. No litigable matter remains in this proceeding, and it is in the public interest to grant the request to withdraw the base rate proceeding and to close the matter. 52 Pa. Code § 5.94(a).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Pennsylvania Public Utility Commission approve the Petition for Leave to Withdraw, filed on May 30, 2025, by the Audubon Water Company.

2. That Audubon Water Company – Water, shall not place into effect the rules, rates and regulations contained in Supplement No. 7 to Tariff Water-Pa. P.U.C. No. 4.

3. That the following complaints against the water rate increase shall be dismissed:

Office of Consumer Advocate	C-2024-3051996
Office of Small Business Advocate	C-2024-3052127
Methacton School District	C-2025-3052711
Kyle Mathews	C-2025-3052713
Sylvester and Sherre Carter	C-2025-3053168

