

COMMONWEALTH OF PENNSYLVANIA



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July 25, 2025

Via Electronic Filing

Matthew L. 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. for 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
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 Prehearing Memorandum in the above-referenced proceeding.

Matthew L. Homsher, Secretary
July 25, 2025
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Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
Email: CAppleby@paoca.org

Enclosures

cc: Administrative Law Judge Erin L. Gannon (Via Email: egannon@pa.gov)
Certificate of Service

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Dated: July 25, 2025

Counsel for:
Darryl A. 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 :

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order of Administrative Law Judge (ALJ) Erin L. Gannon issued on July 17, 2025, Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in anticipation of the telephonic Prehearing Conference scheduled for July 29, 2025, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION AND PROCEDURAL HISTORY

On June 3, 2025, 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.

Notice of the Joint Application was published in the *Pennsylvania Bulletin* on Saturday, June 14, 2025, and Protests or Petitions to Intervene were required to be filed on or about June 30, 2025.

On June 17, 2025, the Office of Small Business Advocate (OSBA) filed its Notice of Appearance, and on June 25, 2025, OSBA filed its Protest and Notice of Intervention and Public Statement.

On June 30, 2025, the Office of Consumer Advocate filed its Protest and Public Statement to the Joint Application pursuant to 52 Pa. Code Sections 5.51, *et seq.* to protect the interests of

PAWC and CUPA's water customers. Additional information is required to determine if approval of the Joint Application is necessary for the accommodation or convenience of the public.

The matter was assigned to the Office of Administrative Law Judge and subsequently assigned to Administrative Law Judge (ALJ) Erin L. Gannon. A Telephonic Hearing Notice was issued on July 11, 2025, which scheduled a Prehearing Conference for Tuesday, July 29, 2025. A Prehearing Order was issued on July 17, 2025, which provided that Prehearing Memorandums were to be filed by Friday, July 25, 2025.

On July 21, 2025, the Joint Applicants filed a Petition for Protective Order, and on July 23, 2025, ALJ Gannon issued a Protective Order in the matter.

II. ISSUES

Based upon a preliminary analysis of the Joint Application, the OCA has compiled a list of issues that it anticipates will be included in its investigation. The issues set forth below, and others that may develop during discovery, will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses:

1. Section 1103 requires that the proponents of a merger demonstrate that the merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. As such, the OCA submits that additional information is required to determine if approval of the Joint Application is in fact necessary for the accommodation or convenience of the public. The law is clear that, for an acquisition to be approved, there must be a showing of substantial affirmative benefits.
2. PAWC has not provided sufficient information to determine the benefits and impacts of the proposed transaction on PAWC and CUPA's customers and whether the transaction will benefit the public in a substantial way. 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 rate for water service charged to PAWC and CUPA's existing customer. 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). The proposed benefits of the acquisition and efficiencies alleged should be fully examined.

3. Although no immediate rate immediate is proposed for PAWC or CUPA's existing customers, PAWC has failed to provide sufficient information in the application to fully address the rate impact associated with this case. 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. The risk associated with a potential future claim for acquisition adjustments should be considered in assessing the reasonableness of the proposed transaction.

The OCA submits that the proposed tariffs and rates will need to be thoroughly reviewed to ensure that they are in compliance with all applicable Commission regulations and the laws of Pennsylvania. The OCA reserves the right to address any additional issues that arise during the course of the proceeding.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of the below witness. The witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, as may be necessary. In order to expedite the resolution of the proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed and/or emailed directly the OCA's group email formed particularly for this proceeding:

Accounting/ Regulator Policy:	Lafayette K. Morgan, Jr. Exeter Associates, Inc. 10480 Little Patuxent Parkway, Suite 300, Columbia, Maryland 21044 410-992-7500 OCACUPA2025@paoca.org
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IV. PROPOSED SCHEDULE

The OCA proposes the following schedule:

Prehearing Conference	July 29, 2025
Joint Applicants’ Direct	Tuesday, September 2, 2025
Other Parties’ Direct	Tuesday, October 14, 2025
Rebuttal	Thursday, October 30, 2025
Surrebuttal	Thursday, November 13, 2025
Evidentiary Hearings	Thursday, November 20, 2025- Friday, November 21, 2025
Main Briefs	Wednesday, December 10, 2025
Reply Briefs	Tuesday, December 23, 2025

The OCA requests that the dates included in any litigation schedule in this matter be considered “in-hand” dates and that electronic service on the due date will satisfy the “in-hand” requirement.

V. SERVICE ON THE OCA

The OCA respectfully requests that the Presiding Officer permit electronic service without the requirement of a follow-up hard copy. The OCA will be represented in this case by the attorneys listed below:

Christy M. Appleby, Senior Assistant Consumer Advocate
Jacob Guthrie, Assistant Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
E-mail: OCACUPA2025@paoca.org

The OCA has created a group e-mail provided above. This is the only email address that is required for service on the OCA. The OCA's group email address will provide the emailed materials to all members of the OCA team including the consultants listed above.

For the purposes of the Prehearing Conference, Christy Appleby will be the primary attorney speaking on behalf of the OCA.

VI. SETTLEMENT

The OCA will participate in settlement discussions in this matter.

VII. DISCOVERY

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission's procedural rules regarding discovery. The OCA requests that the Presiding Officer direct that the modifications will take effect when addressed during the on the record prehearing conference and apply to all future discovery requests served on and after the date of the prehearing conference on July 14, 2025. The OCA also requests that any outstanding interrogatories or requests for admissions are due no later than 10 calendar days after the Prehearing Conference to the extent such responses are due later than such date, in accordance with Paragraph A below.

A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within five (5) business days of service of written objections.

D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.

E. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.

G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the OCA proposes that the deadlines should be reduced as follows:

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of written objections.

D. Answers to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.

E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

VIII. PREHEARING PROCEDURES

The OCA requests that the ALJ in her Prehearing Conference Order and Evidentiary

Hearing Notice clarify that:

A. Evidentiary hearing exhibits need not include all pre-served testimony which is circulated to the ALJs and parties in this proceeding in accordance with the above-referenced procedural schedule. However, such pre-served testimony may be identified for movement into the record at the hearing through an inventory of pre-served testimony which is provided as a hearing exhibit.

B. Evidentiary hearing exhibits may be provided to the ALJs and parties by **10 am the day before** the start of evidentiary hearings with the exception of hearing exhibits related to rejoinder which may be provided by the end of the day that they are presented.

C. For evidentiary hearings conducted in-person, evidentiary hearing exhibits may be sent to the court reporter electronically. This is in the interest of the environment and saving ratepayers money from the expenditure of printing voluminous hard copies.

D. For evidentiary hearings conducted in-person, attorneys may submit requests to the ALJs five days before the start of the evidentiary hearings for permission for witnesses to appear telephonically. This is in the interest of judicial economy and saving ratepayer dollars from expenditures for witness travel, lodging and boarding.

IX. PUBLIC INPUT HEARINGS

The OCA will be prepared to discuss public input hearings at the prehearing conference.

The OCA respectfully requests that both in-person and telephonic public input hearings be held

for CUPA's customer base impacted by this filing. The OCA requests the following:

A. Given the size of the customer base and service territory, a total of four (4) Public Input Hearings be held, two in-person and two telephonic.

B. The in-person public input hearings include a combination of daytime and evening hearings at a location with accessible and free parking or easy access to public transportation.

C. The telephonic public input hearings include a combination of daytime and evening hearings.

D. Pre-registration be either encouraged or required for telephonic hearings only, and if required, pre-registration be required by 10:00 a.m. on the day of the telephonic Public Input Hearing at which the witness seeks to testify.

E. Hearing exhibits be required to be submitted to the ALJs by 10:00 a.m. the day before the Public Input Hearing at which the witness seeks to testify.

F. The Commission's notice of the Public Input Hearings will include the phone numbers and access codes necessary for participants to use to fully access all telephonic Public Input Hearings.

G. The Joint Applicants will be required to, at a minimum, generate a notice of the Public Input Hearings that contains relevant information as to date, time, location, and phone numbers and access codes and further be required to advertise the notice: (1) in the general readership section (not legal section) of local newspapers within the service territory; (2) on its website; and (3) in social media posts which the Authority utilizes to advertise generally.

H. That the other parties involved in the proceeding, including the OCA, be permitted to review these public input announcements prior to their publication and distribution and have input into which publications the ads are placed.

X. CONCLUSION

The OCA respectfully requests that the Honorable Erin L. Gannon grant the OCA's requests stated herein regarding the procedural schedule, discovery modifications, prehearing procedures, and public input hearings.

Respectfully Submitted,

/s/ Christy M. Appleby

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DATE: July 25, 2025

Counsel for:
Darryl A. Lawrence
Consumer Advocate

OCA APPENDIX A

NOTICE OF IN-PERSON AND TELEPHONIC PUBLIC INPUT HEARINGS

For [Company Name] Rate Increase Requests

Docket Nos.

R-[--]

R-[--]

The Pennsylvania Public Utility Commission (PUC) will conduct [#] Public Input Hearings concerning the general rate increase requests filed by [Name of Company] on [date], seeking to increase [industry type] distribution rates by \$[x] million per year. The in-person and telephonic hearings will be held at the following times and places:

Presiding Officer: Administrative Law Judge [Name of Judge]

IN-PERSON PUBLIC INPUT HEARINGS
Pre-registration is not required.

Date: [Here]

Time: [Here]

Location: [Here]

TELEPHONIC PUBLIC INPUT HEARINGS
Pre-registration is [encouraged/required]. Read below.

Date: [Here]

Time: [Here]

Pre-registration is [encouraged/required] by [same day] at 10AM.

Date: [Here]

Time: [Here]

Pre-registration is [encouraged/required] by [same day] at 10AM.

Toll-free Conference Number: xxx.xxx.xxxx

PIN Number: xxxxxxxx

- You must dial the toll-free Conference number above
- You must enter the PIN number above when instructed
- You must speak your name when prompted, and press #
 - Then, the telephone system will connect you to the hearing

PRE-REGISTRATION FOR TELEPHONIC PUBLIC INPUT HEARINGS: To testify at the telephonic Public Input Hearings, pre-registration is [encouraged/required] by [day of the hearing] at 10AM. Failure to pre-register could result in you not being called to testify by the PUC judge. To pre-register to testify by telephone, please contact the PUC Judge's Legal Assistant, [name], by email at [email address] or by phone at [xxx.xxx.xxxx] and provide the requested information.

NEED ASSISTANCE WITH PRE-REGISTRATION? If you need assistance pre-registering to testify, you may have someone register for you, but they will need to provide the PUC Judge all the information listed above. Additionally, if more than one person in your household would like to testify, one person may pre-register for other individuals in the same household by providing the PUC Judge's Legal Assistant with the above-listed information for each individual.

REQUESTS FOR INTERPRETERS: If you require an interpreter, please pre-register as soon as possible. If you register too close to the hearing date, we may not have enough time to arrange for an interpreter. If you request an interpreter, the PUC will make reasonable efforts to have one present. AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

HEARING EXHIBITS: If you have any hearing exhibits to which you will refer during the hearing, please email them to the PUC Judge's Legal Assistant, [name], at [email address]. The PUC Judge will forward your exhibits to all the parties. Exhibits for the public input hearing must be received by the PUC Judge by [the day before the hearing] at 10AM.

QUESTIONS? The Pennsylvania Office of Consumer Advocate (OCA) represents the interests of utility customers before the PUC. If you have questions about the public input hearings or the Company's requested rate increase, please contact the OCA toll free at 1-800-684-6560 or by email at consumer@paoca.org. Additionally, the OCA can help customers pre-register for the Public Input Hearings.

OTHER WAYS TO BE HEARD: If you want to be heard about the proposed rate increase but do not want or cannot testify at the Public Input Hearings, you may file a formal complaint or comment to the proposed rate increase. Please visit the PUC's website to use the applicable form available at <https://www.puc.pa.gov/complaints/formal-complaints/>