

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application Of The York Water	:	
Company and CMV Sewage Company Inc.,	:	
Under Sections 1102(a)(1)-(3) of the Public	:	
Utility Code, for (1) approval of the right to	:	
transfer certain public wastewater facilities	:	
and rights from CMV Sewage Co. Inc. to The	:	
York Water Company; (2) the abandonment	:	
by CMV Sewage Co. Inc. of wastewater	:	
service to the public in its service territory in	:	A-2025-3054555
Chanceford Township, York County,	:	A-2025-3054556
Pennsylvania; and (3) approval for The York	:	
Water Company to begin to offer, render,	:	
furnish or supply wastewater service to the	:	
public in a portion of Chanceford Township,	:	
York County, Pennsylvania	:	

RECOMMENDED DECISION

Before
Emily A. Farren
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Joint Petition for Approval of all Issues (Petition or Settlement) be approved in its entirety without modification because it is in the public interest and is supported by substantial evidence. This Decision further finds that the Settlement complies with the relevant Sections of the Pennsylvania Public Utility Code (Code) regarding applications for the acquisition of wastewater system assets and is consistent with Commission regulations promoting settlements.

HISTORY OF THE PROCEEDING

On April 9, 2025, The York Water Company (York Water) and CMV Sewage Co. Inc. (CMV) filed a Joint Application pursuant to Sections 1102(a)(1)-(3) of the Public Utility Code, requesting the approval of the Pennsylvania Public Utility Commission (Commission) for: (1) the transfer of CMV's wastewater facilities to York Water; (2) CMV's abandonment of wastewater service in Chanceford Township, York County, PA; and (3) approval for York Water to begin to offer, render, furnish, or supply water service to the public in a portion of Chanceford Township, York County, PA.

Notice of the Joint Application was published in the *Pennsylvania Bulletin* on April 26, 2025, and stated that Protests and Petitions to Intervene must be filed on or before May 12, 2025. 55 Pa.B. 3100 (Apr. 26, 2025).

On May 12, 2025, the Office of Consumer Advocate (OCA) filed its Protest. The OCA raised three areas of concern: (1) that the Joint Application and accompanying materials did not provide information about the projected costs of capital investment contemplated by York Water in the years following the close of the proposed transaction, what the planned projects are, and what the projected revenue deficiency (sufficiency) will be; (2) that limited financial details regarding CMV including what the York Water's claimed addition to water rate base will be; and (3) the Joint Application provided that the CMV Sewage customers will be charged a flat rate of \$86.90. OCA Protest at ¶¶ 9(a)-(c).

On May 28, 2025, the Commission issued a Telephonic Prehearing Conference Notice, scheduling a telephonic prehearing conference for June 16, 2025.

On June 16, 2025, the Prehearing Conference convened as scheduled. Devin Ryan, Esq., was present on behalf of York Water; John Baranski, Jr., Esq., was

present on behalf of CMV; and Melanie El Atieh, Esq., was present on behalf of the OCA.

On June 16, 2025, following the prehearing conference, the Commission issued a Telephonic Status Conference Notice, scheduling a status conference for July 16, 2025.

On July 16, 2025, the Status Conference convened as scheduled. Devin Ryan, Esq., was present on behalf of York Water and Melanie El Atieh, Esq., was present on behalf of the OCA. The Parties requested additional time to determine the possibility of settlement.

On July 16, 2025, the Commission issued a second Telephonic Status Conference Notice, scheduling a status conference for August 22, 2025.

On August 22, 2025, the Second Status Conference convened as scheduled. Devin Ryan, Esq., was present on behalf of York Water and Melanie El Atieh, Esq., was present on behalf of the OCA. The Parties indicated settlement appeared imminent and jointly requested they submit a status report to me by September 8, 2025.

On September 15, 2025, I received confirmation from the Parties of a settlement in principle.

On October 10, 2025, the Parties submitted a Joint Petition for Settlement of All Issues, Joint Stipulation of Facts, and Statements in Support.¹

¹ CMV's Statement in Support lacked any meaningful analysis, thus I did not consider the Statement by placing any weight on the Statement in the analysis or conclusion herein.

On October 21, 2025, I issued Interim Order #3, which admitted the Joint Stipulation of Facts filed by the Parties on October 10, 2025, into the evidentiary record and closed the record.

JOINT STIPULATION OF FACTS

The Parties submitted the following Joint Stipulation of Facts, which provide the information necessary to support the Settlement. They are adopted without modification, repeated below verbatim, and retain the same paragraph numbering for ease of reference to the reader.²

3. The Stipulating Parties hereby stipulate to the admission of York Water's and CMV's above-referenced Joint Application into evidence in this proceeding. A copy of the Joint Application is attached hereto as **Stipulating Parties Exhibit 1**.

4. York Water is a Class "A" public utility regulated by the Commission, organized under the laws of the Commonwealth of Pennsylvania, with a primary business address at 130 East Market Street, York, Pennsylvania 17401-1219.

5. York Water is now furnishing wastewater service to the public in portions of thirteen municipalities in York County, a portion of one township in Adams County, a portion of two townships in Lancaster County, and a portion of three municipalities in Franklin County.

6. The wastewater community served has an estimated population of approximately 17,000 as of December 31, 2024, with wastewater service furnished to approximately 6,682 customers as of December 31, 2024.

² See Joint Stipulation of Facts, pp. 2-12.

7. CMV is a Class “C” public wastewater utility certificated by the Commission to provide public wastewater service within its certificated territory in a portion of Chanceford Township, York County. CMV has a mailing address of 200 Bailey Drive, Stewartstown, Pennsylvania 17363.

8. CMV owns and operates a public wastewater system that consists of a collection system, wastewater treatment plant, a lagoon treatment system, drip irrigation field, and related wastewater facilities (“Wastewater System Assets”) serving 280 residential customers in Chanceford Manor Village, a residential community located in Chanceford Township, York County, Pennsylvania.

9. The Commission issued CMV a certificate of public convenience in 1988, authorizing the provision of wastewater service at Docket No. A-230056, and then for Phase V of the development in 2000 at Docket No. A-210532-F0002.

10. The Sellers have reached out to York Water for a lifeline to acquire the CMV system due to the deteriorating financial and physical condition of the system and its assets.

11. The owners of CMV have experienced a long history with both the Commission and the Pennsylvania Department of Environmental Protection (“DEP”) since constructing this wastewater system. The CMV system has been subject of a number of regulatory meetings with the PUC, including OCA, and DEP about the financial health, rates, and system requirements and the limited rate base to arrive at reasonable solutions. Currently, the wastewater system requires operational oversight, presents daily operational concern, and must be managed closely to maintain regulatory compliance related to reliability and permit compliance.

12. The Consent Order and Agreement (“COA”) with DEP, detailing the compliance status of the wastewater facilities, is attached to **Stipulating Parties Exhibit 1** as **Exhibit F**.

13. The Seller has been running the system at an operational deficit and financially must exit the wastewater utility business, as this singular system is unsustainable and cannot be rehabilitated solely through its 280 customer base.

14. The CMV system is distressed, and the Seller needs to sell in the best interest of the customers, the surrounding community, and the environment.

15. The Commission has been involved through the COA, and DEP has also encouraged the consolidation of this system into York Water’s wastewater service territory.

16. From an environmental perspective, there is significant benefit in the consolidation of the discharges presented in the Application, as reflected in the COA.

17. In support of this transaction, York Water has worked closely with the DEP and has agreed to execute a COA with the DEP, which allows York Water to acquire and operate the Wastewater System Assets and, after closing, requires York Water to maintain compliance with all legal requirements, including the COA, related to CMV’s Sewage Treatment Plant (“STP”) and the associated sewage collection system.

18. The COA does not require York Water to repair or replace the major systems at the treatment works, but rather, allows York Water to maintain the operational status quo until such time that York Water can connect the CMV customers to York Water’s Felton Sewage Treatment Plant (“Felton STP”) nearby and downgradient.

19. DEP offered and pursued the COA with York Water because the agency is aware of the costs to repair and/or replace the treatment works, which costs are not affordable to the limited number of CMV customers.

20. The allegations of violations of the Clean Streams Law asserted by the DEP over the past decade at CMV's STP are numerous, and include, among other things, degraded lagoon liners #1 and #2.

21. As set forth in the COA, York Water is expected to operate the treatment assets in a way that minimizes the potential for release of pollutants to the environment.

22. To date, CMV has not corrected the alleged violations noted by the DEP in the COA but has adjusted operation of the facilities to control the risk of pollution.

23. As such, the owners of CMV need to sell the Wastewater System Assets to a responsible operator that is: (1) able to manage the existing system, prevent pollution, and reliably maintain compliance with the COA terms and conditions; and (2) has a long term resolution that will provide an alternative sewer solution for this community that is far more cost efficient for customer rates.

24. As stated in the COA, York Water would complete resolution of the CMV STP issues by decommissioning the STP and connecting the Chanceford Manor Village residential customers to York Water's nearby Felton STP.

25. Under the COA, York Water and the DEP established a program and schedule for expanding the Felton STP as necessary to allow the decommissioning of the CMV STP and the connection of the Chanceford Manor Village residential customers to

the expanded Felton STP. This process is intended to resolve the deficiencies and violations set forth in the COA.

26. The Seller is not interested in continuing to provide wastewater service due to the compliance issues identified by the DEP in the COA but will do so until a Closing can occur.

27. The Wastewater System Assets' engineering configuration does not reflect current best engineering practices, the current condition complicates operation and will require regular maintenance, and the facilities present certain risks to workers, residents, and the environment.

28. York Water has entered into a Purchase Agreement dated June 24, 2024, to acquire CMV's wastewater distribution system and all ancillary facilities related thereto that are necessary to treat and distribute wastewater service to the current system customers.

29. A copy of the Purchase Agreement is attached to the **Stipulating Parties Exhibit 1** as **Exhibit E** (Purchase Agreement - **CONFIDENTIAL**).

30. The June 24, 2024 Purchase Agreement more specifically describes the Wastewater System Assets that York Water will acquire. York Water is also acquiring all of the permits associated with the wastewater system from the Seller.

31. Following closing, CMV will cease providing public wastewater service in Pennsylvania.

32. Accordingly, as part of the Joint Application, CMV has requested approval to abandon its right and obligation to provide wastewater service in a portion of

Chanceford Township, which is currently CMV's certificated wastewater service territory, pursuant to Section 1102(a)(2) of the Public Utility Code.

33. York Water's capital requirements for the acquisition consist of the purchase price of Three Hundred Sixty Thousand Dollars (\$360,000.00) for the Seller's Wastewater System Assets and certain real property. The purchase will be financed by internally generated funds, proceeds from the issuance of common stock under York Water's dividend reinvestment and direct stock purchase and employee stock purchase plans, and, if necessary, borrowings against York Water's line of credit. A portion of this payment is allocated to the Wastewater System Assets (\$260,000), while the remaining portion is allocated to real estate (\$100,000). Therefore, the Wastewater System Assets and associated real estate are being purchased for \$360,000.

34. In addition to a purchase price, York Water's initial capital requirements will consist of costs to inspect all of the mains within the system and conduct any repairs that are observed within the collection system.

35. The STP will remain intact but with regular operator oversight until disconnection/connection to the Felton STP. Operator oversight under York Water will be enhanced due to the conditions at the facility.

36. Concurrently, York Water will be designing the Felton STP expansion and main extension connection, obtaining permits, and then constructing these facilities, which will be financed by internally generated funds, proceeds from the issuance of common stock under York Water's dividend reinvestment and direct stock purchase and employee stock purchase plans, and, if necessary, borrowings against York Water's lines of credit. All system improvements described in this Paragraph will be completed and in-service no more than 36 months after Closing. There are no future system improvement plans other than those identified in this Paragraph at this time.

37. There have been no contributions toward the construction of the Seller's wastewater distribution system, and Seller has no outstanding PENNVEST loans on the wastewater distribution system.

38. York Water and CMV are not affiliated, and the purchase price is based on arm's length negotiations as agreed upon in the Purchase Agreement.

39. York Water will perform an original cost study for the purchase of the Wastewater System Assets upon closing. A more detailed listing and description of assets will be provided when the original cost study is completed.

40. York Water's proposed additional service territory includes CMV's current service area, as well as the inclusion of the Oakbrook Drive development and parcels along Main Street Extended, as approved by the municipality ("Requested Territory"), as evidenced by the map and the metes and bounds description attached to **Stipulating Parties Exhibit 1** as **Exhibit C**.

41. York Water is requesting properties to the west of the CMV territory (the Oakbrook Drive loop) and the residential properties immediately south of the CMV territory along Main Street outside of the current CMV certificated area, because the future connection of these properties, currently utilizing individual on-lot systems, when/if needed is physically and economically efficient and such inclusion in York Water's territory is supported by Chanceford Township. *See* **Exhibit D** to **Stipulating Parties Exhibit 1** (Chanceford Township Letter).

42. York County Planning Commission and Chanceford Township are in agreement regarding the proposed territory expansion, as evidenced by the consistency letters issued by those entities and attached to the Joint Application as **Exhibits K and L**, respectively.

43. York Water owns and operates the Felton STP, which is located near the Chanceford Manor Village residential development.

44. As stated previously, York Water will be expanding the Felton STP after closing so that the Company can connect the Chanceford Manor Village customers to the Felton STP, decommission the CMV STP, and resolve the issues associated with the CMV STP.

45. Through that expansion project, York Water would have sufficient treatment capacity to meet the demands of Chanceford Manor Village and the requested territory through at least 2040. Chanceford Township desires to remain relatively rural in nature, and the future connection need is expected to be relatively modest.

46. Any additional future requests for public wastewater service in this service territory and/or on adjacent land will be considered in accordance with local land development decisions and the Company's tariff and line extension rules.

47. Consistent with the Settlement, York Water proposes to charge CMV customers a flat rate of \$50.00 per month for customers in the CMV service area until York Water's next base rate case.

48. CMV currently bills its customers based on metered rates. Red Lion Municipal Authority ("RLMA") provides water service to the CMV customers and has been providing monthly water use meter readings to CMV for over a decade, at no charge and pursuant to no agreement.

49. York Water contacted RLMA to provide notice of the pending sale of the system and requested that RLMA continue providing the meter reads. RLMA indicated it would not provide the reads to York Water.

50. After two requests and at the request of the CMV customers, York Water's CEO, JT Hand attended RLMA's public meeting on November 20, 2024, and made the same request, explaining that metered rates are favored by the CMV customers and York Water. From that meeting, RLMA indicated it would consider providing the meter readings to York Water and would review the draft agreement provided by York Water.

51. RLMA ultimately responded months later with counter terms in the draft agreement that were not in the interest of York Water's customers. Thus, at this time, York Water is not working toward a signed agreement with RLMA.

52. York Water's proposed \$50.00 per month flat fee for wastewater service for CMV customers aligns with the average residential customer bill for the CMV customers, which is approximately \$51.00. The proposed \$50.00 flat fee is intended to keep the average customer bill relatively the same while recognizing York Water's inability to get water consumption data from RLMA at a reasonable cost.

53. The residents of Chanceford Manor Village will not incur reservation or connection fees related to York Water's designing, permitting, and constructing additional facilities to convey wastewater from Chanceford Manor Village to the Felton STP. Construction of the main extension and connection will commence upon receipt of Commission approval of this Application and York Water's receipt of the required permits related to the extension and connection.

54. York Water is in good standing with the DEP and in general compliance with DEP water supply regulatory requirements related to the provision of public wastewater service.

55. Subject to Commission approval of York Water's application for the CMV territory and system(s), Mr. Eric Buracker, employee of York Water, will be the Certified Wastewater Operator for the Wastewater System. Mr. Buracker's current Wastewater System Operator License was attached to **Stipulating Parties Exhibit 1** as **Exhibit M** (Operator License).

56. All permits held by CMV related to the Wastewater System Assets will be transferred to York Water after closing. Upon completion of closing, York Water and the Township will have to initiate a Plan Update to prepare for the shift of sewer solution for CMV from a private owner on-site satellite facility to the Felton STP.

57. This is a certificated entity to certificated entity asset and operations transfer within the Requested Territory.

58. Other than CMV, which is selling the Wastewater System Assets, no corporation, partnership, or individual is now furnishing or has corporate or franchise rights to furnish similar service to that to be rendered by York Water in the Requested Territory. Additionally, no other entities are providing water services within one mile of the Requested Territory, apart from York Water and RLMA. RLMA has not expressed any interest in purchasing or acquiring the CMV wastewater facilities. Thus, no competitive condition will be created by the proposed acquisition.

59. Upon closing, York Water will use the Wastewater System Assets to provide wastewater collection and treatment service to the customers located in Chanceford Manor Village. York Water ultimately will expand the treatment capacity at its Felton STP, extend its wastewater main to connect the Chanceford Manor Village to the expanded Felton STP, and decommission the CMV STP. The Felton STP currently is a 0.048 MGD engineering design capacity, with current flows at 13,600 gpd. The Felton STP will have an engineering design capacity of at least 110,000 gpd after its expansion,

as well as estimated flows of 57,000 gpd immediately after the Chanceford Manor Village customers are connected to the Felton STP. DEP is aware of and supports this future plan.

60. York Water will operate and manage the provision of wastewater service to the Chanceford Manor Village customers from its Main Office in York, Pennsylvania. The system is approximately 12.7 miles (on roadways) from the Main Office and will be operated by full-time York Water employees. York Water has an existing operational presence and wastewater professionals in the area, as York Water currently provides wastewater service to customers in the nearby Felton Borough. The CMV wastewater system is approximately 1.23 miles from York Water's Felton STP. The acquisition will easily incorporate into existing York Water wastewater operations.

61. York Water is not anticipating any material physical, operational, or managerial changes of York Water's operations as a result of the acquisition.

62. York Water will bring significant experience, professional staff and operators, customer service support, and other customer and facilities resources in order to best serve customers, resolve the compliance issues identified by the DEP in the COA, and ensure compliance with both existing and proposed regulatory requirements, including: (1) expanding the Felton STP, decommissioning the CMV STP, and connecting the Chanceford Manor Village customers to the expanded Felton STP pursuant to the COA; (2) consistent and close supervision of the operation of the Wastewater System Assets; (3) 24/7 in-person responsiveness to customer service requests and emergencies; and (4) the ability and willingness to invest in and maintain the Wastewater System Assets as needed to maintain compliance until the connection to the Felton STP can be accomplished.

DISCUSSION

A. Legal Standards

Certificates of public convenience

Section 1101 of the Public Utility Code states that Commission approval, as evidenced by a certificate of public convenience and necessity, is required for a proposed public utility to begin to offer, render, furnish, or supply service within the Commonwealth. 66 Pa.C.S. § 1101. The proposed public utility must file an application with the Commission to receive such approval. *Id.* The Commission’s grant of authority “shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.” *Id.*

Section 1102(a)(1) of the Public Utility Code specifies that a public utility must receive Commission approval before “begin[ning] to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by” a certificate of public convenience or an unregistered right, power or privilege preserved by Section 103 of the Public Utility Code. 66 Pa.C.S. § 1102(a)(1).

Section 1102(a)(2) of the Public Utility Code states that a public utility must obtain Commission approval before “abandon[ing] or surrender[ing], in whole or in part, any service” 66 Pa.C.S. § 1102(a)(2). The Commission’s prior approval, evidenced by a certificate of public convenience, is required for any public utility “to acquire from, or to transfer to, any person or corporation . . . by any method or devise whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.” 66 Pa.C.S. § 1102(a)(3).

Section 1103 of the Public Utility Code sets forth the procedure to obtain certificates of public convenience under Sections 1101 and 1102 of the Public Utility Code. 66 Pa.C.S. § 1103. The Commission may issue a certificate of public convenience upon a finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa.C.S. § 1103(a). This standard requires the Commission to find that the Joint Application will “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm’n*, 295 A.2d 825, 828 (Pa. 1972).

Substantial public interest

The “substantial public interest” standard is satisfied by a preponderance of the evidence of benefits, and such burden can be met by showing a likelihood or probability of public benefits that need not be quantified or guaranteed. *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040, 1057 (Pa. 2007). The substantial public benefit test does not require that every customer receive a benefit from the Proposed Transactions. *Popowsky*, 937 A.2d at 1061.

Fitness of acquiring public utility

Under Sections 1102 and 1103 of the Public Utility Code, the entity acquiring public utility assets must be legally, technically, and financially fit. *See Seaboard Tank Lines v. Pa. Pub. Util. Comm’n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. v. Pa. Pub. Util. Comm’n*, 138 A.2d 240, 243 (Pa. Super. 1958).

The Commission has held that “fitness” encompasses: (1) the technical capacity to fulfill the identified service need in a satisfactory fashion; (2) the financial capacity to obtain the plant and equipment needed to perform the proposed service in a

reliable and responsible fashion; and (3) a propensity to operate safely and legally. *See Re William O'Connor*, 54 Pa.P.U.C. 547, 549 (1980).

Certificated public utilities are presumed to be technically, financially, and legally fit to operate, absence proof to the contrary. *See, e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm'n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992) (citation omitted); *Application of Aqua Pa. Wastewater, Inc.*, 2017 Pa. PUC LEXIS 163, at *19 (Order entered June 29, 2017) (citations omitted).

Settlements

When reviewing settlements, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991). Substantial evidence consistent with the statutory requirements must support the proposed settlement. *Popowsky v. Pa. Pub. Util. Comm'n*, 805 A.2d 637 (Pa. Cmwlth. 2002); *ARIPPA v. Pa. Pub. Util. Comm'n*, 792 A.2d 636 (Pa. Cmwlth. 2001).

The burden of proof in this proceeding is upon the Joint Applicants. 66 Pa.C.S. § 332(a); *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001). Because the settling parties request that the Commission enter an order in this proceeding approving the Settlement without modification, they share the burden of proof to show that the terms and conditions of the Settlement are in the public interest. *Id.*; *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dept.*, Docket No. R-2020- 3020256 at 13 (Opinion and Order entered Apr. 15, 2021). In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order

entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991).

As the parties bearing the burden of proof, the Joint Petitioners must prove by a preponderance of the evidence that the Commission's issuance of a certificate of public convenience approving the Application, as modified by the Settlement, is in the public interest because it will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825 (Pa. 1972). However, the Commission is not required to secure legally binding commitments or to quantify benefits where this may be impractical, burdensome, or impossible. *Popowsky v. Pa. Pub. Util. Comm'n*, 937 A.2d 1040 (Pa. 2007). Instead, the Commission "applies a preponderance of the evidence standard to make factually-based determinations (including predictive ones informed by expert judgment) concerning certification matters." *Id.* In an acquisition context when the Commission considers the public interest, it is contemplated that the benefits and detriments of the acquisition will be measured as they impact on all affected parties and not merely on one particular group or geographic subdivision. *Middletown Twp. v. Pa. Pub. Util. Comm'n*, 482 A.2d 674 (Pa. Cmwlth. 1984).

B. Settlement Terms

The Joint Petitioners agree that the Joint Application filed by York Water and CMV at Docket Nos. A-2025-3054555 and A-2025-3054556 should be approved, with one modification: York Water will charge the CMV wastewater customers a flat rate of \$50.00 per month until York Water's next base rate case. *See* Joint Petition ¶¶ 15-16.

C. Public Interest Analysis

York Water's position

Proposed rate for acquired customers

York Water contended that the Settlement is designed to address the OCA's concerns about the potential rate impact of the acquisition on CMV's existing customers. When York Water filed the Joint Application, the Company proposed to charge the flat rate currently charged to Felton Sewage Treatment Plant (STP) customers, *i.e.*, \$86.90 per month per equivalent dwelling unit. Joint Application at 12. CMV currently bills its customers based on metered rates, which are provided by the Red Lion Municipal Authority (RLMA) to CMV at no charge and pursuant to no agreement. Joint Stip. ¶ 48. Despite multiple attempts to negotiate a reasonable rate for RLMA to provide meter readings to York Water so that the Company can continue to bill CMV customers at a metered rate, RLMA and York Water ultimately were unable to reach an agreement that was in the interest of York Water's customers. Joint Stip. ¶¶ 49-51. As such, York Water originally proposed moving CMV customers to the flat rate charged to Felton STP customers because York Water will ultimately connect CMV customers to the Felton STP. Joint Stip. ¶ 25.

Under the Settlement, the Joint Petitioners agree that, instead of the Company's original proposal to apply its Felton STP flat rate to customers in the CMV's service area, York Water will charge the CMV wastewater customers a flat rate of \$50.00 per month until York Water's next base rate case. Settlement ¶ 16. York Water's proposed \$50.00 per month flat fee for wastewater service for CMV customers aligns with the average residential customer bill for the CMV customers, which is approximately \$51.00. Joint Stip. ¶ 52. The proposed \$50.00 flat fee is intended to keep

the average customer bill relatively the same while recognizing York Water's inability to get water consumption data from RLMA at a reasonable cost. *Id.*

Substantial affirmative public benefits

York Water submits that the Settlement and concurrently filed Joint Stipulation of Facts demonstrate that the proposed acquisition will produce substantial affirmative public benefits. York Water Statement in Support at 4.

First, York Water pointed out that CMV reached out to York Water for a lifeline to acquire the CMV system due to the deteriorating financial and physical condition of the system and its assets. Joint Stip. ¶ 10. The CMV wastewater system is distressed and is currently under a Consent Order and Agreement (COA) with the Pennsylvania Department of Environmental Protection (DEP) due to documented violations of the Clean Streams Law over the past decade. Joint Stip. ¶¶ 11-14, 19. In particular, the owners of CMV have experienced a long history with both the Commission and DEP since constructing this wastewater system. Joint Stip. ¶ 11. The CMV system has been subject of a number of regulatory meetings with the Commission, including OCA, and DEP about the financial health, rates, and system requirements and the limited rate base to arrive at reasonable solutions. Joint Stip. ¶ 11.

Currently, the wastewater system requires operational oversight, presents daily operational concerns, and must be managed closely to maintain regulatory compliance related to reliability and permit compliance. Joint Stip. ¶ 11. York Water has been working closely with the DEP regarding the proposed acquisition and has agreed to execute a COA with the DEP, which allows York Water to acquire and operate CMV's wastewater system and, after closing, requires York Water to maintain compliance with all legal requirements, including the COA, related to CMV's STP and the associated sewage collection system. Joint Stip. ¶ 17. Thus, from an environmental perspective,

there is significant benefit in York Water's acquisition of the CMV system as reflected in the COA. Joint Stip. ¶ 16.

From a financial perspective, CMV has been running the system at an operational deficit and financially must exit the wastewater utility business, as this singular system is unsustainable and cannot be rehabilitated solely through its 280-customer base. Joint Stip. ¶ 13. Therefore, York Water contended it is imperative that a legally, technically, and financially fit utility, such as York Water, take over the system and provide wastewater service to customers in the CMV service area.

Second, York Water stated it will bring significant resources to CMV's wastewater system to ensure compliance with both existing and proposed regulatory requirements and resolve the compliance issues identified by the DEP in the COA described above. York Water Statement in Support at 6; Joint Stip. ¶ 62. York Water explained that it will accomplish these critical improvements by expanding the Felton STP, decommissioning the CMV STP, and connecting CMV customers to the expanded Felton STP pursuant to the COA. York Water Statement in Support at 6; Joint Stip. ¶ 62.

Third, York Water stated it will bring significant experience, professional staff and operators, customer service support, and other customer and facilities resources in order to best serve customers and continue to maintain compliance with both existing and proposed regulatory requirements, including: (1) consistent and close supervision of the operation of the wastewater system assets; (2) 24/7 in-person responsiveness to customer service requests and emergencies; and (3) the ability and willingness to invest in and maintain the CMV wastewater system assets as needed to maintain compliance until the connection to the Felton STP can be accomplished. York Water Statement in Support at 6; Joint Stip. ¶ 62.

Fourth, York Water proffered that the Commission encourages utilities, such as York Water, to acquire troubled wastewater systems like CMV's wastewater system assets. *See* 52 Pa. Code § 69.711. Moreover, the Company's acquisition of CMV's wastewater facilities will help further consolidate the wastewater systems in Pennsylvania, which "may, with appropriate management, result in greater environmental and economic benefits to customers." 52 Pa. Code § 69.721(a).

OCA's position

The OCA submitted that the Joint Stipulation of Facts presented additional facts that were identified during the discovery process which support the proposed rates to be charged to CMV customers, and that, in fact, the amount should not constitute a rate increase for the average customer. OCA Statement in Support at 7. The proposed rate will mirror the current average bill for customers in the CMV service territory. *Id.* CMV currently bills its customers based on metered rates. Joint Stip. ¶ 48. RLMA provides water service to the CMV customers and has been providing monthly water use meter readings to CMV for over a decade, at no charge and pursuant to no agreement. Joint Stip. ¶ 48.

From the information provided by York Water, it appears that post-acquisition, receiving metered data for water service from RMLA is no longer possible. Joint Stip. ¶¶ 49-51. As identified in the Joint Stipulation of Facts, York Water provided that the Company "contacted RLMA to provide notice of the pending sale of the system and requested that RLMA continue providing the meter reads. RLMA indicated it would not provide the reads to York Water." Joint Stip. ¶ 49. After repeated attempts, the Company was unable to secure an agreement with RLMA to continue to provide reasonable access to metered water rates. Joint Stip. ¶¶ 49-51.

Without metered water rates, the OCA submitted that flat rates are a reasonable alternative at this time. OCA Statement in Support at 7. York Water's proposed \$50.00 per month flat fee for wastewater service for CMV customers aligns with the average residential customer bill for the CMV customers, which is approximately \$51.00. Joint Stip. ¶ 52. The proposed \$50.00 flat fee is intended to keep the average customer bill relatively the same while recognizing York Water's inability to get water consumption data from RLMA at a reasonable cost. Joint Stip. ¶ 52.

The OCA further submitted that the Settlement addresses the OCA's concern that the Company proposed to increase the customer's rates to a flat rate of \$86.90. OCA Statement in Support at 8. The agreed upon charge of \$50.00 closely mirrors the average customer's current usage rates of \$51.00 and will reasonably maintain existing rates. *Id.* The OCA explained that the Joint Stipulation also sufficiently supplements the record to respond to the OCA's concerns regarding the lack of sufficient information about York Water's capital improvement plans and what the anticipated claimed addition to water rate base will be. *Id.*

Finally, the OCA submitted that the terms and conditions of the proposed Settlement, in addition to the steps already taken, represent a fair and reasonable resolution of the issues and claims arising in this proceeding, thus the Commission should approve the Settlement without modification as it is in the public interest. *Id.*

RECOMMENDATION

After an exhaustive review of the record, I agree with the parties that the Settlement is reasonable and the granting of a certificate of public convenience in this matter is necessary or proper for the service, accommodation, convenience, or safety of the public. Therefore, I recommend that the Commission approve without modification

the Joint Petition for Settlement of All Issues, because the Settlement is in the public interest.

Significantly, the Settlement ensures that CMV's current customer base will receive quality wastewater service from York Water, a certificated public utility with the necessary financial, technical, and legal resources to provide that service into the foreseeable future. York Water's acquisition of CMV's troubled system will address: (1) several compliance issues with the system identified in the Consent Order and Agreement by the Pennsylvania Department of Environmental Protection; and (2) the current engineering configuration of the system to decrease risks to workers, residents, and the environment.

York Water will expand the Felton Sewage Treatment Plant, decommission the CMV Sewage Treatment Plant, and connect the Chanceford Manor Village customers to the expanded Felton Sewage Treatment Plant, pursuant to the Consent Order and Agreement. York Water will provide consistent supervision of the operation of the system, in addition to 24/7 in-person responsiveness to customer service requests and emergencies. York Water also possesses the ability and willingness to invest in and maintain the system as needed until decommissioning the CMV Sewage Treatment Plant is possible.

Additionally, the Settlement ensures rate stabilization for CMV's current customer base, at least until York Water's next base rate case. This Settlement term allows for any future rate increase to be subject to approval by the Commission with a full picture of York Water's finances and after consideration of any issues addressed by the public, specifically, York Water's customers.

In conclusion, I find that the Settlement is reasonable and the granting of a certificate of public convenience in this matter is necessary or proper for the service, accommodation, convenience, or safety of the public, and I recommend that the Commission approve without modification the Joint Petition for Settlement of All Issues.

CONCLUSIONS OF LAW

1. Section 1101 of the Public Utility Code states that Commission approval, as evidenced by a certificate of public convenience and necessity, is required for a proposed public utility to begin to offer, render, furnish, or supply service within the Commonwealth. 66 Pa.C.S. § 1101.

2. The proposed public utility must file an application with the Commission to receive such approval. 66 Pa.C.S. § 1101.

3. The Commission's grant of authority "shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied." 66 Pa.C.S. § 1101.

4. Section 1102(a)(1) of the Public Utility Code specifies that a public utility must receive Commission approval before "begin[ning] to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by" a certificate of public convenience or an unregistered right, power or privilege preserved by Section 103 of the Public Utility Code. 66 Pa.C.S. § 1102(a)(1).

5. Section 1102(a)(2) of the Public Utility Code states that a public utility must obtain Commission approval before “abandon[ing] or surrender[ing], in whole or in part, any service” 66 Pa.C.S. § 1102(a)(2).

6. The Commission’s prior approval, evidenced by a certificate of public convenience, is required for any public utility or an affiliated interest of a public utility . . . to acquire from, or to transfer to, any person or corporation . . . by any method or devise whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service. 66 Pa.C.S. § 1102(a)(3).

7. Section 1103 of the Public Utility Code sets forth the procedure to obtain certificates of public convenience under Sections 1101 and 1102 of the Public Utility Code. 66 Pa.C.S. § 1103.

8. The Commission may issue a certificate of public convenience upon a finding that “the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa.C.S. § 1103(a).

9. This standard requires the Commission to find that the Joint Application will “affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.” *City of York v. Pa. Pub. Util. Comm’n*, 295 A.2d 825, 828 (Pa. 1972).

10. The “substantial public interest” standard is satisfied by a preponderance of the evidence of benefits, and such burden can be met by showing a likelihood or probability of public benefits that need not be quantified or guaranteed. *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040, 1057 (Pa. 2007).

11. The substantial public benefit test does not require that every customer receive a benefit from the Proposed Transactions. *Popowsky*, 937 A.2d at 1061.

12. Under Sections 1102 and 1103 of the Public Utility Code, the entity acquiring public utility assets must be legally, technically, and financially fit. *See Seaboard Tank Lines v. Pa. Pub. Util. Comm'n*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Township Mun. Auth. v. Pa. Pub. Util. Comm'n*, 138 A.2d 240, 243 (Pa. Super. 1958).

13. The Commission has held that “fitness” encompasses: (1) the technical capacity to fulfill the identified service need in a satisfactory fashion; (2) the financial capacity to obtain the plant and equipment needed to perform the proposed service in a reliable and responsible fashion; and (3) a propensity to operate safely and legally. *See Re William O’Connor*, 54 Pa.P.U.C. 547, 549 (1980).

14. Certificated public utilities are presumed to be technically, financially, and legally fit to operate, absent proof to the contrary. *See, e.g., South Hills Movers, Inc. v. Pa. Pub. Util. Comm’n*, 601 A.2d 1308, 1310 (Pa. Cmwlth. 1992) (citation omitted); *Application of Aqua Pa. Wastewater, Inc.*, 2017 Pa. PUC LEXIS 163, at *19 (Order entered June 29, 2017) (citations omitted).

15. York Water, as a certificated public utility, is presumed legally, technically, and financially fit to own and operate CMV’s Wastewater System Assets and to provide wastewater service to the customers in the CMV service area.

16. Commission approval of the Joint Application is necessary and proper for the service, accommodation, convenience, and safety of the public and will produce substantial affirmative public benefits.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Application filed by York Water and CMV at Docket Nos. A-2025-3054555 and A-2025-3054556, as modified by the Joint Petition for Approval of All Issues, is hereby approved.

2. That a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the right of York Water to acquire the wastewater system assets owned by CMV, as described in the Joint Application.

3. That York Water shall provide written notification to the Secretary's Bureau and the Parties to this proceeding, within ten (10) days of the closing with CMV at Docket Nos. A-2025-3054555 and A-2025-3054556.

4. That following Commission receipt of the notice of closing as required by Ordering Paragraph 3, a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(1)(i) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(1)(i), evidencing Commission approval of the right of York Water to begin to offer, render, furnish and supply wastewater service to the public in a portion of Chanceford Township, York County, Pennsylvania.

5. That following Commission receipt of the notice of closing as required by Ordering Paragraph 3, a Certificate of Public Convenience shall be issued

pursuant to Section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), evidencing Commission approval of the right of CMV to abandon wastewater service to the public in its service territory in Chanceford Township, York County, Pennsylvania.

6. That within ten (10) days following the date of closing, York Water shall file a tariff supplement consistent with Appendix “F” of the Settlement with the Secretary’s Bureau at Docket Nos. A-2025-3054555 and A-2025-3054556, to become effective on one day’s notice.

7. That York Water shall file copies of its original cost study of the wastewater system assets acquired from CMV with the Secretary’s Bureau, the Bureau of Technical Utility Services, the Bureau of Audits, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate upon completion of said study.

8. That upon the issuance of the Certificates of Public Convenience as outlined in Ordering Paragraphs 4 and 5, the proceedings at Docket Nos. A-2025-3054555 and A-2025-3054556 be closed.

Date: November 12, 2025

/s/
Emily A. Farren
Administrative Law Judge