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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

RYAN FLYNN o/b/o	:	Docket No. C-2024-3047272
LIQUID MANAGEMENT	:	
	:	
Complainant	:	
v.	:	
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
	:	
Respondent	:	

MAIN BRIEF OF COMPLAINANT RYAN FLYNN

I. INTRODUCTION

Pursuant to the order of the Honorable Alphonso Arnold III, Complainant, Ryan Flynn (“Mr. Flynn” or “Complainant”), by and through his undersigned counsel, timely submits his Brief in the above-referenced proceeding. For the reasons set forth below, the Pennsylvania Public Utility Commission (the “Commission” or “PUC”) should find that Complainant has met his burden of proof that Pennsylvania American Water Company (“PAWC” or “The Company”) violated the Public Utility Code and the language of its Commission-approved Tarriff when it failed to properly bill Meadowbrook Mobile Home Park (“Meadowbrook”) for wastewater services. Complainant therefore respectfully requests that the Commission: (1) find that PAWC acted in violation of the Public Utility Code and its Commission-approved Tariff when it improperly billed Mr. Flynn as a metered customer, (2) direct PAWC to issue a refund in the amount of \$238,298.44 for the

erroneous charges based on wastewater meter readings for the time period of September 1, 2020 to November 4, 2024, and (3) direct PAWC to continue to bill Complainant properly as an unmetered customer on a flat-rate basis for any and all subsequent wastewater bills.

II. **FACTUAL BACKGROUND AND PROCEDURAL HISTORY**

Factual Background

Complainant, Ryan Flynn, owns Meadowbrook Mobile Home Park, which he purchased and took ownership of in 2014.¹ Meadowbrook is a residential mobile home park that is home to low-income families and residents in New Cumberland, Pennsylvania.² Meadowbrook became a customer of PAWC, only for wastewater services, starting in December of 2019.³ Meadowbrook is not, nor has it ever been, metered for water consumption.⁴

Prior to 2019, Meadowbrook treated its wastewater at its privately owned sewage treatment plant located on the property. The prior owner of Meadowbrook was subject to various Consent Assessments and Civil Penalties for effluent violations and failures to comply with NPDES discharge limits.⁵ In 2011, Fairview Township adopted an Act 537 Sewage Facilities Plan Update that was prepared by Gannett Fleming (the “Act 537 Plan”).⁶ Under the Act 537 Plan, Meadowbrook was required to construct the sewage facilities to convey wastewater generated in the mobile home park and tie into the Township’s sewer system. The Act 537 Plan directed that, “A sewage flow meter should be installed near the connection point, and the meter should be calibrated annually and the MHP billed for sewer service based on the total metered flow from the MHP.”⁷

¹ Flynn Direct Testimony, Page 1 Lines 2-4.

² *Id.*

³ Joel Mitchell Direct Testimony, Page 8 Line 4.

⁴ Flynn Direct Testimony, Page 2 Line 22.

⁵ PAWC Answer “Exhibit 3”

⁶ *Fairview Township Act 537 Sewage Facilities Plan Update* dated July 27, 2011, prepared by Gannett Fleming.

⁷ Act 537 Plan at 6-16; further note that whether Meadowbrook could have qualified as a metered customer under

In December 2015, PAWC acquired the Fairview Township wastewater system.⁸ Once PAWC acquired the wastewater system, Meadowbrook was required to tie into the PAWC system and install a pump station, force main, and meter pit on the property. PAWC, however, did not follow the Act 537 Plan's directive to install a sewage flow meter.⁹ Rather, Complainant installed his own meter and meter pit on the Meadowbrook property, with the meter pit installed a quarter of a mile from connection point.¹⁰

No evidence was presented of inflow and infiltration ("I&I") issues arising from Meadowbrook's wastewater system. The authors of the Act 537 Plan surmised that the Act 537 Plan, "would allow for metering of the wastewater flows from the Meadowbrook MHP. Due to its age and lack of maintenance and rehabilitation, it is likely that the existing Meadowbrook MHP collection system will be susceptible to inflow and infiltration."¹¹ However, no such I&I has been documented. Further, when Complainant purchased Meadowbrook, he made substantial improvements to the wastewater system and there has not been a single DEP violation issued against Meadowbrook related to I&I.¹²

When determining rates for service, PAWC is bound by its Commission-approved wastewater Tariff (the "Tariff")¹³. Meadowbrook is located in Rate Zone 1 and is subject to the Schedule of Rates reflected on pages 11.1 and 11.2 of the Tariff.¹⁴ The Tariff states that PAWC customers shall be billed one of two ways: via "metered charges" or "unmetered charges".¹⁵

the prior Fairfield Township tariff is not at issue in this case as Meadowbrook was never a wastewater customer of the Fairfield Township wastewater system.

⁸ Joel Mitchell Direct Testimony, Page 5 Line 12.

⁹ Hearing Transcript, Page 92 Lines 20-21.

¹⁰ Hearing Transcript, Page 92 Lines 12-21.

¹¹ Act 537 Plan at 6-12.

¹² Hearing Transcript, Page 94, Lines 5-8.

¹³ Ashley Everette Direct Testimony, Page 3, Lines 13-14.

¹⁴ Ashley Everette Direct Testimony, Page 4 Lines 2-3.

¹⁵ PAWC Wastewater Tariff, Pages 11.1 and 11.2; Exhibit AE-1.

Unmetered charges, according to the plain text of the Tariff are “a flat rate fee for customers not metered for water consumption”.¹⁶ However, despite not being metered for water consumption, PAWC nevertheless billed Meadowbrook on a “metered” basis based upon the customer-owned wastewater meter readings for the period of time between December 2019 to January 2024.¹⁷

Additionally, when the meter pit was installed on the property at Meadowbrook, there was a flaw in the design of the system used to tie into the PAWC sanitary sewer system.¹⁸ The location of the meter pit in relation to the shutoff valve resulted in substantial wastewater backflow when the system’s tank was pumped, causing false wastewater meter readings.¹⁹ The incorrect metered billing method imposed by PAWC, along with the flaw in the wastewater system design, resulted in Meadowbrook being charged significantly more than it should have been for years of wastewater service.²⁰ This impacted Complainant as well as the low-income residents of Meadowbrook who shared in the financial burden of the additional costs imposed by PAWC.²¹

Complainant made PAWC aware of the billing issues on several occasions.²² PAWC was made aware that the flawed design of the meter pit caused abnormally high bills, and had even issued a courtesy billing adjustment for a portion of bills subject to the abnormally high readings.²³ However, the flawed system would not have been a relevant issue to Meadowbrook’s billing had PAWC correctly billed Meadowbrook as an “unmetered” customer according to its Tariff.²⁴ Nevertheless, PAWC continued to erroneously bill Meadowbrook based upon the metered rate.

After raising concerns regarding being billed incorrectly by PAWC, Complainant

¹⁶ *Id.*

¹⁷ Ashley Evertte Direct Testimony, Page 4, Lines 15-16.

¹⁸ Flynn Direct Testimony, Page 3 Lines 46-52.

¹⁹ *Id.*

²⁰ Ryan Flynn Direct Testimony, Page 4, Lines 72-74.

²¹ *Id.*

²² *Id.* at Lines 56-57.

²³ Joel Mitchell Direct Testimony, Page 9 Lines 12-14.

²⁴ Ryan Flynn Direct Testimony Pages 3-4, Lines 52-53.

subsequently removed his customer-owned wastewater meter from the property.²⁵ PAWC then began to bill Meadowbrook based on estimated meter readings before reading Meadowbrook for those readings.²⁶ Finally, as of December 2024, PAWC began billing Meadowbrook correctly as an “unmetered” basis under the Tariff.²⁷ Complainant then filed a Formal Complaint with the PUC seeking a refund for the months of service for which he was erroneously billed as a metered customer.

Procedural History

Complainant initially filed a Formal Complaint with the PUC on February 16, 2026, followed by several hearing continuances. Current counsel for Ryan Flynn, Paul Atencio, Esq., entered his appearance on January 24, 2025. The parties then attended a prehearing conference on June 10, 2025. Complainant then filed an Amended Complaint on June 20, 2025. PAWC filed its Answer and New Matter on July 10, 2025. Complainant then filed its Answer to New Matter on July 29, 2025. The Honorable Alphonso Arnold III subsequently issued a Prehearing Order dated August 21, 2025. Pursuant to that order, Complainant served copies of written direct testimony and exhibits of its sole witness, Ryan Flynn, on September 22, 2025. Respondent then served copies of written rebuttal testimony and exhibits of its witnesses, Ashley Everette and Joel Mitchell on October 22, 2025. Complainant then submitted supplemental witness exhibits prior to the telephonic hearing on October 30, 2025. An initial telephonic hearing was then held on November 5, 2025. At the hearing the parties’ direct written testimony and all exhibits offered were admitted to the record. The Honorable Alphonso Arnold III then ordered that, pursuant to the discussion held in the hearing, the parties are to submit briefs in support of their position for consideration by

²⁵ Ryan Flynn Direct Testimony, Page 5, Lines 76-77.

²⁶ Joel Mitchell Direct Testimony, Page 10, Lines 14-15.

²⁷ Ryan Flynn Direct Testimony, Page 5, Lines 76-77.

the Commission.

III. ARGUMENT

Legal Standard

The Pennsylvania Public Utilities Code (the “Code”) provides that any person may complain in writing about any act done by a public utility in violation of any law which the Commission has the jurisdiction to administer.²⁸ To establish a sufficient case, a complainant must show, by a preponderance of the evidence, that the public utility violated such a law.²⁹ This standard carries the lowest degree of proof and merely requires that the Complainant’s evidence be more convincing, even by the smallest amount, than the evidence presented by PAWC.³⁰

It is well accepted that a public utility tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers.³¹ Tariffs filed with the Commission are not mere contracts, but rather have the force of law.³² Further, public utility tariffs must be applied consistently with their language.³³ While it has the power to interpret language, the Commission has no authority to allow any public utility to deviate from its tariff.³⁴ Additionally, the Code provides, as a general rule, if the Commission determines that any rate received by a public utility was in excess of the applicable rate contained in the existing public utility tariff, the Commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron.³⁵

When interpreting a utility tariff, Pennsylvania courts have upheld that a tariff “must be

²⁸ 66 Pa.C.S. § 701.

²⁹ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600; 602 (1990).

³⁰ *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

³¹ *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm’n*, 912 A.2d 386 (Pa. Cmwlth. 2006).

³² *Stiteler v. Bell Tel. Co.* 379 A.2d 339 (Pa. Cmwlth. 1977).

³³ *Pa. Elec. Co. v. Pa. Pub Util. Comm’n*, 663 A.2d 281 (Pa. Cmwlth. 1995).

³⁴ *Phila. Suburban Water Co. v. Pa. Pub Util. Comm’n*, 808 A.2d 1044 (Pa. Cmwlth 2002).

³⁵ 66 Pa.C.S. § 1312.

applied consistent with its language and not according to any private understanding”.³⁶ Although Tariffs are not statutes, it is appropriate for the Commission to interpret Tariffs consistently with the underpinnings of the Statutory Construction Act.³⁷ Further, the section of the Public Utility Code which addresses adherence to utility tariffs clearly states that that “any public utility, having more than one rate applicable to the service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron”³⁸ Finally, Section 1502 of the Code protects public utility customers from being subjected to unreasonable discrimination or preferences.³⁹ Specifically, this section states that “no public utility shall...subject any person, corporation...to any unreasonable prejudice or disadvantage”⁴⁰

Summary of Argument

Ultimately, the Commission, applying applicable Pennsylvania law, should find in favor of Complainant and issue a refund for overbilling for four core reasons. First, PAWC violated the undisputedly unambiguous language of its Tariff when it billed Meadowbrook as a “metered” customer despite it not ever being metered for water consumption. Secondly, PAWC was required by the Code to bill Complainant in a manner that is more advantageous to the consumer. Third and finally, PAWC is prohibited by the Code from discriminating against Meadowbrook by requiring it be billed as a “metered” customer simply because Meadowbrook was subject to past DEP violations that were issued before Complainant ever owned the park. Fourth and finally, PAWC violated its Tariff by billing Complainant as a “metered” customer despite it not supplying or installing a meter at Meadowbrook.

³⁶ See *United States Steel Corp. v. Pa. PUC* 850 A.2d 783, 794 (Pa. Cmwlth 2003).

³⁷ See *PPL Elec. Utils. Corp. v. Pa. PUC* 912 A.2d 386, 403 (Pa. Cmwlth. 2006).

³⁸ 66 Pa.C.S. § 1303.

³⁹ *Id.*

⁴⁰ *Id.*

A. PAWC Violated Its Commission-Approved Wastewater Tariff When It Billed Meadowbrook on a “Metered” Rate Because Meadowbrook was not, nor has it Ever Been, Metered for Water Consumption.

The plain language of PAWC’s Commission-approved Tariff clearly provides that customers that are not metered for water consumption shall be subject to “unmetered charges” and thus billed on a flat-rate basis.⁴¹ Under the “Schedule of Rates” heading, the Tariff language provides that PAWC customers in Rate Zone 1 are billed according to either “metered charges” or “unmetered charges”.⁴² The Tariff defines “unmetered charges” as follows:⁴³

UNMETERED CHARGES -This charge is a flat rate fee for customers not metered for water consumption.

It is clear from the plain text of the “unmetered charges” provision that such flat rate charges apply to customers, such as Meadowbrook, that are not metered for water consumption. The provision **does not** state that unmetered charges apply to customers not metered for **either** water consumption **or** wastewater. Further, the definition of “metered charges” does not negate the Complainant’s understanding of the Tariff. Metered charges are explained in the Tariff as follows:⁴⁴

METERED CHARGES (Based on Water Usage or Sewage Flows, determined at PAWC’s discretion)
All metered customers shall be subject to a monthly service per equivalent dwelling unit (EDU).

This provision implies that when PAWC customers that have both water usage and sewage flows, PAWC uses its discretion to determine which flow to base its bills. The inclusion of both “Water Usage” and “Sewage Flows” in this provision, along with the Tariff’s definition of “unmetered charges” implies that “metered charges” are applicable to PAWC customers who are metered for

⁴¹ PAWC Wastewater Tariff, Pages 11.1 and 11.2; Exhibit AE-1.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

both water consumption **and** wastewater.

It is established law that public utility tariffs must be applied consistently with their plain language.⁴⁵ Although Pennsylvania Courts have held that a Tariff is not a statute, “a tariff, like a statute, must be construed so as to give effect to all of its terms, and when the words are clear and free from ambiguity, they are not to be disregarded under the pretext of pursuing its spirit.”⁴⁶ It is undisputed between the parties that the plain language of the Tariff is unambiguous as it relates to unmetered charges. PAWC witness, Ashley Everette, admitted in her testimony at the initial hearing that PAWC agrees that the text of the Tariff is clear and unambiguous.⁴⁷ Everette further testified that **“it is correct that an unmetered customer is charged a flat rate fee, and yes, the tariff notes that it applies to customers that are not metered for water consumption.”**⁴⁸

Additionally, it is further clarified in PAWC’s own exhibit that it does not disagree with Complaint’s interpretation of the “unmetered charges” provision, despite its application of such language. In her letter to Complainant’s counsel dated March 7, 2023, Erin K Fure, counsel for PAWC, reiterates that customers not metered for water consumption are indeed “unmetered customers”, although inconsistently applying that language to assert that Meadowbrook is a “metered” customer⁴⁹. In the Letter, Erin Fure states:⁵⁰

⁴⁵ *Pa. Elec. Co. v. Pa. Pub Util. Comm’n*, 663 A.2d 281 (Pa. Cmwlth. 1995).

⁴⁶ See *PPL Elec. Utils. Corp. v. Pa. PUC* 912 A.2d 386, 403 (Pa. Cmwlth. 2006) (finding that the Commission’s analysis of the PPL’s tariff was not improper because it bore the same underpinnings as found in the Statutory Construction Act).

⁴⁷ Hearing Transcript, Page 67, Lines 1-11.

⁴⁸ Hearing Transcript, Page 67, Lines 15-18, emphasis added.

⁴⁹ PAWC Answer “Exhibit B”; Letter from Erin K. Fure dated March 7, 2023.

⁵⁰ *Id.*

Wastewater customers are either metered or unmetered. Unmetered customers are customers that are not metered for water consumption. Since Meadowbrook has a customer-owned master sewer meter that reads sewage flow, it has been classified as a metered customer. Meadowbrook receives “Nonresidential Service” because it is a master-metered trailer park to which wastewater service is supplied. Nonresidential service is defined in the Tariff as “wastewater service supplied to a commercial or industrial building, including a hotel or motel, or to a master-metered trailer park or multi-tenant apartment building.”

PAWC is not within its right to establish its own private understanding and interpretation of how the Tariff should be applied to its consumers, particularly when both parties agree that the language is unambiguous. In the written direct testimony provided by PAWC’s witness, Ashley Everett, she states that “the word ‘unmetered’ in the Tariff is **meant to reflect the concept** that if a customer has no wastewater meter (i.e. unmetered for wastewater), the customer will be billed a flat rate **if they also have no water meter.**”⁵¹ However, such an interpretation of the Tariff language is in opposition to established Pennsylvania law that the company is required to apply its billing consistent with the language of Tariff language itself, rather applying the Company’s private understanding of what the Tariff is “meant to reflect”⁵² As in *PPL Elec. Utils. Corp. v. Pa. PUC*, where the PA Commonwealth Court stated that public utility tariffs “must be construed so as to give effect to all of its terms, and when the words are clear and free from ambiguity, they are not to be disregarded under the pretext of pursuing its spirit”, here too the Commission should find that PAWC’s wastewater tariff should be interpreted based upon its unambiguous language, and not the pretext of its spirit which PAWC asserts.⁵³

In the alternative, of the Commission accepts PAWC’s interpretation that “unmetered charges” are given to only customers who are not metered to water consumption **or** metered for

⁵¹ Everett Direct Testimony, Page 6 Lines 7-9.

⁵² See *United States Steel Corp. v. Pa. PUC* 850 A.2d 783 (Pa. Cmwlth. 2004) (holding that a public utility tariff must be consistent with its language and not according to any private understanding).

⁵³ *Id.*

wastewater services, Complainant was nevertheless not a “metered” customer under the language of the Tariff because the wastewater meter was provided and owned by Meadowbrook and not PAWC. The Tariff Language defines “Meter” as follows:⁵⁴

50. **Meter:** Any device supplied by the Company or other for the purpose of measuring water consumption or wastewater discharge.

Here, the wastewater meter located on Meadowbrook’s property was, undisputedly, owned and provided by the Complainant and not “supplied by the Company or other”⁵⁵ Therefore, even under PAWC’s understanding of “metered charges”, the Meadowbrook would nevertheless not have a “meter” consistent with the definition provided by the Tariff.

B. PAWC is required to bill Meadowbrook in a Manner that is “more advantageous to the patron” under the Pennsylvania Public Utility Code.

The section of Public Utility Code that addresses adherence to utility tariffs clearly states that that “Any public utility, having more than one rate applicable to the service rendered to a patron, shall, after notice of service conditions, **compute bills under the rate most advantageous to the patron**”⁵⁶ Here, if the Commission were to determine that PAWC would have more than one rate applicable to the services rendered to Meadowbrook under the Tariff, PAWC would be required to bill Meadowbrook in the manner that is more advantageous for the consumer.⁵⁷ It is clear from the past actions of PAWC, and its witness testimony, that PAWC was well aware of the flaw in the meter pit design, and that being billed on a metered rate was far less advantageous to Meadowbrook due to the risk of inaccurate readings⁵⁸ The rate most advantageous to Meadowbrook would therefore be the flat rate “unmetered” rate. Additionally, PAWC has been

⁵⁴ PAWC Wastewater Tariff, Pace 22.3; Exhibit AE-1

⁵⁵ Initial Hearing Transcript, Page 92, Lines 18-21.

⁵⁶ 66 Pa.C.S. § 1303.

⁵⁷ *Id.*

⁵⁸ Joel Mitchell Direct Testimony Page 9 Lines 7-16.

inconsistent with its characterization of how Meadowbrook should be billed under its Tariff, indicating that there may be “more than one rate applicable to the service rendered”.

For these reasons, if the Commission were to find that there is more than one applicable rate for Meadowbrook, then it should direct PAWC to refund Meadowbrook for the months of over-billing and further direct PAWC to continue to bill Meadowbrook on a flat rate basis under the Code.

C. PAWC’s Argument that it Must Bill Meadowbrook on a Metered Rate to Incentivize Complainant to Maintain Its Wastewater System is Both Unfounded and Discriminatory Under the Public Utility Code.

As justification for billing Meadowbrook on a metered rate, PAWC contends that, without its bills being determined by wastewater flows, Meadowbrook would have no incentive to make sure that its system is not susceptible to inflow and infiltration (“I&I”).⁵⁹ However, billing Meadowbrook on a metered basis due to this assertion would be a violation of the Public Utility Code as it discriminates against Meadowbrook for unfounded concerns related to past DEP violations.

Regardless of whether I&I is a genuine concern on the Meadowbrook property, PAWC remains bound by its Commission-approved Tariff language when determining billing rates for its patrons, and it cannot discriminate against certain customers for having unique circumstances, such as past DEP violations and speculation as to I&I. The Pennsylvania Public Utility Code prohibits discriminatory activities that have to do with service classifications for its consumers.⁶⁰ Section 1502 of the Code protects public utility customers from being subjected to unreasonable discrimination or preferences.⁶¹ Specifically, this section states that “no public utility

⁵⁹ Joel Mitchell Direct Testimony Page 12 Lines 2-5.

⁶⁰ 66 Pa. C.S. § 1502

⁶¹ *Id.*

shall...subject any person, corporation...to any unreasonable prejudice or disadvantage”⁶² Here, if PAWC bills Meadowbrook on a metered rate, inconsistent with the Tariff language, because it has concerns regarding past DEP violations or to potential I&I, this would not only be a violation of the Tariff language, but also of the section of the Code which prohibits such discrimination.⁶³

Further, to address the concerns raised by PAWC regarding flat rate billing, Complainant certainly has incentive to avoid I&I issues on the property outside of its billing from PAWC. Mr. Flynn testified in the initial hearing that he, along with a subcontractor and water operator, regularly checks and maintains the wastewater system.⁶⁴ Mr. Flynn stated, “Well, if I don’t maintain the equipment, I’ll have wastewater backing up into a creek, which would result in a huge fine from DEP that could basically bankrupt my company. So I have all the incentives in the world to make sure the system’s running solid.”⁶⁵ Further, Mr. Flynn made improvements and updates to the system at Meadowbrook after he purchased the property, such as replacing the previous terracotta infrastructure and replacing it with PVC piping.⁶⁶ Billing Meadowbrook on a metered rate would not directly impact whether the system is susceptible to I&I. Witness for PAWC, Joel Mitchell, testified at the initial hearing that a meter alone would not provide the information necessary to show whether Meadowbrook continued to have issues related to I&I.⁶⁷ For these reasons it would be both unfounded and discriminatory under the Code for PAWC to bill Meadowbrook as a metered customer because it was subject to past DEP violations, or because PAWC speculates that Meadowbrook may have I&I issues now or in the future.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Initial hearing transcript Page 45, Lines 13-18.

⁶⁵ *Id.* at Page 44, Lines 18-22.

⁶⁶ *Id.* at Page 50, Lines 11-13.

⁶⁷ Initial Hearing Transcript Page 96, Lines 13-24.

D. In the Alternative, PAWC Violated Its Commission-Approved Wastewater Tariff When It Billed Meadowbrook on a “Metered” Rate Because PAWC Never Installed a Meter.

If it is found that the Tarriff allows PAWC to charge non-water consumption customers on a metered rate so long as the customer is metered for wastewater, the PUC should still find in favor of Meadowbrook because it was never properly metered. Despite the directive of the Act 537 Plan that, “a sewage flow meter should be installed near the connection point...” PAWC never installed such a meter.⁶⁸ Rather, PAWC used readings from Meadowbrook’s meter despite the fact that the meter was installed at a lower elevation far from the connection point and subject to false readings due to backflow. Had PAWC installed a meter near the connection point (which was at the highest elevation point of Meadowbrook’s wastewater system) as it was directed under the Act 537 Plan, it is likely that the current dispute would never have occurred. The Tariff does not require a wastewater customer to provide a meter.⁶⁹ It is arguable whether any of the language of the Tariff can be reasonably read to contemplate that customers would provide their own meters given that a properly functioning meter is the necessary precursor to PAWC charging customers on a metered basis.

IV. PROPOSED FINDINGS OF FACT

1. Complainant is the owner and operator of Meadowbrook Mobile Home Park, which he purchased in 2014.
2. Meadowbrook became a customer of PAWC, only for wastewater services, starting in December of 2019.
3. Meadowbrook is not, nor has it ever been, metered for water consumption.

⁶⁸ Act 537 Plan at 6-16.

⁶⁹ Initial hearing transcript Page 70, Lines 11-17.

4. Before PAWC assumed ownership of the wastewater system that serves Meadowbrook, the system was under the control of Fairfield Township.
5. Once PAWC acquired the wastewater system, Meadowbrook was required to tie into the PAWC system and install a pump station, force main, and meter pit on the property.
6. PAWC did not supply or own the wastewater meter installed at Meadowbrook.
7. When determining rates for service, PAWC is bound by its Commission-approved wastewater Tariff.
8. Meadowbrook is located in Rate Zone 1 and is subject to the Schedule of Rates reflected on pages 11.1 and 11.2 of the Tarriff.
9. The Tariff states that PAWC customers shall be billed one of two ways: via “metered charges” or “unmetered charges”.
10. The parties agree that unmetered charges, according to the plain text of the Tariff are “a flat rate fee for customers not metered for water consumption”
11. Despite not being metered for water consumption, PAWC nevertheless billed Meadowbrook on a “metered” basis based upon the customer-owned wastewater meter readings for the period of time between December 2019 to January 2024.
12. When the meter pit was installed on the property at Meadowbrook, there was a flaw in the design of the system used to tie into the PAWC sanitary sewer system, which resulted in inaccurate wastewater readings and billing an addition to the inaccurate billing on a metered basis.
13. Complainant made PAWC aware of the billing issues on several occasions, and PAWC was aware of the design issues that affected Meadowbrook’s system.

14. The flawed meter pit system would not have been a relevant issue to Meadowbrook's billing had PAWC correctly billed Meadowbrook as an "unmetered" customer according to its Tariff.
15. After raising concerns regarding being billed incorrectly by PAWC, Complainant subsequently removed his customer-owned wastewater meter from the property.
16. As of December 2024, PAWC began billing Meadowbrook correctly as an "unmetered" basis under the Tariff and has continued to successfully do so to this date.

V. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. §§ 102, 107, 1501.
2. As the party seeking affirmative relief from the Commission, Complainant has the burden of proof. 66 Pa.C.S. §§ 332(a).
3. The preponderance of the evidence standard merely requires that the Complainant's evidence be more convincing, even by the smallest amount, than the evidence presented by PAWC. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).
4. A public utility tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers. *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa. Cmwlth. 2006).
5. Tariffs filed with the Commission are not mere contracts but rather have the force of law. *Stiteler v. Bell Tel. Co.* 379 A.2d 339 (Pa. Cmwlth. 1977).

6. While it has the power to interpret language, the Commission has no authority to allow any public utility to deviate from its tariff. *Phila. Suburban Water Co. v. Pa. Pub Util. Comm'n*, 808 A.2d 1044 (Pa. CmwltH 2002).
7. The PA Public Utility Code provides, as a general rule, if the Commission determines that any rate received by a public utility was in excess of the applicable rate contained in the existing public utility tariff, the Commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron. 66 Pa.C.S. § 1312.
8. When interpreting a utility tariff, Pennsylvania courts have upheld that a tariff must be applied consistently with its language and not according to any private understanding. *See United States Steel Corp. v. Pa. PUC* 850 A.2d 783, 794 (Pa. CmwltH 2003).
9. Public Utility Code which addresses adherence to utility tariffs clearly states that that “any public utility, having more than one rate applicable to the service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron. 66 Pa.C.S. § 1303.
10. Section 1502 of the Code protects public utility customers from being subjected to unreasonable discrimination or preferences. *Id.* at § 1520.
11. PAWC violated its commission-approved wastewater tariff when it billed Meadowbrook on a “Metered” rate because Meadowbrook was not, nor has it ever been, metered for water consumption.
12. PAWC is required to bill Meadowbrook in a manner that is “more advantageous to the patron” under the Pennsylvania Public Utility Code.

13. PAWC's argument that it must bill Meadowbrook on a metered rate to incentivize Complainant to maintain its wastewater system is both unfounded and discriminatory under the Public Utility Code.

14. Complainant is therefore entitled to wastewater bills based off of "unmetered charges" under the Code and the Tarriff and is also entitled to a refund in the amount of \$238,298.44 for charges based on wastewater meter readings for the time period of September 1, 2020, to November 4, 2024.

VI. CONCLUSION

Complainant has established, by a preponderance of the evidence, that Pennsylvania American Water Company violated its Commission Approved Tarriff, and the Public Utility Code when it failed to bill Meadowbrook as an "unmetered" customer on a flat-rate basis consistent with its Commission-approved Tariff language. Complainant and PAWC agree that the language of the Tariff is clear and unambiguous, and that the plain text states that "unmetered charges" are to be applied to customers not metered for water consumption. Additionally, Complainant has established that that PAWC was aware that the customer-owned wastewater meter, and that PAWC was able to bill Meadowbrook as the Code provides. Secondly, PAWC was required by the Code to bill Complainant in a manner that is more advantageous to the consumer. Third, PAWC is prohibited by the Code from discriminating against Meadowbrook by requiring it be billed as a "metered" customer simply because Meadowbrook was subject to past DEP violations that were issued before Complainant ever owned the park. Finally, even if it is found that the Tariff permits PAWC to charge non-water consumption customers on a metered rate so long as there is a wastewater meter in place, the PUC should still find in favor of Meadowbrook was never properly metered.

WHEREAS, Complainant respectfully requests that the Commission: (1) find that PAWC acted in violation of the Public Utility Code and its Commission-approved Tariff when it improperly billed Mr. Flynn as a metered customer, (2) direct PAWC to issue a refund in the amount of \$238,298.44 for the erroneous charges based on wastewater meter readings for the time period of September 1, 2020 to November 4, 2024, and (3) direct PAWC to continue to bill Complainant properly as an unmetered customer on a flat-rate basis for any and all subsequent wastewater bills.