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March 9, 2026

VIA eFILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v.
Pennsylvania-American Water Company
Docket Nos. R-2025-3057893 and R-2025-3058051**

Dear Secretary Homsher:

Enclosed for filing in the above-referenced matters is the **Brief of Pennsylvania-American Water Company in Opposition to the Office of Small Business Advocate's Petition for Interlocutory Review** (the "Brief").

Copies of the Brief have been served upon Administrative Law Judge Jeffrey A. Watson, Administrative Law Judge Emily I. DeVoe, and the parties that are listed on the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Mark A. Lazaroff

MAL/ap
Enclosures

c: Per Certificate of Service (w/encls.)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	Docket No. R-2025-3057983
	:	(Water)
v.	:	
	:	Docket No. R-2025-3058051
PENNSYLVANIA-AMERICAN WATER COMPANY	:	(Wastewater)

CERTIFICATE OF SERVICE

I hereby certify that I have this date served true and correct copies of the **Brief of Pennsylvania-American Water Company in Opposition to the Office of Small Business Advocate’s Petition for Interlocutory Review** on the following individuals in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION** :
:
: **Docket No. R-2025-3057983 (Water)**
v. : **Docket No. R-2025-3058984 (Wastewater)**
:
PENNSYLVANIA-AMERICAN WATER :
COMPANY :

**BRIEF IN OPPOSITION TO THE OFFICE OF SMALL
BUSINESS ADVOCATE’S PETITION FOR
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March 9, 2026

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I. INTRODUCTION AND OVERVIEW

This proceeding is a general base rate case that Pennsylvania-American Water Company (“PAWC” or “Company”) initiated on November 15, 2025, by filing Supplement No. 58 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 61 to Tariff Wastewater – Pa. P.U.C. No. 16, along with extensive supporting information, including the written direct testimony of 14 witnesses and their accompanying exhibits. On December 4, 2025, the Pennsylvania Public Utility Commission (“Commission”) instituted an investigation of PAWC’s existing and proposed rates and the Company’s proposed tariffs were suspended by operation of law until August 13, 2026. This matter was subsequently assigned to Administrative Law Judges Jeffrey A. Watson and Emily I. Devoe (the “ALJs”) for purposes of conducting hearings and issuing a recommended decision.

On December 19 and 29, 2025, the Commission issued Public Input Hearing Notices setting the dates, times, and locations of public input hearings regarding PAWC’s general base rate increase request. The notices did not impose any restrictions on participation in those public input hearings. In a press release issued on January 12, 2026, the Commission reminded “consumers and other interested parties” about the 12 hearings that would be held in January 2026 to gather “public input” on PAWC’s proposed rate changes.¹ In that press release, the Commission encouraged “individuals wishing to testify” at the telephonic public input hearings to pre-register by 4 p.m. on January 19, 2026. The Company also published notice of the public input hearings in nine newspapers within its service territory, on its website, and in social media posts. PAWC shared its public input announcements with the Office of Consumer Advocate and Office of Small Business Advocate (“OSBA”), the Bureau of Investigation and Enforcement (“I&E”), and the

¹ See <https://www.puc.pa.gov/press-release/2026/puc-reminds-consumers-of-public-input-hearings-scheduled-on-rate-changes-proposed-by-pennsylvania-american-water-01122026>.

Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) prior to publication as directed by the ALJs in the December 17, 2025 Prehearing Order in this proceeding and obtained their approval on the content of the notices.²

Ten in-person public input hearings were held on January 13, 15, 16, 20, and 29, 2026, and two telephonic public input hearings were held on January 21, 2026. In total, approximately 240 witnesses testified at the public input hearings in this case. Approximately sixty of those participants were not PAWC customers, including state senators and representatives from the communities served by the Company, chambers of commerce, environmental groups, and community service organizations. The testimony of these individuals related to their experiences with PAWC as a business partner or in their local communities and their opinions of the impact of PAWC’s rate increase on other community members. Non-customer testimony was provided both in support of PAWC and its rate increase and in opposition to PAWC and its rate increase. For example, several non-customer contractors explained the importance of a rate increase to support future Company capital investment due to their direct involvement in projects replacing failing water and wastewater infrastructure in PAWC’s service territory.³ In addition, several non-customer community representatives and organizers testified about their perceptions of PAWC’s filing and its potential impact on their community members.⁴ Non-customer testimony at the public input hearings about how PAWC ensures safe and reliable service through system

² In its Prehearing Memorandum in this proceeding, the OSBA proposed that all Public Input Hearing Notices issued in this case include specific information for small business consumers, but did not ask the ALJs to limit the scope of participation at the public input hearings. *See* Prehearing Memorandum of the Office of Small Business Advocate; Docket Nos. R-2025-3057983; R-2025-3058051 (Dec. 11, 2025), p. 3. The OSBA also did not request any limitation on the scope during the telephonic Prehearing Conference held on December 12, 2025, or at any other point before the 1 p.m. telephonic public input hearing on January 21, 2026 (after the conclusion of eight in-person public input hearings).

³ *See e.g.*, Tr. at 753-756, 762-767, 779-784, 1104-1107, 1501-1502, 1532-1535, 1553-1556, 1565-1567, 1592-1594, 1664-1667.

⁴ *See e.g.*, Tr. at 735-745, 1200-1209, 1379-1386, 1403-1414, 1457-1461.

improvements and customer engagement, along with the Company's contributions to economic development in the communities it serves, also provides the Commission with critical information to evaluate the rate request in accordance with its mission statement.⁵

At the afternoon session of the telephonic public input hearing, counsel for the OSBA made comments about the purpose of public input hearings during the course of cross-examination of a PAWC customer that provided testimony in support of the Company's investment in infrastructure improvements.⁶ OSBA counsel's comments suggested that the ALJs should only allow "consumers" that express "problems" with PAWC to testify at public input hearings:

Your Honor, I've – I have not attended the In-Person Public Inputs, but I understand the PAWC has been populating the Public Input Hearings with their own skills. And as a reminder to the opposing attorney, 52 PA Code Section 69321 contemplates Public Input Hearings are for consumers, not for skills for the Company.

And as Your Honors pointed out there's 100 people signed up. We don't need to hear skills for PAWC. Public Input Hearings, by Commission policy, are for consumers and to hear the public's problems with the utility, not to hear great stories about all of their fantastic investments.

Your Honor, opposing Counsel should possibly spend some time reading the Public Utility Code. What 52 PA Code 69321 invites consumers to testify and get public input from the consumers, not to have the utility advertise how wonderful they are. And that's all I have to say.

I understand a great deal of time at the Public Input Hearings has been chewed up by people testifying on the behest of PAWC. And

⁵ See <https://www.puc.pa.gov/about-the-puc/> ("The mission of the Pennsylvania Public Utility Commission is to balance the needs of consumers and utilities; ensure safe and reliable utility service at reasonable rates; protect the public interest; educate consumers to make independent and informed utility choices; further economic development; and foster new technologies and competitive markets in an environmentally sound manner.").

⁶ See Tr. at 1052-56.

to me, that is a flaunting of the intention of what the Commission intends with these Public Input Hearings.⁷

Counsel for PAWC strongly disagreed with the OSBA's characterization of the witnesses that provided positive testimony about the Company at the in-person hearings (that OSBA counsel acknowledged he had not attended).⁸ The Company's counsel further explained that allowing all individuals impacted by PAWC's rate filing to present on-the-record sworn testimony at public input hearings is consistent with long-standing practice in rate proceedings and the Commission's Policy Statement at 52 Pa. Code § 69.321 (the "PIH Policy Statement") referenced in the OSBA's comments.⁹

After weighing both the OSBA's and PAWC's positions, the ALJs permitted all interested parties to testify at the remainder of the public input hearings, regardless of customer status and the nature of their testimony.¹⁰ In response to the OSBA counsel's stated concerns about timing and the number of individuals pre-registered to testify, the ALJs emphasized that they would make certain that any interested person could present sworn testimony.¹¹ To that end, the ALJs imposed time limits for all public input hearing participants and confirmed that the pre-registered callers all had the opportunity to testify.¹² Prior to concluding the afternoon session of the telephonic public input hearing session at 5:25 p.m., the ALJs opened the remaining 20-30 unregistered telephone lines to determine whether any person wanted to offer testimony or call into the 6:00 p.m. public

⁷ *Id.* at 1055-58.

⁸ *Id.* at 1056-57.

⁹ *Id.* at 1378-1427.

¹⁰ *Id.* at 1060.

¹¹ *See id.* ("But if there's anyone that needs – that make certain that they have testimony that they want to present. As I indicated, we're going to allow that. We're going to make certain that everybody testifies today.").

¹² Tr. at 1027-28, 1060, 1215-16, 1235-36.

input hearing.¹³ Similarly, at the evening telephonic public input hearing session, the ALJs opened up all telephone lines one-by-one to ask whether the caller was interested in providing testimony.¹⁴ In short, the ALJs spared no efforts to provide customers and other citizens a full opportunity to provide public input into PAWC’s rate filing. No one who wanted to testify was unable to, despite the OSBA’s assertions otherwise.¹⁵

On January 30, 2026, the OSBA submitted three written statements of direct testimony and accompanying exhibits. The OSBA’s direct testimony did not make any reference to any public input hearing testimony. Nearly one month after all public input hearings concluded and following the submission of its direct testimony in this case, the OSBA requested interlocutory review of Judge Watson’s ruling (Tr. 1055-60) rejecting the OSBA’s attempt to exclude public input hearing testimony from any person that is not a consumer expressing concerns with PAWC or its rate filing. In its Petition (p. 1), the OSBA requests that the Commission review a “question” about the interpretation and administration of the PIH Policy Statement and confirm that “only consumers of the utility are permitted to testify at Public Input Hearings in order that they may express their concerns with the filing at issue in the underlying proceeding.”

Under Section 5.302 of the Commission’s regulations, a request for interlocutory review must demonstrate “compelling reasons” why interrupting the normal progress of litigation will “prevent substantial prejudice” or “expedite the conduct of the proceeding.” The OSBA has not provided any valid reason, let alone “compelling reasons,” to grant its request.

¹³ *See id.* at 1215-16.

¹⁴ *See id.* at 1378-1427.

¹⁵ Petition For Interlocutory Review on Behalf of the Office of Small Business Advocate (filed Feb. 26, 2026) (“Petition”), p. 2. PAWC is filing this Brief in Opposition to the OSBA’s Petition pursuant to the authorization provided by 52 Pa. Code § 5.302(b).

The OSBA's only alleged justification for interlocutory review is that the issue of "who or what entity" can testify at a public input hearing will arise in all future Commission proceedings that hold public input hearings.¹⁶ In short, the OSBA's "reason" for interlocutory review is simply its disagreement with the sound decision by the ALJs to allow all interested persons to testify, subject to cross-examination, at the public input hearings in this case – not solely "consumers" that discuss "problems with the utility" as OSBA's counsel requested at the telephonic public input hearing. Thus, the OSBA is seeking interlocutory review of an issue – the evidentiary weight of public input testimony offered by non-customers or in support of the Company – that can be, and will be, properly considered in the Commission's normal review process. Moreover, in light of the OSBA's failure to even discuss any public input hearing testimony in its direct testimony, the OSBA's Petition clearly seeks an advisory ruling that has no relevance at all to this rate case.

The OSBA's selective interpretation of the Commission's PIH Policy Statement, which has existed for nearly 30 years, does not provide a valid basis for the extraordinary relief the OSBA seeks – or, in fact, to any relief. Nothing in the PIH Policy Statement or the Public Utility Code suggests that public input hearing participants must be consumers that oppose the utility's filing, as the OSBA contends in its Petition. Accordingly, PAWC respectfully requests that the Commission deny the OSBA's Petition.

¹⁶ In the Petition (p. 2), the OSBA mentions an undefined "Merger Application case" as one such future proceeding. It appears that the OSBA is referring to a non-rate proceeding involving the proposed merger of American Water Works Company, Inc. and Essential Utilities, Inc. pending at Docket Nos. A-2025-3058927 et al. PAWC is not a party to that proceeding or involved in the proposed merger. That proceeding is also not a rate proceeding to which the PIH Policy Statement (entitled "Public Input Hearings in Rate Proceedings") would apply.

II. THE OSBA HAS NOT DEMONSTRATED EXTRAORDINARY CIRCUMSTANCES THAT WARRANT INTERLOCUTORY REVIEW

Interlocutory review is disfavored, particularly where the questions presented pertain to matters within the presiding ALJ's authority, including evidentiary rulings.¹⁷ The OSBA has not established that interlocutory review and answer of the OSBA's asserted question is necessary to prevent substantial prejudice or expedite the conduct of this proceeding. While the OSBA complains that extensive participation of "PAWC supporters" could "discourage" small businesses from testifying,¹⁸ no party seeking to participate in the public input hearings was foreclosed from doing so. The OSBA's claim of error – the ALJs' admission of the sworn testimony of "entities that supported the PAWC rate filing" into evidence – can be addressed during the normal Commission review process. The credibility, relevance, and probative value of all record evidence in this case will be fully considered by the ALJs in their Recommended Decision and the Commission in its final Order in this proceeding.¹⁹ Accordingly, the OSBA's Petition fails to meet the Commission's standards for interlocutory relief.

III. THE OSBA'S INTERPRETATION OF THE COMMISSION'S POLICY STATEMENT AT 52 PA. CODE § 69.321 IS CONTRARY TO THE PUBLIC INTEREST AND THE PUBLIC INPUT HEARING POLICY STATEMENT DOES NOT PROVIDE A BASIS TO LIMIT PARTICIPATION IN PUBLIC INPUT HEARINGS TO CONSUMERS

The OSBA urges the Commission to adopt a narrow interpretation of the PIH Policy Statement and bar any interested party that is not a utility customer or does not express a negative

¹⁷ See e.g., *Pa. P.U.C. v. Philadelphia Gas Works*, Docket Nos. R-2020-3017206 et al., 2020 WL 5593104, at *4, *7 (Opinion and Order entered Aug. 6, 2020) (internal citations omitted); *Schell v. PPL Elec. Utils. Corp.*, Docket No. C-2016-2535220, 2016 WL 6698883 at *3-*4 (Opinion and Order entered Nov. 6, 2016); *Petition of the Borough of Cornwall for a Declaratory Order*, Docket No. P-2015-255794, 2015 WL 7575479 (Order entered Nov. 19, 2015).

¹⁸ See Petition, p. 3.

¹⁹ See 52 Pa. Code § 69.321(e).

view of the filing at issue from testifying at public input hearings.²⁰ The OSBA points to the use of the term “consumer” twice in the PIH Policy Statement and argues various policy considerations support its interpretation, such as ensuring the Commission is not prevented from “receiving critical evidence that only consumer of a utility service can provide.”²¹ As discussed below, the sharp restrictions on public participation that the OSBA proposes are not supported by the plain language of 52 Pa. Code § 69.321, public policy considerations, or even the outcome of the public input hearings in this proceeding.

First, 52 Pa. Code § 69.321 does not expressly prevent individuals or organizations that are not themselves customers from participating in rate case public input hearings. The policy discusses hearing options for “consumers” and emphasizes that public input hearings should provide opportunities for “the complete airing of concerns expressed or issues raised by consumers” and a “full opportunity” for consumers to provide input into the case.²² Presiding officers and the Commission are then to assess on-the-record testimony for its relevance, materiality, and competence before considering such testimony as evidence in the rate proceeding, subject to customary rules of procedure and evidence.²³ The OSBA, while claiming to champion “full” and “complete” input about consumer issues and concerns, is in reality seeking to ensure that the public input testimony admitted into the record in this case only reflects a negative perspective of the Company. The OSBA would like the Commission to go beyond the plain language of its own policy and declare that public input can only come from a single source: existing customers that oppose the rate increase or otherwise have “problems” with PAWC.

²⁰ Petition, p. 3

²¹ *Id.*

²² *See, e.g.*, 52 Pa. Code § 69.321(c), (d), (f).

²³ *Id.* § 69.321(e).

Not only is OSBA’s interpretation inconsistent with the plain language of 52 Pa. Code § 69.321, it is also contrary to the public interest. The scope of public input testimony advocated by the OSBA will unreasonably shut out members of the public with potentially relevant and material information, including potential customers seeking a main extension, elected representatives, and organizations that advocate for particular communities, community issues, or vulnerable groups. Reducing the sources of public input hearing testimony will, in turn, deprive the presiding officer and the Commission of information and evidence that regularly (and historically) has been considered as part of its investigation of utility rate requests for decades.²⁴

Finally, OSBA’s assertion that maintaining the existing scope of participation in public input hearings is detrimental or unfair to existing customers is unfounded. Consistent with the Commission’s policy of making “every attempt to give consumers full opportunity to provide

²⁴ See, e.g., *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2025-3053499 (Recommended Decision dated Oct. 3, 2025), pp. 13-23 (public input hearing testimony included testimony presented by a representative of the Center for Coalfield Justice); *Pa. P.U.C. v. PECO Energy Co. – Elec. Div.*, Docket No. R-2024-3046931 (Recommended Decision dated Oct. 15, 2024), pp. 8-20 (public input hearing testimony included testimony presented by the Foundation for Delaware County, Natural Lands, Urban Affairs Coalition, Clean Air Council, Philadelphia Chinatown Development Corporation, Philadelphia Workers’ Benefit Council, POWER Interfaith, Beyond Literacy, Opportunities Industrialization Center Philadelphia, Lower Bucks County Chamber of Commerce, Elmwood Park Zoo, and several state and local elected officials); *Pa. P.U.C. v. Aqua Pa., Inc.*, Docket No. R-2024-3047822 & R-2024-3047824 (Recommended Decision dated Dec. 9, 2024) pp. 10-23 (public input hearing testimony included testimony presented by the Main Line Chamber of Commerce, Water Resources Association of the Delaware River Basin, United Way of Greater Philadelphia and Southern New Jersey, and several state elected officials); *Pa. P.U.C. v. Pa.-Am. Water Co.*, Docket No. R-2023-3043189 & R-2023-3043190 (Recommended Decision dated May 7, 2024), pp. 35-54 (public input hearing testimony included testimony presented by AARP, Dollar Energy Fund, Pittsburgh Airport Area Chamber of Commerce, Washington County Chamber of Commerce, North Branch Land Trust, Ixom Watercare, Riverfront Parks Committee, Eastern Pennsylvania Coalition for Abandoned Mine Reclamation, United Way of the Capital Region, and several state and local elected officials); *Pa. P.U.C. v. PECO Energy Co. - Gas Div.*, Docket No. R-2020-3018929 (Recommended Decision dated April 9, 2021), pp. 5-8 (public input hearing testimony included testimony presented by United Way of Bucks County, Bucks County Community College Foundation, Utility Emergency Services Fund, and an individual who was not a PECO gas customer but was concerned about PECO Gas’ expansion into new areas); *Pa. P.U.C. v. Jackson Sewer Corp.*, Docket No. R-00005997, 2001 WL 1658672 (Order entered Sept. 28, 2001), p. 21 (noting the public input testimony, including from a state representative with constituents who were customers, was given consideration as specified in 52 Pa. Code § 69.321); *Pa. P.U.C. v. National Fuel Gas Distribution Corp.*, Docket No. R-00942991, 1994 WL 932257 (Recommended Decision dated Oct. 7, 1994), *114-*118 (public input hearing testimony included testimony presented by representatives from several social service agencies, the Executive Director the Mercer County Regional Council of Governments, the Mayor of the City of Sharon, the Mayor of the City of Farrell, a state representative and an Erie “consumer leader”).

input”, the ALJs in this proceeding took appropriate steps to ensure that all interested parties could participate in the public input hearings. Importantly, the ALJs did not conclude each in-person public input hearing until everyone interested in speaking was able to do so. Further, during the telephonic hearings, the ALJs went through the list of all pre-registered participants²⁵ and then provided an opportunity for unregistered callers to testify.²⁶ When OSBA counsel raised a concern about the number of witnesses who may be presenting positive testimony about PAWC, Judge Watson responded as follows:

And with regard to the concerns raised by Ms. Fure and by Mr. Gray, number one, I mean we’re going to, as I indicated, we’re going to limit the time of the testimony. But if there’s anyone that needs - that make certain that they have testimony that they want to present. As I indicated, we’re going to allow that. We’re going to make certain that everybody testifies today.²⁷

There is simply no evidence that the manner in which the ALJs conducted the public input hearings in this proceeding has somehow injured existing PAWC customers, prevented such customers from participating in the public input hearings, or deprived the Commission of any relevant evidence. In sum, the OSBA has failed to provide any valid basis to depart from the well-established scope of public input hearing testimony in rate proceedings.

IV. CONCLUSION

For the reasons set forth above, the Commission should deny the OSBA’s Petition for Interlocutory Review. If the Commission decides to grant interlocutory review of the ALJs’ admission of all sworn testimony presented by all public input hearing participants, then, for the reasons set forth above, their ruling should be affirmed and the Commission should clarify that its

²⁵ See Tr. 1235-36.

²⁶ *Id.* at 1215-16, 1378-1427.

²⁷ See *id.* at 1060.

Policy Statement at 52 Pa. Code § 69.321 does not limit participation in public input hearings to consumers that express concerns with the utility's filing or "problems" with the utility.

Respectfully submitted,



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