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April 24, 2026

VIA PUC E-FILING

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: Application of the City of Pittston, *Nunc Pro Tunc*, Pursuant to 66 Pa. C.S. § 1102(A), for a Certificate of Public Convenience to Offer, Furnish, Render, and Supply Wastewater Service To the Public in Certain Portions of the Borough of Duryea, the Borough of Hughestown, and Pittston Township, all in Luzerne County, Pennsylvania Docket No. A-2026-3059911

Dear Secretary Homsher:

I represent Applicant, the City of Pittston, in the above-captioned matter, and I attach for filing a Petition for Protective Order. As evidenced by the enclosed Certificate of Service, Honorable Christopher Penn, Honorable Barbar Shadie Nause and all parties identified on the Prehearing Conference Order Service List will be served, as indicated. Additionally, Judge Penn, Judge Nause, and their respective judicial assistants will be served with a Microsoft Word version of the proposed Order via email.

Thank you for your prompt attention to this matter.

Sincerely yours,

/s/ Elizabeth Preate Havey

Elizabeth Preate Havey

EPH:vh
Enclosure

cc: Hon. Christopher P. Pell (via email, cpell@pa.gov, pmcneal@pa.gov)
Hon. Barbara Shadie Nause (via email, bshadienau@pa.gov, eball@pa.gov)
Certificate of Service (via email and eService)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge Barbara Shadie Nause

**IN RE: APPLICATION OF THE CITY
OF PITTSTON, *NUNC PRO TUNC*,
PURSUANT TO 66 PA. C.S. § 1102(A),
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE TO OFFER,
FURNISH, RENDER, AND SUPPLY
WASTEWATER SERVICE TO THE
PUBLIC IN CERTAIN PORTIONS OF
THE BOROUGH OF DURYEA, THE
BOROUGH OF HUGHESTOWN AND
PITTSTON TOWNSHIP, ALL IN
LUZERNE COUNTY,
PENNSYLVANIA**

DOCKET A-2026-3059911

PETITION FOR PROTECTIVE ORDER

The City of Pittston (“Pittston”) files this petition pursuant to 52 Pa. Code § 5.365 for the protection from public disclosure of certain confidential and proprietary information that the parties anticipate filing and exchanging with other parties and with the Pennsylvania Public Utility Commission (“Commission”) during the course of these proceedings. In support, Pittston states as follows:

I. Procedural History

1. Pittston owns and operates a combined stormwater and sanitary wastewater collection and conveyance system (the “System”) that provides stormwater and sanitary wastewater service to customers in Pittston and approximately 575 customers outside of Pittston. Those customers located outside of Pittston are situated in portions of the Borough of Duryea, the

Borough of Hughestown, and Pittston Township (the “Township”). Both of the Boroughs and the Township border Pittston.

2. Pittston submitted its Application for a Certificate of Public Convenience, *Nunc Pro Tunc*, pursuant to 66 Pa. C.S. § 1102(a) (the “Pittston Application”) on January 16, 2026. The Pittston Application is intended to bring Pittston into compliance with Commission regulations regarding the provision of wastewater service to the customers situated on or near to the boundaries of the City.

3. In response to the Pittston Application, the Office of Consumer Advocate (“OCA”) filed a Protest with a Public Statement. Wyoming Valley Sanitary Authority (“WVSA”), the Borough of Hughestown and Pennsylvania-American Water Company filed Petitions to Intervene, to which Pittston did not object.

4. On March 11, 2026, Administrative Law Judge Barbara Shadie Nause (the “ALJ”) held the Initial Prehearing Conference on the Pittston Application and, on March 19, 2026, issued a prehearing order (the “Prehearing Order”). The Prehearing Order provided that discovery shall be conducted in accordance with the Commission’s rules and regulations at 52 Pa. Code § 5.321 *et seq.* Following the Initial Prehearing Conference, the Parties have engaged in discussions regarding the settlement of the issues before the Commission. The Second Prehearing Conference occurred on April 20, 2026 during which the Parties agreed to the City’s request for another four weeks to negotiate a settlement. The ALJ granted that request and issued an Order on April 22, 2026 scheduling the next hearing for May 18, 2026.

II. Background of this Petition

5. Pittston anticipates that the parties may exchange and/or file with the Commission documents and information in this proceeding pursuant to Commission rules and regulations,

formal and informal discovery procedures, testimony or oral examination, or as a courtesy to parties, containing information that may be considered confidential and proprietary. This information will likely include the identities of individual consumers and data regarding their consumption of the relevant services. Information exchanged in the course of this proceeding may also include the substance of, or information exchanged in the course of discussion of complete or partial settlement of the issues presented. Such information may include proprietary plans and budgetary information of one or more parties.

III. Legal Standards

6. Section 5.365(a) of the Commission's regulations provides that a petition for protective order will be granted when a party demonstrates that the potential harm to the party providing the confidential information (or whose information would be included in the covered documents) would be substantial and that the harm to the party or non-parties such as consumers, if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process.

7. The factors that the Commission evaluates include: "(1) The extent to which the disclosure would cause unfair economic or competitive damage. (2) The extent to which the information is known by others and used in similar activities. (3) The worth or value of the information to the party and to the party's competitors. (4) The degree of difficulty and cost of developing the information. (5) Other statutes or regulations dealing specifically with disclosure of the information." *See* 52 Pa. C.S. § 5.365(a)(1)-(5).

IV. The ALJ Should Issue the Requested Protective Order

8. Disclosure of confidential and proprietary information contained in materials that Pittston anticipates will be exchanged during these proceedings could cause an unnecessary

invasion of personal information of consumers and/or unfair economic or competitive disadvantage to interested parties because this information is not generally known, is valuable to the producing party and/or consumers, derives value in part due to the producing party's efforts to maintain the confidentiality of the information, and could be valuable to competitors (and, in turn, harmful to the producing party or consumers if disclosed publicly).

9. The issuance of a protective order adequate to cover all parties and establish procedures in accordance with 52 Pa. Code § 5.365 for the provision of information believed to be confidential or proprietary would serve administrative economy and efficiency by obviating the need for parties to address confidential and proprietary concerns on a piecemeal basis every time such information is requested.

10. The proposed protective order included with this Petition is consistent with the usual accepted form as well as due process rights and evidentiary burdens. It allows parties to retain the right to question or challenge the confidential or proprietary nature of information; to challenge the admissibility of confidential or proprietary information; to refuse or object to the production of confidential or proprietary information on any proper ground; to seek disclosure of confidential or proprietary information beyond that allowed in the Protective Order; and to seek additional measures of protection beyond those provided in the Protective Order. The Protective Order also provides that the party claiming that the information is confidential or proprietary retains the burden of demonstrating that such designation is necessary and appropriate.

13. Counsel for Pittston has contacted Counsel for the other parties, and no party has advised Counsel for Pittston that they object to the entry of the proposed protective order.

WHEREFORE Pittston requests that Administrative Law Judge Nause enter the form of Protective Order submitted with this Petition.

Respectfully Submitted,

Elizabeth Preate Havey

Elizabeth Preate Havey, Esq. (PA ID 80793)

James J. Rodgers, Esq. (PA ID 21635)

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Counsel for Applicant,

City of Pittston

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: APPLICATION OF THE CITY
OF PITTSTON, *NUNC PRO TUNC*,
PURSUANT TO 66 PA. C.S. § 1102(A),
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE TO OFFER,
FURNISH, RENDER, AND SUPPLY
WASTEWATER SERVICE TO THE
PUBLIC IN CERTAIN PORTIONS OF
THE BOROUGH OF DURYEA, THE
BOROUGH OF HUGHESTOWN AND
PITTSTON TOWNSHIP, ALL IN
LUZERNE COUNTY,
PENNSYLVANIA**

DOCKET A-2026-3059911

PROTECTIVE ORDER

THEREFORE, upon consideration of the petition for protective order filed by the City of Pittston (“Pittston”), in the above matter and any response thereto,

IT IS ORDERED:

1. That the Petition for a Protective Order is granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which are filed with the Pennsylvania Public Utility Commission (“Commission”), produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. That materials subject to this Protective Order are all correspondence, documents, data, information, excerpts, summaries, studies, methodologies and other materials (including

materials derived therefrom) whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “PROPRIETARY INFORMATION” or “CONFIDENTIAL AND PROPRIETARY” or “PRIVILEGED AND CONFIDENTIAL” (hereinafter collectively referred to as “Proprietary Information”).

3. That, in addition, the parties may designate extremely sensitive Proprietary Information as “HIGHLY CONFIDENTIAL INFORMATION” or “HIGHLY CONFIDENTIAL MATTER” (hereinafter referred to as “Highly Confidential Information”) and thus secure the additional protections set forth in this Protective Order pertaining to such material.

a. For example, but without limitation, “Highly Confidential” information may include Proprietary Information that constitutes or describes: (a) customer names or customer prospects’ names, addresses, annual volumes of water and/or wastewater usage, or other customer-identifying information; (b) marketing plans; (c) competitive strategies or service alternatives; (d) market share projections; (e) competitive pricing or discounting information; and (f) marketing materials that have not yet been used.

4. That Proprietary Information and Highly Confidential Information produced in this proceeding shall be made available, solely for use in this proceeding, to parties in this action. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine

Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

5. That Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

a. Information deemed "Proprietary" shall be provided to a "Reviewing Representative." For purposes of "Proprietary Information," a "Reviewing Representative" is a person who has signed a Non-Disclosure Certificate (except that the Consumer Advocate, the Deputy Consumer Advocate, the Director of the Bureau of Investigation and Enforcement ("I&E"), and support staff in the OCA and I&E do not need to execute a Non-Disclosure Certificate, provided that the OCA's, and the I&E's counsel execute a Non-Disclosure Certificate) and is:

i. An attorney who has formally entered an appearance in this proceeding on behalf of a party;

ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph 5(a)(1) above;

iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party;

iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party's positions in this docket; or

v. A person mutually agreed to by the party producing the Proprietary Information and the party requesting to designate a Reviewing Representative pursuant to this subparagraph.

b. Information deemed “HIGHLY CONFIDENTIAL” shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of “HIGHLY CONFIDENTIAL” protected material, is limited to a person who has signed a Non-Disclosure Certificate (except that the Consumer Advocate, the Deputy Consumer Advocate, the Director of I&E, and support staff in the OCA, and I&E do not need to execute a Non-Disclosure Certificate, provided that the OCA’s, and I&E’s counsel execute a Non-Disclosure Certificate) and is:

i. An attorney who has formally entered an appearance in this proceeding on behalf of a party;

ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph 5(b)(1);

iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party;

iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to Paragraph 5(e), below; or

v. A person mutually agreed to by the party producing the Highly Confidential Information and the party requesting to designate a Reviewing Representative pursuant to this subparagraph.

c. Provided, further, that in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission’s Rules of Practice and Procedure, 52 Pa. Code §§ 5.362 and

5.431(e), any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

d. No other persons may have access to the Proprietary or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge(s). No person who may be entitled to receive, or who is afforded access to any Proprietary or Highly Confidential Information, shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

e. In the event that a receiving party wishes to designate as a Reviewing Representative for “HIGHLY CONFIDENTIAL” material a person not described in paragraph 5(b)(i) through (iv) above, the receiving party must first seek agreement to do so from the disclosing party. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 5(b)(v) above with respect to those materials. If no agreement is reached, the OCA or the I&E may submit the disputed designation to the presiding Administrative Law Judge(s) for resolution.

6. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person” absent agreement of the party producing the Proprietary Information or Highly Confidential Information. A “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or

an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information or Highly Confidential Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information or Highly Confidential Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information or Highly Confidential Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than 1% interest in a business (excluding ownership interests where the expert has no direct knowledge of such interest, or control over investment or business decisions, such as a mutual fund) establishes a significant motive for violation.

7. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The

parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information or Highly Confidential Information except as authorized by order of the Commission.

8. Prior to making Proprietary Information or Highly Confidential Information available to any independent consultant or non-lawyer representatives, counsel shall deliver a copy of this Protective Order to such person and shall receive a written acknowledgment from that person in the form attached to this Protective Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed Appendix A.

9. A producing party shall designate data or documents as constituting or containing Proprietary or Highly Confidential Information by affixing an appropriate proprietary or confidential stamp or type-written designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Proprietary or Highly Confidential Information.

10. Any public reference to Proprietary or Highly Confidential Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary or Highly Confidential Information to fully understand the reference and not more. The Proprietary or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Part of any record of this proceeding containing Proprietary or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination,

argument and responses to discovery, and including reference thereto as mentioned in Paragraph 10 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary or Highly Confidential Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to Order of the Administrative Law Judge(s), the Commission or appellate court. Unresolved challenges arising under Paragraph 12 shall be decided on petition by the presiding officer(s) or the Commission as provided by 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

12. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary or Highly Confidential Information; to question or challenge the admissibility of Proprietary or Highly Confidential Information; to seek an order permitting disclosure of Proprietary or Highly Confidential Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary or Highly Confidential Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary or Highly Confidential the party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

13. The parties shall retain the right to object to the production of Proprietary Information or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden, and to refuse to produce Proprietary Information or Highly Confidential Information pending the adjudication of the objection.

14. That the Commission and all parties, including the statutory advocates and any other agency or department of state government, will consider and treat the Proprietary

Information or Highly Confidential Information as within the exemptions from disclosure in Section 335(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 335(d), and the Pennsylvania Right-to-Know Act, 65 P.S. §§ 67.101 *et seq.* (the “RTKL”), until such information is found by a tribunal with jurisdiction to be not confidential or subject to one or more exemptions. In the event that any person or entity seeks to compel the disclosure of Proprietary Information or Highly Confidential Information under Section 335(d) and/or the RTKL, the Commission and/or the party receiving such request shall promptly notify the producing party in order to provide the producing party an opportunity to oppose or limit such disclosure. None of the parties waive their right to pursue any available remedies that may be available in the event of actual or anticipated disclosure of Proprietary Information or Highly Confidential Information. Any public reference to Proprietary Information or Highly Confidential Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the information to understand fully the reference and not more. The Proprietary Information or Highly Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

15. This Protective Order shall continue to be binding throughout and after the conclusion of this proceeding.

16. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information or Highly Confidential Information. In the event that the party elects to destroy all copies of documents and other materials containing Proprietary or Highly Confidential

Information instead of returning the copies of documents and other materials to the parties, upon request, the party shall certify in writing to the producing party that the Proprietary Information or Highly Confidential Information has been destroyed.

Dated: _____

Administrative Law Judge

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: APPLICATION OF THE CITY
OF PITTSBURGH, *NUNC PRO TUNC*,
PURSUANT TO 66 PA. C.S. § 1102(A),
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE TO OFFER,
FURNISH, RENDER, AND SUPPLY
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PUBLIC IN CERTAIN PORTIONS OF
THE BOROUGH OF DURYTEA, THE
BOROUGH OF HUGHESTOWN AND
PITTSBURGH TOWNSHIP, ALL IN
LUZERNE COUNTY,
PENNSYLVANIA**

DOCKET A-2026-3059911

ACKNOWLEDGMENT

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the receiving party).

The undersigned has read the Protective Order dated _____, 2026, and understands that it deals with the treatment of Proprietary or Highly Confidential Information. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 5 of the Protective Order prior to submitting this Acknowledgement.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: APPLICATION OF THE CITY
OF PITTSTON, *NUNC PRO TUNC*,
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DOCKET A-2026-3059911

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the City of Pittston's electronically filed *Petition for Protective Order* and *text of proposed Protective Order* upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
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cpell@pa.gov
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Honorable Barbara Shadie Nause
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*Counsel for PAWC
via email and eService*

Dated this 24th day of April, 2026

/s/ Elizabeth Preate Havey
Elizabeth Preate Havey, Esquire
Counsel for the Applicant, City of Pittston