



COMMONWEALTH OF PENNSYLVANIA

May 26, 2026

**E-FILED**

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-2025-3057983 (Water) / R-2025-3058051 (Wastewater)**

Dear Secretary Homsher:

Enclosed please find the Exceptions to the Recommended Decision issued May 15, 2026, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-referenced proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

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

Sincerely,

*/s/ Rebecca Lyttle*

Rebecca Lyttle  
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Attorney ID No. 201399

*Enclosures*

cc: Jason Hails  
Roger Cathcart  
Joseph Kubas  
Parties of Record



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## I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) filed its Main Brief to the Pennsylvania-American Water Company’s (“PAWC”) proposed Supplement No. 58 to Tariff Water-PA P.U.C. No. 5 on April 6, 2026, and its Reply Brief on April 15, 2026. Administrative Law Judges (“ALJs”) Devoe and Watson filed their Recommended Decision (“RD”) on May 15, 2026.

Although OSBA agrees with most of the RD, there are two exceptions OSBA respectfully requests the ALJs reconsider. The OSBA submits the following Exceptions to the RD on Labor -Related Expenses and the RD on Company Service Charges.

## II. EXCEPTIONS

### A. **Exception to VI. (B.) (ii.) Additions to Rate Base Acquisition Adjustments.**<sup>1</sup>

#### **The ALJs Erred by Failing to Address or Analyze OSBA’s Recommended \$8.7 Million Reduction to Labor-Related Expenses.**

The ALJs erred by essentially ignoring OSBA’s substantial evidence and recommendation regarding PAWC’s labor-related expenses (salaries and wages, employee benefits, and related payroll taxes). In the Recommended Decision, at Section VIII. A.4.a.-b., the ALJs summarized OSBA’s position<sup>2</sup> but provided no analysis, no findings of fact, and no explanation for rejecting the \$8.7 million reduction proposed by OSBA witness Jason Hails. This omission violates fundamental principles of administrative law.

#### **Specific Grounds for Reversal:**

##### **1. Failure to Consider Substantial Evidence**

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<sup>1</sup> RD, Page 82.

<sup>2</sup> RD, Pages 122-127.

OSBA presented detailed, record-based evidence (OSBA Statement No. 1, OSBA Ex. JH-1)<sup>3</sup> demonstrating that PAWC’s projected per-customer employee-related expenses from 2021–2027 are excessive when compared to inflation-adjusted O&M trends. OSBA recommended a targeted \$8.7 million reduction in FPFTY to moderate the revenue requirement while still allowing PAWC to provide safe and reliable service. *As noted above, the ALJs acknowledged the OSBA’s recommendation, but offered no response, only making reference to “...certain I&E and OCA positions on O&M expense adjustments...”*<sup>4</sup>

**2. Improper Reliance on PAWC’s Self-Serving Assertion**

The ALJs noted only that “PAWC submits those merit increases were not disputed by the OSBA or any other Party.”<sup>5</sup> This is both inaccurate and insufficient. OSBA did not dispute the existence of merit increases. It disputed the magnitude of the overall labor escalation and its reasonableness relative to inflation and productivity. Accepting PAWC’s claim without addressing OSBA’s benchmarking analysis constitutes an incomplete decision, and a more complete evaluation of the competing evidence is warranted.

**3. Violation of the Commission’s Duty to Make Reasoned Findings**

Pennsylvania administrative law requires agencies (and ALJs) to address material evidence presented by parties and explain the basis for their decisions.<sup>6</sup>

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3 RD, Page 125, OSBA St. No. 2, Direct Testimony of Jason Hails, Pages 16-18, OSBA M.B., Pages 11-12.

4 RD, Page 128.

5 RD, Page 103.

6 2 Pa.C.S. § 507.

By failing to engage with OSBA’s analysis concerning employee-related expenses, the ALJs rendered their recommendation on labor expense unsupported by substantial evidence and contrary to law.

**Requested Relief:**

The Commission should sustain this Exception and adopt OSBA’s recommended \$8.7 million reduction to PAWC’s labor-related expense claim for the FPFTY 2027. In the alternative, remand this issue to the ALJs for specific findings of fact and conclusions of law regarding OSBA’s evidence and recommendation.

**B. The ALJ Erred in Finding PAWC Met Its Burden of Proof on Company Service Charges of \$77,936,149 for FPFTY 2027.**

The ALJ acknowledged significant issues and concerns raised by OSBA and deficiencies in the evidence provided by the Company, yet still concluded that PAWC established reasonableness based upon the totality of the evidence.<sup>7</sup> This conclusion is legal error and unsupported by substantial evidence. PAWC bears the burden of proving that its claimed expenses are just, reasonable, and necessary.<sup>8</sup> It failed to do so here.

**Specific Grounds for Reversal:**

**1. Unjustified Escalation and Lack of Prudence Review**

PAWC seeks \$77.9 million in FPFTY 2027 Service Company charges — a 30.3% increase from 2024 levels (\$59.8M → \$71.2M in 2025 [+19.1%], then +5.8% and +3.4%).<sup>9</sup> OSBA demonstrated this far exceeds inflation and lacks adequate support. PAWC relied on outdated Baryenbruch & Company

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7 RD, Page 162.

8 66 Pa.C.S. § 1301(a).

9 RD, Page 160, OSBA St. No. 2, Direct Testimony of Jason Hails, Ex. JH-1, Line 4.

assessments (2020/2023) with no material changes to allocation methodology and performed no new independent third-party evaluation for this case.<sup>10</sup>

The ALJ improperly shifted the burden by accepting totality testimony from PAWC witnesses (O'Malley, Runzer, Prine)<sup>11</sup> without requiring PAWC to affirmatively justify the large increases or demonstrate that costs reflect only prudent, necessary services benefiting Pennsylvania ratepayers (not affiliates).

## **2. Failure to Address Affiliate Transaction Risks**

Service Company costs are affiliate transactions with inherent risk of cross-subsidization. OSBA highlighted the absence of a current, comprehensive cost allocation study applying industry-standard tests (e.g., cost causation, benefits received, incremental cost analysis). Prior studies are stale and flawed, and PAWC provided no evidence that Pennsylvania customers are not subsidizing other jurisdictions or non-utility activities.

## **3. Excessive and Unsupported Functions**

OSBA's detailed analysis (OSBA Statement No. 2, Figure 2) proposed targeted reductions totaling \$27.3 million<sup>12</sup>, including:

- 80% reduction for Corporate Admin (largely CEO/Board costs duplicative of PAWC's own structure) and Operational Excellence (lacking demonstrated value to PAWC operations);

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10 RD, Page 158, OSBA St. No. 2, Direct Testimony of Jason Hails, Pages 7-14 include a detailed review of the Baryenbruch study.

11 RD, Page 162.

12 RD, Page 159, OSBA St. No. 2, Direct Testimony of Jason Hails, Figure 2, Page 15.

- 50% reductions for Business Development, External Affairs, Investor Relations, Legal, and Regulated Operations (excessive for a Pennsylvania-focused utility); and
- 22.5% reductions across other functions based on benchmarking and lack of justification.

These are not arbitrary; they are grounded in the record, including PAWC's own data and the Baryenbruch reports. The ALJs failed to engage in this evidence and/or explain why full recovery was warranted despite acknowledged deficiencies.

**Requested Relief:**

The Commission should sustain this Exception and adopt OSBA's recommended \$27.3 million reduction to Service Company expense (or a substantial portion thereof), resulting in an FPFTY allowance of approximately \$50.6 million.<sup>13</sup> This is consistent with the Commission's duty to protect ratepayers from excessive affiliate charges. In the alternative, remand for further evidentiary proceedings or require PAWC to conduct a full independent cost allocation study.

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13 RD, Page 159, OSBA St. No. 2, Direct Testimony of Jason Hails, Figure 2, Page 15.

### III. CONCLUSION

Wherefore, the OSBA respectfully requests that the Commission reconsider the OSBA's Exceptions, as set forth above, and change their Recommended Decisions on Labor Expenses and Company Service Charges.

Respectfully Submitted,

*/s/ Rebecca Lyttle*

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Dated: May 26, 2026



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