



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
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BUREAU OF
INVESTIGATION
&
ENFORCEMENT

June 2, 2026

Via Electronic Filing

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)

I&E Replies to Exceptions

Dear Secretary Homsher:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Replies to Exceptions in the above-captioned proceeding.

Copies are being served on parties per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Carrie B. Wright' with a stylized flourish at the end.

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cc: Administrative Law Judge Jeffrey A. Watson (via email - jeffwatson@pa.gov)
Administrative Law Judge Emily I. DeVoe (via email - edevoe@pa.gov)
Office of Special Assistants (via email - ra-osa@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2025-3057983
	:	R-2025-3058051
Pennsylvania American Water Company	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT
REPLIES TO EXCEPTIONS**

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Dated: June 2, 2026

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	I&E REPLIES TO EXCEPTIONS OF PAWC	1
A.	I&E Reply to PAWC Exception No. 1. RD, pp. 1, 425-427, and 498. PAWC Exceptions, pp. 3-7.....	1
B.	I&E Reply to PAWC Exception No. 2. RD, pp. 227-246, and 289-269. PAWC Exceptions, pp. 7-21.....	3
1.	The proxy group selected by I&E is the appropriate proxy group.	3
2.	An ROE of no more than 9.70% is appropriate.....	5
3.	Capital Structure.	6
4.	Conclusion.	6
C.	I&E Reply to PAWC Exception No. 4. RD, pp. 136-149. PAWC Exceptions, p. 24-26.....	6
D.	I&E Reply to PAWC Exception No. 5. RD, pp. 163-168. PAWC Exceptions, p. 27.....	8
E.	I&E Reply to PAWC Exception No. 13. RD, pp. 382-397. PAWC Exceptions, pp. 37-38.....	9
F.	I&E Reply to PAWC Exception No. 14: Direct Cost Analysis. RD, pp. 293-301. PAWC Exceptions, p. 38.....	10
III.	CONCLUSION	10

I. INTRODUCTION

Pursuant to 66 Pa. C.S. § 332(h) of the Public Utility Code and 52 Pa. Code § 5.535 of the Public Utility Commission regulations, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) respectfully submits these Replies to Exceptions filed by the Pennsylvania American Water Company (PAWC) in response to the Recommended Decision (RD) of Administrative Law Judges Jeffrey A. Watson and Emily I, DeVoe (the ALJs).

II. I&E REPLIES TO EXCEPTIONS OF PAWC

I&E recommends that the Commission affirm the Recommended Decision as modified according to the I&E Exceptions and reject the other Parties Exceptions to the extent recommended below. I&E offers no reply to PAWC Exception Nos. 3, 6, 7, 8, 9, 10, 11, 12, 15, or 16. Further, I&E offers no reply to the Exceptions filed by the Office of Consumer Advocate, Office of Small Business Advocate, or Cleveland-Cliffs Steel.

A. I&E Reply to PAWC Exception No. 1. RD, pp. 1, 425-427, and 498. PAWC Exceptions, pp. 3-7.

In Exceptions, PAWC argues that the ALJs' recommendation that its rate increase be denied based on the conclusion that rates are not affordable should be rejected.¹ However the ALJs actually based their recommendation that the rate increase be denied based on their determination that "...the Company has not met its burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested increase."² The ALJs produced a thoughtful, well-reasoned RD which is over

¹ PAWC Exceptions, p. 3.

² RD, p. 1.

500 pages long discussing each and every element of this rate case when reaching the conclusion that “...the proposed rates are unjust and unreasonable and are not supported by the record.”³

I&E argues that the ALJs correctly found that based on their careful and exhaustive review of the substantial record evidence, the Commission should deny PAWC’s proposed tariff in its entirety. The ALJs correctly concluded that PAWC failed to meet its burden of proof that the proposed rate increase, rate design, and alternate rate mechanisms are in the public interest and will result in just and reasonable rates consistent with the public utility code.⁴ Ultimately, the ALJs correctly recommended that the Commission deny PAWC’s base rate request and, thus, keep in place the rates, charges, and provisions having been previously approved.

A review of all the evidence in this proceeding including the testimony of the PAWC customers who appeared at the public input hearings in this case shows that customers are struggling to afford their water and wastewater bills. This deserves consideration. Therefore, I&E submits the Commission should thoughtfully consider rejecting PAWC Exception No. 1. Should the Commission grant PAWC an increase, it should be no more than the increase presented in the I&E Main and Reply Briefs and testimony.

³ RD, p. 427.

⁴ *Id.*

B. I&E Reply to PAWC Exception No. 2. RD, pp. 227-246, and 289-269. PAWC Exceptions, pp. 7-21.

To the extent a rate increase is granted, and therefore, a response to this Exception is required, I&E agrees with the RD's reasoning and recommendations regarding the overall rate of return and return on equity.⁵ Further, I&E continues to agree with the RD that the record does not support the awarding of any management performance points.⁶

1. The proxy group selected by I&E is the appropriate proxy group.

In its Exceptions, PAWC acknowledges that the number of suitable water utilities for inclusion in a proxy group has declined over time.⁷ Therefore, the I&E proxy group is comprised of American States Water Company, California Water Services Group, Middlesex Water Company, and H2O America (formerly known as SJW Group).⁸ In contrast the PAWC proxy group consists of Atmos Energy Corporation, Chesapeake Utilities Corporation, NiSource, Inc., Northwest Natural Gas Company, ONE Gas, Inc., Southwest Gas Corporation, Inc., American States Water Company, California Water Service Group, Middlesex Water Company, H2O America, and Essential Utilities, Inc.⁹

I&E's proxy group is the appropriate proxy group to use in this instance for various reasons. First, it is inappropriate to include Essential Utilities in the proxy group as it violates Ms. Bulkey's criteria that the company is not a party to a merger during the analytical periods relied on. Essential Utilities is currently a part of an announced merger

⁵ RD, pp. 267-269.

⁶ RD, pp. 269-283.

⁷ PAWC Exceptions, p. 8.

⁸ I&E St. No. 2, p. 11.

⁹ PAWC St. No. 13, p. 27.

with Pennsylvania-American's parent company American Water Works. Using gas utilities in the proxy group can distort the information that the proxy group provides. Gas utilities are dissimilar to water and wastewater utilities because customers can shop for a supplier.¹⁰ Simply put, the water and wastewater utilities in Pennsylvania have less risk of losing customers than gas companies whose customers have the option to look for supply alternatives or to switch fuel sources. In addition, each different utility industry faces different operational, safety, and weather-related risk.¹¹ As demonstrated, gas utilities are not substantially similar to water and wastewater utilities, and, thus, including them in the proxy group off which to base the rate of return and return on equity would not be appropriate.

In the most recent 2025 Columbia Gas of Pennsylvania, Inc. (Columbia) rate case,¹² the Commission concurred with I&E and the ALJ that it is appropriate to apply a proxy group comprised exclusively of natural gas utilities in setting the rate of return for Columbia. Similarly, it is appropriate to consider only water and wastewater utilities when establishing the proxy group in the instant proceeding. It is of utmost importance that the proxy group be representative of the subject utility. Therefore, while the proxy group utilized by I&E may be small, it is most representative of the water and wastewater industry in which PAWC operates and should be utilized by the Commission.

¹⁰ I&E St. No. 2, pp. 15-16.

¹¹ I&E St. No. 2, p. 16.

¹² *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499 (Order Entered December 9, 2025). See generally Fair Rate of Return, Proxy Groups - Disposition, pp. 204 and 205.

2. An ROE of no more than 9.70% is appropriate.

The ALJs' well-reasoned explanation accepts the I&E recommended 9.70% ROE. As I&E's proxy group is similarly situated to PAWC and the appropriate proxy group to use in this proceeding, I&E's resulting 9.70% ROE is appropriate.

In Exceptions, PAWC alleges that the RD fails to discuss or address the testimony of PAWC witness Ann Bulkley.¹³ This is simply untrue. The RD discusses Ms. Bulkley's arguments at length and finds them unpersuasive.¹⁴ Additionally, in Exceptions, PAWC alleges that Mr. Patel made no mention in his testimony of current world conditions that will likely affect inflation and specifically identifies the current Iran conflict.¹⁵ However, Mr. Patel's analysis takes into account the conditions in place at the time of such analysis and, furthermore, it is inappropriate to suggest that the conflict in Iran is reason to increase customers water rates.

The ALJs' explain that "...I&E's recommended ROE is properly in alignment with its proxy group and I&E's position reasonably reflects the interests of the ratepayers and the utility." To the extent a rate increase is granted, the use of I&E's ROE strikes the appropriate balance between the needs of ratepayers and the Company's need to invest in infrastructure. Therefore, an ROE of no more than 9.70% should be adopted.

¹³ PAWC Exceptions, p. 7.

¹⁴ RD, p. 269.

¹⁵ PAWC Exceptions, p. 14.

3. Capital Structure.

In Exceptions, PAWC notes that I&E was the only party to object to the use of PAWC's actual capital structure for water operations.¹⁶ I&E based this recommendation on the fact that PAWC's equity capitalization was outside the range of its proxy group.¹⁷ The most optimal capital structure is 50% debt and 50% equity; however, this is not always possible.

As a proxy group is used to approximate the subject utility and I&E's proxy group should be adopted, in this instance, I&E's hypothetical structure of 55% equity and 45% debt for water operations strikes the appropriate balance for both the utility and ratepayers. As the ALJs explain, "...I&E's proposal of 55% common equity makes sense for both the utility and its ratepayers."¹⁸

4. Conclusion.

To the extent that the Commission is inclined to grant PAWC a rate increase, the Commission should reject PAWC's Exception No. 2 and adopt an ROE of no more than 9.70% with utilizing I&E's proxy group as well as I&E's recommended capital structures for both water and wastewater.

C. I&E Reply to PAWC Exception No. 4. RD, pp. 136-149. PAWC Exceptions, p. 24-26.

Regarding performance compensation, the ALJs explain that they agree with I&E's removal of 50% of the Company's claim related to cash awards paid out under the

¹⁶ PAWC Exceptions, p. 19.

¹⁷ I&E Exh. No. 2, Sch. 2.

¹⁸ RD, p. 246.

Annual Performance Plan (APP) and 70% of the Company's claim related to stock-based compensation under the Long-Term Performance Plan (LTPP), and with OCA's removal of related payroll taxes.¹⁹ PAWC excepts to this recommendation stating that the RD fails to acknowledge the testimony of PAWC witness Mustich who sponsored the Willis Towers Watson study which concludes that PAWC's compensation plan is reasonable and comparable to and competitive with plans of other similar sized utilities.²⁰

As explained in the I&E Main Brief, I&E's argument is not against PAWC's total compensation plan or either performance plan as a whole, but specifically the portion of the performance plans that is based on earnings per share and whether that should be recovered from ratepayers. To that end, the Willis Towers Watson study may be accurate in stating that PAWC's plan is reasonable and comparable to the plans of other similar sized utilities. However, while there is an interdependence between a Company's financial performance and its operational success, financial metrics in performance pay align employees primarily with shareholder interests, whereas operational metrics align employees with customers. Therefore, ratepayers should not be required to fund the payout of such metrics which are geared toward shareholder interests.

In the RD, the ALJs explain that they agree with OCA that PAWC's reliance on generalized claims of customer benefits is insufficient to meet its burden of proof.²¹ Additionally, the ALJs note that they agree with I&E that PAWC has failed to meet its burden of proof establishing that the Company's claim in allocated performance

¹⁹ RD, p. 148.

²⁰ PAWC Exceptions, p. 24.

²¹ RD, p. 147.

compensation expenses are fair and necessary, or that they pertain to providing safe, adequate, and reliable service to customers.²² Because financial metrics primarily align with shareholder interests, it is not appropriate for ratepayers to fund the payout of these metrics.

Therefore, the RD correctly concludes that removal of 50% of the Company's claim related to cash awards paid out under the APP and 70% of the Company's claim related to stock-based compensation under the LTPP, and with OCA's removal of related payroll taxes is appropriate. PAWC's Exception No. 4 must be rejected.

D. I&E Reply to PAWC Exception No. 5. RD, pp. 163-168. PAWC Exceptions, p. 27.

Regarding waste disposal expense, as noted in the RD, PAWC has not provided a basis for the assumption that the costs of waste disposal will continue to rise annually.²³ I&E recommended the use of a three-year historical average to calculate waste disposal expense.²⁴ Traditionally historic averages are the best predictor of future costs.

PAWC excepts to the ALJs' recommendation stating that PAWC established that actual future test year data through December 2025 shows a 24.48% increase.²⁵ PAWC admits that the Company's waste disposal costs fluctuate year to year and explained that there had been a \$3.6 million increase from 2021 through 2025.²⁶ However, while it may be true that waste disposal expense did rise overall in recent historical years, it has not

²² *Id.*

²³ RD, p. 167.

²⁴ I&E St. No. 1, pp. 35-37.

²⁵ PAWC Exceptions, p. 27.

²⁶ PAWC St. No. 6-R, pp. 21-22.

consistently done so and the Company has not provided any evidence to show that this expense will continue to rise at a rate of 13.76% each year. This is a significant increase and is speculative in nature.

Consistent with what the ALJs recommended in the RD, I&E continues to recommend a total FPFTY allowance of \$7,386,760 for waste disposal expense, or a reduction of \$2,850,893 (\$10,237,653 - \$7,386,760) to the Company's claim, based on a three-year average of historical costs.²⁷ As explained by witness Okum, there is no clear upward trajectory of this expense for all operations.²⁸ Therefore, the three-year historic average is the best predictor of this expense.

PAWC's Exception No. 5 must be rejected.

E. I&E Reply to PAWC Exception No. 13. RD, pp. 382-397. PAWC Exceptions, pp. 37-38.

I&E neither supports nor opposes PAWC Exception No. 13. In response I&E simply offers that should the Commission adopt the Company's proposed deduct adjustment the following modifications be adopted as well:

1. that the winter average be calculated using the five billing months of December through April.
2. that all CSS customers, including Scranton customers, be excluded from eligibility for the deduct adjustment.
3. that the minimum usage for customers with no winter usage be initially set at 3,000-gallons, which is approximately the system average usage for SSS Operations residential customers.
4. that the Company track and calculate the system average usage for customers during the winter period.

²⁷ I&E St. No. 1-S, p. 45.

²⁸ I&E St. No. 1, p. 38.

I&E responds to PAWC’s Exception No. 13 only to recommend that if the deduct adjustment is adopted, the I&E modifications thereto be adopted as well. As noted by the ALJs in the RD, “...the modifications proposed by I&E would be an improvement over PAWC’s proposal...”²⁹

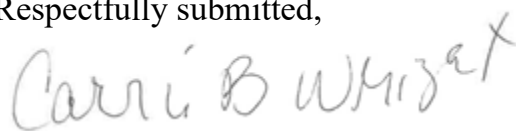
F. I&E Reply to PAWC Exception No. 14: Direct Cost Analysis. RD, pp. 293-301. PAWC Exceptions, p. 38.

In Exceptions, PAWC alleges the RD errs in recommending exclusive use of the direct customer cost analysis. By way of reply I&E offers that the RD is consistent with Commission precedent and PAWC’s Exception No. 14 should be rejected.

III. CONCLUSION

Wherefore, the Bureau of Investigation and Enforcement respectfully requests that for all the foregoing reasons, that the Recommended Decision of Administrative Law Judges Jeffrey A. Watson and Emily I. DeVoe by the Commission pursuant to the I&E Exceptions and the I&E Replies to Exceptions set forth above.

Respectfully submitted,



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Dated: June 2, 2026

²⁹ RD, p. 397.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-2025-3057983 (Water)
 : R-2025-3058051 (Wastewater)
 Pennsylvania-American Water Company :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Replies to Exceptions** dated June 2, 2026, in the manner and upon the persons listed below.

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