

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania-American Water	:	
Company under Sections 1102(a) and 1329 of the	:	
Pennsylvania Public Utility Code, 66 Pa.C.S.	:	A-2025-3055741
§§ 1102(a) and 1329, for approval of (1) the transfer,	:	
by sale, to Pennsylvania-American Water Company,	:	
of substantially all of the assets, properties and rights	:	
related to the water treatment and distribution system	:	
owned and operated by the Indian Creek Valley	:	
Water Authority, and (2) the rights of Pennsylvania-	:	
American Water Company to begin to offer or	:	
furnish water service to the public in all of the	:	
Borough of Ohiopyle and portions of the	:	
Townships of Saltlick, Springfield, Bullskin,	:	
Connellsville and Stewart, Fayette County and	:	
all of the Borough of Donegal and portions of the	:	
Townships of Donegal and Mount Pleasant,	:	
Westmoreland County, Pennsylvania	:	

INTERIM ORDER

On November 3, 2025, the Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code, 66 Pa C.S. §§ 1102(a) and 1329 (the Application) was filed with the Pennsylvania Public Utility Commission (Commission). The Application sought approval of (1) the transfer, by sale, to Pennsylvania-American Water Company (PAWC), of substantially all of the assets, properties and rights related to the water treatment and distribution system owned and operated by the Indian Creek Valley Water Authority (ICVWA), and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish water service to the public in all of the Borough of Ohiopyle and portions of the Townships of Saltlick, Springfield, Bullskin, Connellsville and Stewart, Fayette County and all of the Borough of Donegal and portions of the Townships of Donegal and Mount Pleasant, Westmoreland County, Pennsylvania.

PAWC also requested approval of the Asset Purchase Agreement (APA) dated January 30, 2025, as well as other municipal agreements pursuant to Section 507 of the Public Utility

Code and requested the Commission issue an Order and Certificate of Public Convenience approving and addressing the items requested in the Application.

On May 28, 2026, a prehearing conference was conducted with the parties and, thereafter, the presiding officers issued a Prehearing Order, which commemorated the matters discussed at the conference and established the litigation schedule. The following parties participated in the discussions and did not express disagreement with the litigation schedule: PAWC, ICVWA, the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA).

Thereafter, the parties engaged in discovery and exchanged pre-served written statements and exhibits. A telephonic public input hearing was conducted on June 12, 2026. Two in-person public input hearings were conducted on June 15, 2026, in Saltlick Township, Fayette County, Pennsylvania. Evidentiary hearings are scheduled to be conducted by telephone on June 17, 2026, and June 18, 2026.

On Monday, June 15, 2026, counsel for ICVWA advised the presiding officers and other parties, by email at 11:28 a.m., that he would be unable to attend the in-person public input hearings due to a “personal matter.” Counsel asserted the Authority Manager, Kerry Witt, would be present “to receive and takes notes regarding ... public comment” but Mr. Witt would not offer anything on the hearing record.

On Tuesday, June 16, 2026, counsel for ICVWA sent to the presiding officers and other parties an email, at 8:44 a.m., which stated:

A personal matter has arisen that, unfortunately, presents a scheduling conflict for the Authority’s participation in the hearing tomorrow afternoon, Wednesday, June 17, 2026, at 1:30 p.m. With that being the case, I would respectfully ask that the Authority be excused from participating at the hearing tomorrow [June 17] and, instead, be able to provide its testimony at the hearing on Thursday, June 18. Given the relative shorter length of the hearing tomorrow and the Authority only having one or two anticipated witnesses, it may be the case that the Authority would be offering testimony on Thursday anyway. I have also reached out to the other parties regarding this request and there were no objections.

In light of the email from the counsel for ICVWA, the presiding officers directed all parties, by email sent at 10:31 a.m., to provide to the presiding officers an indication of an estimated time each party would need to present its own witness(es) plus an indication of the estimated time each party believed it would need to cross-examine the witness(es) of other parties.

In response, the parties emailed the following expectations:

<u>Party</u>	<u>Time needed for own witness(s)</u>	<u>Time needed for questions on cross</u>
PAWC	15 minutes each for 4 witnesses	30 minutes for OCA Garrett
ICVWA	20 minutes total	No cross-examination questions
OCA	20 minutes for 2 witnesses	No cross-examination questions ¹
OSBA	2 minutes for 1 witness	No cross-examination questions

In addition to, PAWC's counsel advised the presiding officers – for the first time -that:

In addition, PAWC wanted to alert Your Honors that, for internal purposes, PAWC will be replacing witness Jed Fiscus with witness Daniel Hufton and witness Christina Chard with witness Dominic DeGrazia. All previous testimony and discovery provided by witnesses Fiscus and Chard will be sponsored by witnesses Hufton and DeGrazia. In addition, we have alerted the other parties to this substitution, and they do not object.

DISCUSSION

Pursuant to 66 Pa.C.S. § 331(d), the presiding officers shall have the authority to, *inter alia*, “rule upon offers of proof and receive relevant evidence whenever the ends of justice would be served thereby.” In addition, the same statute requires the presiding officers to regulate the course of hearings before the Commission. The presiding officers are required to conduct hearings and all functions of the position in an impartial manner. 66 Pa.C.S. § 331(c) and 52 Pa.Code § 5.483.

¹ OCA also noted its witness Garrett needed to testify on June 17, 2026, and not on June 18, 2026.

Relevant and material evidence is admissible at a hearing before the Commission except a request to admit proposed evidence will be denied if the probative value of the evidence is outweighed by a danger of unfair prejudice. 52 Pa.Code § 5.401. A party which desires to move evidence into the hearing record must present the evidence through a sponsoring witness, and after providing the other parties with an opportunity to examine the sponsoring witness. 52 Pa.Code § 5.402. The presiding officers have all necessary authority to control the receipt of evidence, including making rulings on the admissibility of evidence, and presiding officers must employ this enumerated power to direct and focus the proceeding, consistent with due process requirements. 52 Pa.Code §§ 5.403 and 5.483.

Furthermore, in a proceeding of this nature, filed pursuant to 66 Pa.C.S. 1329, the burden of proof is upon the Applicant (PAWC) to prove the acquisition of another utility (ICVWA) is in the public interest and provides a substantial benefit that outweighs any competing evidence. Further, both PAWC and ICVWA have the burden of proving the reasonableness and applicability of the appraisal value as determined by each entity's Utility Valuation Evaluator (UVE).

Accordingly, to prove the applicability of its valuation, ICVWA must be present at the evidentiary hearing to admit testimony into the hearing record and to sponsor for admission the written statements and exhibits of its witnesses. The evidentiary hearing is the last opportunity ICVWA will have to submit any evidence into the record before the hearing record closes and the presiding officers issue their Recommended Decision.

While the presiding officers do not have the power to compel the presence of an attorney at a hearing, the presiding officers decline to excuse a party, especially an important party such as the utility to be acquired, at the evidentiary hearing. ICVWA proceeds at its own risk and bears the burden that its absence from an evidentiary hearing - wherein the valuation of the utility plus the efficacy, reasonableness and public benefit to potentially be reaped by a sale of ICVWA to PAWC – is the paramount issue, and its absence may result in the presiding officers drawing a negative inference.

Lastly, it must be acknowledged that the parties have indicated almost no cross-examination will be needed (except for PAWC which indicated it might need 30 minutes) and very little direct examination will be needed by the parties (except for PAWC which indicated it might need one

hour total). It is highly likely that the evidentiary hearing will conclude on Wednesday, June 17, 2026. It is not clear how ICVWA intends to submit its evidence if it is not present before the hearing concludes.

It should also be noted that PAWC's request to substitute two individuals not seen previously in this proceeding as witnesses in place of two individuals who provided written statements personal to them – all at the 11th hour before the evidentiary hearing in a Section 1329 proceeding - will not be granted. A party cannot substitute a new person into a proceeding as a witness to sponsor the testimony provided by another person who indicated in a verification they were providing truthful statements, under penalty of perjury. It should be noted the individuals PAWC cited as potential sponsoring witnesses did not provide written statements previously in this proceeding.

THEREFORE,

IT IS ORDERED:

1. That the request of the Indian Creek Valley Water Authority to be excused from the evidentiary hearing is denied, unless Indian Creek Valley Water Authority counsel shall provide substitute counsel who submits a Notice of Appearance.
2. The Indian Creek Valley Water Authority is granted leave to provide substitute counsel, provided substitute counsel files electronically a Notice of Appearance on or before 1:30 p.m. on June 17, 2026.
3. That the request of Pennsylvania-American Water Company to substitute the written statement and discovery responses of witness Jed Fiscus with witness Daniel Hufton; to substitute the written statement and discovery responses of witness Christina Chard with witness Dominic DeGrazia; and to have Witnesses Hufton and DeGrazia sponsor all previous testimony and discovery provided by witnesses Fiscus and Chard, is denied.

4. That Pennsylvania-American Water Company is granted leave to submit into evidence the written statements and/or exhibits of witnesses Jed Fiscus and Christina Chard, without the witnesses' presence to sponsor personally, provided fully-executed verifications are attached to the written statements, all parties stipulate to the admission of the written statements and/or exhibits, all parties waive cross-examination of the two witness and all parties stipulate to the absence of witnesses Jed Fiscus and Christina Chard.

Date: June 17, 2026

/s/
Katrina L. Dunderdale
Administrative Law Judge

Date: June 17, 2026

/s/
Ann Quimby
Administrative Law Judge

A-2025-3055741 - APPLICATION OF PENNSYLVANIAAMERICAN WATER COMPANY UNDER SECTIONS 1102(A) AND 1329 OF THE PENNSYLVANIA PUBLIC UTILITY CODE, 66 PA C.S. §§ 1102(A) AND 1329, FOR APPROVAL OF (1) THE TRANSFER, BY SALE, TO PENNSYLVANIA-AMERICAN WATER COMPANY, OF SUBSTANTIALLY ALL OF THE ASSETS, PROPERTIES AND RIGHTS RELATED TO THE WATER TREATMENT AND DISTRIBUTION SYSTEM OWNED AND OPERATED BY THE INDIAN CREEK VALLEY WATER AUTHORITY, AND (2) THE RIGHTS OF PENNSYLVANIA-AMERICAN WATER COMPANY TO BEGIN TO OFFER OR FURNISH WATER SERVICE TO THE PUBLIC IN ALL OF THE BOROUGH OF OHIOPILE AND PORTIONS OF THE TOWNSHIPS OF SALTICK, SPRINGFIELD, BULLSKIN, CONNELLSVILLE AND STEWART, FAYETTE COUNTY AND ALL OF THE BOROUGH OF DONEGAL AND PORTIONS OF THE TOWNSHIPS OF DONEGAL AND MOUNT PLEASANT, WESTMORELAND COUNTY, PENNSYLVANIA

(Revised 05/28/2026)

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