**PENNSYLVANIA PUBLIC UTILITY COMMISSION**
**HARRISBURG, PENNSYLVANIA 17120**

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| **Pennsylvania Public Utility Commission *et al* v.** | **Public Meeting held July 16, 2026** |
| | **3057983-OSA** |
| **Pennsylvania-American Water Company** | **Docket No. R-2025-3057983, *et al.*** |

# MOTION OF CHAIRMAN STEPHEN M. DeFRANK

Before the Commission are the water and wastewater rate filings of Pennsylvania American Water Company (PAWC or the Company), the Recommended Decision of Administrative Law Judges (ALJs) Emily I. Devoe and Jeffrey A. Watson, and the Exceptions filed thereto. The proceeding was fully litigated, with the numerous parties providing detailed positions on a myriad of issues including additions to rate base, depreciations expense, customer assistance program design, and rate of return on common equity (or ROE). In their Recommended Decision, the ALJs determined that PAWC failed to meet its burden of proving that the Commission should establish an ROE of 10.95% in this proceeding. Rather, the ALJs supported the utilization of the ROE calculation employed by the Commission's Bureau of Investigation and Enforcement (I&E), which utilized the average of a composite Capital Asset Pricing Model (CAPM) analysis of 9.31% and a Discounted Cash Flow (DCF) Analysis of 10.09% resulting in a proposed ROE of 9.7%.

I support utilization of this 9.7% I&E ROE as a baseline, with further adjustment as proposed herein.

*Adjustment Number One – Regulatory Lag*

First, upon review of the record developed in this proceeding, I believe it is prudent to exercise discretion, in setting just and reasonable rates, to make a downward adjustment of 0.25% (*i.e.*, 25 basis points). I propose this downward adjustment in recognition of the Company's minimal regulatory lag and associated reduced business risk given its frequent filing of base rate cases. The Commission has acknowledged that

> "[w]hen determining the cost of capital, the [Commission] must 'give consideration to the utility's financial structure, credit standing, dividends, interests, risks, **regulatory lag**, wasting assets and any peculiar features of the utility involved.'" *Columbia Gas 2021* at 49 (citing *West Penn Power v. Pa. PUC*, 607 A.2d 1132, 1135 (Pa. Cmwlth. 1992) (*West Penn*)); *see also, Columbia Gas 2025* at 34; R.D. at 228, n.758.

Thus, consideration of a utility's regulatory lag is important in setting the ROE that the Commission ultimately applies to utility rates. Accordingly, because PAWC is seeking its fourth increase to its base rates in the past six years, the Company has greatly reduced its regulatory lag, and as a result, the Company has experienced an associated reduction in its business risk. This reduction is augmented through the Company's use of the Fully Projected Future Test Year, which enables it to recover, *inter alia,* forecasted expenses and capital expenditure costs. Moreover, the Company's regulatory lag is further minimized by PAWC's availability and use of the Distribution System Improvement Charge for capital expenditure recovery between rate cases. I&E St. 2 at 51-53; I&E St. 2-SR at 30-31.

*Adjustment Number Two – Acquiring Troubled Systems*

PAWC submitted that in accordance with Section 523 of the Code, 66 Pa.C.S. § 523, the Commission must consider a utility's management performance when setting rates and, where appropriate, may include an upward adjustment to the utility's ROE for management effectiveness. PAWC stressed that because the Commission has specifically encouraged the acquisition of suitable water and wastewater systems by viable utilities, when doing so is in the public interest, it has also awarded upward adjustments to such utilities' ROE under Section 523 of the Code. PAWC M.B. at 65-66. Most notably, PAWC contends that it has acted as a solution provider for troubled water and wastewater systems, including acquiring fourteen troubled systems in the last ten years, in addition to completing the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe, and reasonable service; and that it has undertaken a multiyear project to construct, at no cost to its customers, a public water system for the residents of Dimock, Pennsylvania, who have not had access to safe drinking water for nearly twenty years because of unsafe levels of methane and other contaminants. PAWC M.B. at 66-67, 69.

I note PAWC's work as receiver for systems including Rock Spring Water Company and East Dunkard Water Authority has substantially improved the operations of these entities, including reducing Rock Spring's unaccounted for water by 25%. Further, PAWC asserts that it has had a positive impact on communities through acquisitions of larger wastewater systems where significant investments were made to address environmental challenges and aging infrastructure. PAWC M.B. at 67-68; PAWC St. 1 at 14. Therefore, PAWC argued that in light of its claimed management performance, and in recognition of its purported exemplary work providing solutions to troubled water and wastewater systems in the Commonwealth, the Commission should approve a higher ROE.

While I disagree with PAWC's ROE analysis and associated end result ROE proposal, I do believe PAWC's work facilitating receivership and takeover of troubled water systems does substantiate an increase to the Company's ROE. There is no doubt that the efforts the Company has undertaken to temporarily run, remediate, and often provide permanent solutions for these troubled water systems provide a significant benefit to the public that should be recognized. To that end, I believe an upward adjustment of 0.10% (i.e., 10 basis points) is warranted pursuant to Section 523 of the Code.

In summary, my motion would reduce the I&E proposed ROE from 9.7% to 9.55% through the following iterations.

- A baseline ROE of 9.7% based on I&E's proposal,
- A decrease of the I&E baseline ROE by 25 basis points to 9.45% in order to reflect PAWC's reduced business risk, and then
- An increase of the ROE by 10 basis points to acknowledge the Company's troubled water system support, resulting in a final ROE of 9.55%.

**THEREFORE, I MOVE THAT:**

1. The Exceptions filed by Pennsylvania American Water Company on May 26, 2026, to the Recommended Decision of Administrative Law Judges Emily I. DeVoe and Jeffrey A. Watson, issued on May 15, 2026, at the above captioned docket is granted, in part, and denied, in part.

2. The Recommended Decision of Administrative Law Judges Emily I. DeVoe and Jeffrey A. Watson, issued on May 15, 2026, at the above captioned docket, is adopted, as modified, consistent with this motion

3. The Office of Special Assistants draft an Opinion and Order consistent with this Motion.

**July 16, 2026**
**Date**

**Stephen M. DeFrank**
**Chairman**