

August 28, 2026

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

VIA E-FILING

RE: Application of Pennsylvania-American Water Company for Approval of the Transfer, by Sale, of Substantially all of the assets, properties and rights related to the wastewater collection and conveyance system Owned by Borough of Brentwood and the rights to begin to offer or furnish wastewater service to the public in The Borough of Brentwood, Allegheny County, Pennsylvania; Docket Nos. A-2021-3024058 et al.

Dear Secretary Homsher:

Attached please find for filing the Joint Petition of Pennsylvania-American Water Company ("PAWC") and the Borough of Brentwood to Reopen the Record in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Sincerely,



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Attorney

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Counsel to Pennsylvania-American Water Company

c: Administrative Law Judge Katrina L. Dunderdale
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing documents upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Dated this 28th day of August, 2026, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Pennsylvania-American Water :
Company for Approval of the Transfer, by Sale, of :
Substantially all of the assets, properties and rights :
related to the wastewater collection and conveyance : Docket Nos. A-2021-3024058 *et al.*
system Owned by Borough of Brentwood and the :
rights to begin to offer or furnish wastewater service :
to the public in The Borough of Brentwood, :
Allegheny County, Pennsylvania :

**JOINT PETITION OF PENNSYLVANIA-AMERICAN WATER COMPANY
AND THE BOROUGH OF BRENTWOOD TO REOPEN THE RECORD**

AND NOW COMES Pennsylvania-American Water Company ("PAWC" or the "Company") and the Borough of Brentwood ("Brentwood") (together, the "Petitioners"), pursuant to 52 Pa. Code § 5.571 and the May 28, 2026 Order of the Commonwealth Court of Pennsylvania (the "Commonwealth Court") in *PAWC v. Pa. Pub. Util. Comm'n*, Docket No. 355 C.D. 2024, and *Borough of Brentwood v. Pa. Pub. Util. Comm'n*, 356 C.D. 2024 (together, "*PAWC v. Pa. Pub. Util. Comm'n*"), to request that the Pennsylvania Public Utility Commission (the "Commission") reopen the record in this proceeding on remand. For the reasons set forth below, the Petitioners request that the Commission vacate the Recommended Decision issued on January 17, 2024, and remand these proceedings to the Office of Administrative Law Judge ("OALJ") for further evidentiary proceedings and the issuance of a Recommended Decision Upon Remand.

I. INTRODUCTION AND SUMMARY

1. This case involves an application (as amended, the "Application") seeking Commission approval of PAWC's proposed acquisition of Brentwood's wastewater system (the "System"). The Commission denied the Application by Opinion and Order entered on March 4, 2024 (the "*March 2024 Order*"), relying heavily on the Commonwealth Court's decision in *Cicero v. Pa. Pub. Util. Comm'n*, 300 A.3d 116 (Pa. Cmwlth. 2023) ("*Cicero*"). The Supreme Court of Pennsylvania (the "Supreme Court") subsequently reversed *Cicero* in *Lawrence v. Pa. Pub. Util. Comm'n*, 348 A.3d 108 (Pa. 2025) ("*Lawrence*").

2. In *PAWC v. Pa. Pub. Util. Comm'n*, the Commonwealth Court vacated the *March 2024 Order* and remanded this proceeding to the Commission "with instructions that it issue a new opinion and order after remand that comport with the Pennsylvania Supreme Court's decision in [*Lawrence*], and the analytical guidance provided therein[.]" *PAWC v. Pa. Pub. Util. Comm'n*, Order, p. 1. The Commonwealth Court directed that the Commission give the parties to this proceeding an opportunity to file supplemental briefs. *Id.* In addition, the Court stated that "the Commission may allow the parties to present additional evidence, in the event it concludes that [the Petitioners'] respective exceptions to the administrative law judge's Recommended Decision cannot be properly addressed through the record as currently constituted." *Id.* at 1-2.

3. The evidentiary hearings were held in this case on November 8 and 14, 2023 – almost three years ago. The Petitioners respectfully submit that conditions of fact and/or of law have changed since the close of the evidentiary hearings such that the parties cannot address the issues herein through the currently constituted record. To account for these changes, as well as public interest concerns, Petitioners submit that the record must be reopened in this proceeding. As discussed in more detail below, these reasons include the following:

a. The law has substantially changed since the conclusion of the hearings due to: (a) the Supreme Court's issuance of the *Lawrence* decision; (b) the Commission's entry of *Valuation of Acquired Municipal Water & Wastewater Systems – Act 12 of 2016 Implementation*, Docket No. M-2016-2543193 (Tentative Supplemental Implementation Order entered Feb. 1, 2024) (the "*2024 TSIO*") and (Final Supplemental Implementation Order entered Jul. 2, 2024) (the "*2024 FSIO*"); and (c) the Commission's approval of several Section 1329 acquisitions after the entry of the *2024 FSIO* with fair market value rate bases exceeding the Reasonableness Review Ratio ("RRR") established in the *2024 FSIO*. The parties to this proceeding relied upon then-existing law in developing the record and otherwise litigating this case. It is only fair to allow the parties to develop a record that reflects the current state of the law.

b. The facts have also substantially changed since the conclusion of the hearings. Section 1329(c) provides that the ratemaking rate base of the selling utility is the lesser of the negotiated purchase price or the average of two utility valuation expert appraisals. The appraisals in this case are more than three years old¹ and should be updated so the Commission can determine the ratemaking rate base of the selling utility. Additionally, the *March 2024 Order* was substantially influenced by rate proposals in PAWC's then-pending base rate case. *See, e.g., March 2024 Order* pp. 69-70, 75. That base rate case has been concluded, as has a subsequent PAWC base rate case. *Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2025-3057983, R-2025-3058051 *et al.* (Opinion and Order entered Jul. 27, 2026). Additionally, at oral argument before the Commonwealth Court, counsel for Brentwood represented that Brentwood has raised its rates for wastewater service since the evidentiary hearings closed in this case. Updated evidence

¹ Brentwood's appraisal is dated as of January 13, 2023, Brentwood St. No. 2 p. 3, and PAWC's appraisal is dated as of January 1, 2023, PAWC St. No. 4 p. 3.

concerning the rate impact of the acquisition would be significant for determining whether the acquisition's benefits outweigh its detriments.

c. The Commission's decision in this matter will have significant consequences, not only for the parties to this proceeding but also for customers of Brentwood and PAWC, members of the public-at-large, and other municipalities in the Allegheny County Sanitary Authority ("ALCOSAN") regional interceptor system. The public interest requires reopening the record to ensure an accurate and complete record, which is necessary for the Commission to issue the best possible decision in this matter. In addition, in 2024, the ALJ and the Commission each found numerous litigated issues to be moot, so it is unclear whether the existing record is adequate to address those issues. *See March 2024 Order* pp. 80, 107, 110, 131. The parties to this proceeding should be allowed to supplement the record to ensure that the record is accurate and complete concerning *all* issues presented in this case.

4. There is no statutory or other deadline for resolving this case on remand. Giving the parties to this proceeding an opportunity to update the record would not unreasonably delay the ultimate resolution of this case.

II. PROCEDURAL HISTORY

5. On December 22, 2020, PAWC and Brentwood entered into an Asset Purchase Agreement (as subsequently amended on March 2, 2023, the "APA") by which PAWC would purchase the System (the "Transaction").

6. PAWC was delayed in filing an application requesting Commission approval of the Transaction because Brentwood is a party to the Pittsburgh Zone Project Agreement of December 1, 1949, between ALCOSAN, the City of Pittsburgh, and Brentwood (the "Z Agreement"), which was determined to be not directly assignable to PAWC. Brentwood and

PAWC entered into a Cooperation and Allocation of Responsibilities Agreement ("Cooperation Agreement") defining and allocating certain rights and obligations under the Z Agreement to PAWC after closing on the Transaction ("Closing"). PAWC St. No. 1 pp. 9-10. Brentwood will remain primarily responsible for its municipal rights and obligations under the Z Agreement. Brentwood St. No. 1 at 6.

7. On March 31, 2023, PAWC filed the Application requesting approval of the Transaction pursuant to Sections 507, 1102 and 1329 of the Pennsylvania Public Utility Code ("Code"), 66 Pa. C.S. §§ 507, 1102 and 1329. Amendments to the Application were filed on May 31, 2023, and July 5, 2023.

8. The Office of Small Business Advocate ("OSBA") filed a Notice of Intervention, the Office of Consumer Advocate ("OCA") filed a Protest, and counsel for the Commission's Bureau of Investigation and Enforcement ("I&E") entered her appearance. Brentwood and ALCOSAN filed Petitions to Intervene, which were granted.

9. By Secretarial Letter dated July 20, 2023, the Commission conditionally accepted the Application contingent on PAWC providing notice to impacted customers. PAWC provided the required notice and filed proof of publication with the Commission. On September 14, 2023, the Commission notified PAWC that the Application was finally accepted with no further conditions. Notice of the Application was published in the Pennsylvania Bulletin on September 30, 2023. 53 *Pa.B.* 6139.

10. The Commission held two public input hearings on October 26, 2023. Evidentiary Hearings were held on November 8 and 14, 2023. PAWC, Brentwood, the OSBA, the OCA, I&E and ALCOSAN filed Main Briefs, and PAWC, Brentwood, the OCA and I&E filed Reply Briefs.

11. On January 17, 2024, Administrative Law Judge Katrina L. Dunderdale (the "ALJ") issued a Recommended Decision recommending that the Commission deny the Application. Exceptions were filed by PAWC and Brentwood and Reply Exceptions were filed by I&E, ALCOSAN, and the OCA.

12. At its Public Meeting of February 22, 2024, the Commission adopted the Motion of Vice Chair Kimberly Barrow to deny the Application. Chairman Stephen M. DeFrank issued a statement explaining why he voted for the motion. The Commission's Opinion and Order was entered on March 4, 2024.

13. The *March 2024 Order* denied the Application, finding that the Transaction does not affirmatively benefit the public in a substantial way, as required by Section 1103 of the Code and *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972). The Commission also found moot all the other issues that had been fully briefed and litigated.

14. On April 2, 2024, PAWC filed a Petition for Review with the Commonwealth Court, 355 C.D. 2024, as did Brentwood, 356 C.D. 2024. The two matters were subsequently consolidated (the "Appeal"). The parties to the Appeal were: PAWC, Brentwood, the Commission, the OCA and ALCOSAN.

15. PAWC, Brentwood and ALCOSAN filed Briefs. The Commission and the OCA subsequently filed Briefs, and PAWC and Brentwood filed Reply Briefs.

16. On December 10, 2025, oral argument was held before an *en banc* panel of the Commonwealth Court.

17. The Supreme Court issued its decision in *Lawrence* on December 16, 2025.

18. The Commonwealth Court subsequently allowed the parties to the Appeal to file Supplemental Briefs on the implications of *Lawrence* for the Commonwealth Court's decision in the Appeal. Supplemental Briefs were filed by PAWC, Brentwood, the Commission and the OCA.

19. On May 28, 2026, the Commonwealth Court issued its decision vacating the Commission's decision and remanding this proceeding for the issuance of a new opinion and order that comports with *Lawrence*. The Court ordered the Commission to give the parties to this proceeding an opportunity to submit Supplemental Briefs. In addition, the Court stated that the Commission may allow the parties to this proceeding to present additional evidence. Commonwealth Court Order pp. 1-2.

III. LEGAL STANDARDS

20. In pertinent part, 52 Pa. Code § 5.571 states:

(a) At any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence.

(b) A petition to reopen must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

...

(d) The record may be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding.

...

(2) The Commission may reopen the record after the presiding officer has issued a decision or certified the record to the Commission.

21. In this case, the record was closed when Reply Exceptions were submitted in December 2023.

22. Although the Commission issued a decision in this case, that decision has been vacated and this proceeding has been (or shortly will be) remanded to the Commission. Therefore,

the Petitioners respectfully submit that, at this time, the Commission has not entered a "final" decision within the meaning of Section 5.571.²

23. The date for appealing the Commonwealth Court's decision, or requesting reargument of that decision, has passed.

IV. THE COMMISSION SHOULD VACATE THE RECOMMENDED DECISION AND REMAND THESE PROCEEDINGS TO THE OALJ FOR FURTHER EVIDENTIARY PROCEEDINGS AND THE ISSUANCE OF A RECOMMENDED DECISION UPON REMAND.

24. The Petitioners respectfully submit that, for several reasons, this case satisfies the legal standard in Section 5.571 for reopening the record. Based on events occurring since the conclusion of the evidentiary hearing, conditions of fact and/or law have so changed as to require, and that the public interest requires, the reopening of the record. In addition, and for essentially the same reasons, PAWC respectfully submits that this case satisfies the legal standard contained in the Commonwealth Court's Order for reopening the record. Therefore, the Commission should vacate the Recommended Decision and remand this matter to the OALJ for further evidentiary hearings and the issuance of a Recommended Decision Upon Remand.

A. Conditions of Fact Have Changed Such as to Require Reopening the Record.

25. One of the critical legal issues in this case is whether the Transaction passes the "affirmative public benefit test" (*i.e.*, whether, on net, the benefits of the Transaction outweigh its detriments). According to the PUC's Order in this proceeding, the primary alleged detriment of the Transaction is the Transaction's rate impact for customers of PAWC and Brentwood. The Commission determined that the "cost of this acquisition, and especially its significant impact on

² The only other Commission regulation that explicitly addresses reopening the record, 52 Pa. Code § 5.572, cannot apply where, as here, a Commission order has been vacated by Commonwealth Court. Section 5.572(c) requires a Petition for Rehearing to be filed within 15 days after the Commission order became final. If the *March 2024 Order* is considered a "final order" within the meaning of Section 5.572, then it would be impossible to timely file a Petition for Rehearing because the deadline would pass long before the Commonwealth Court issued its decision.

PAWC's and Brentwood's customers, as explained above, outweighs the benefits that are alleged to result from the transaction." *March 2024 Order* p. 79.

26. In determining the Transaction's rate impacts for Brentwood's existing customers and PAWC's existing customers, the Commission was influenced by proposals made during PAWC's then-pending base rate case (*Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2023-3043189 and R-2023-3043190). *See, e.g., March 2024 Order* pp. 69-71, 75. Since the conclusion of the hearings, PAWC's 2023 base rate case has been resolved. PAWC filed another rate case in 2025, which was resolved by Opinion and Order entered July 27, 2026. *Pa. Pub. Util. Comm'n v. PAWC*, Docket Nos. R-2025-3057983, R-2025-3058051 *et al.* At oral argument before Commonwealth Court, Brentwood's counsel represented that Brentwood raised its rates for wastewater service after the conclusion of the evidentiary hearings. Consequently, the record no longer accurately reflects the rate impact of the Transaction on the customers of PAWC or Brentwood.

27. Another significant issue in this case is whether the Transaction has environmental benefits. The Commission agreed with the OCA that the Transaction merely maintains the environmental *status quo* because Brentwood is capable of meeting its environmental compliance targets under its Consent Order and Agreement ("COA") with the Pennsylvania Department of Environmental Protection. *March 2024 Order* p. 72. On remand, the Commission, consistent with the revised legal analysis established by *Lawrence*, should have the benefit of more recent information on Brentwood's compliance with the COA to determine whether Brentwood is capable of meeting those compliance targets.

28. Section 1329(c) provides that the ratemaking rate base of the selling utility is the lesser of the negotiated purchase price or the average of two utility valuation expert appraisals. As

stated above, the appraisals in this case are more than three years old and should be updated. If the record does not include updated appraisals, the Commission will be unable to determine the ratemaking rate base of the selling utility.

29. Simply allowing the parties to this proceeding to file briefs applying the *Lawrence* guidelines to the existing record will not be sufficient. Without accurate, up-to-date information on the benefits and detriments of the Transaction, the Commission will be unable to resolve material disputed issues. Therefore, the Commission should vacate the Recommended Decision and remand this matter to the OALJ for further evidentiary hearings and the issuance of a Recommended Decision Upon Remand.

B. Conditions of Law Have So Changed as to Require Reopening the Record.

1. *The Controlling Law for Purposes of the Commission's Order in this Proceeding Has Since Been Overruled.*

30. The *Cicero* decision was issued on July 31, 2023. Consequently, PAWC and the other parties to this proceeding litigated this case with the understanding that *Cicero* was the controlling law, even though that decision was being appealed.

31. After the conclusion of the evidentiary hearings in this proceeding, *Lawrence* overruled *Cicero*. In pertinent part, the Supreme Court in *Lawrence* stated:

We likewise disapprove of the notion that the Commission is foreclosed from considering benefits of a transaction merely because those benefits also pertain to the acquiring utility's fitness. We emphasize that an acquiring utility's size and fitness are not benefits in and of themselves, but, rather, simply hold that the Commission can properly consider benefits deriving from that size and fitness in its affirmative benefits analysis.

Lawrence, p. 33.

32. Additionally, the Supreme Court disagreed with *Cicero's* finding that the Commission cannot consider certain benefits in the affirmative public benefit analysis. Under *Cicero*, the PUC rejected a claim of public benefit because the selling municipality was already

providing the same or similar benefits that the acquiring utility could provide without the selling municipality increasing its rates, as would otherwise result from the acquisition. Conversely, in *Lawrence*, the Supreme Court stated:

The extent to which the services [the buyer] could provide would be an improvement over the services the [seller] currently provides goes to the weight accorded to those particular benefits rather than whether or not the services qualify as benefits at all.

Lawrence, p. 34.

33. The Commission should reopen the record so the parties to this proceeding have an opportunity to introduce testimony identifying each of the benefits and detriments of the Transaction and the weight that should be given to each of them under the *Lawrence* analysis. The parties to this proceeding relied upon then-existing law in developing the record and otherwise litigating this case. The parties may not have introduced pertinent evidence previously because they believed that certain benefits/detriments could not be considered under the *Cicero* analysis. It is only fair to allow the parties to develop a record that reflects the current state of the law. *Pessalano v. Zoning Bd. of Adj. of City of Pittsburgh*, 632 A.2d 1090, 1092 (Pa. Cmwlth. 1993) (due process requires that a party have notice of, and a meaningful opportunity to be heard, on the issues in the case).

34. Simply allowing the parties to file briefs applying the *Lawrence* guidelines to the existing record will not be sufficient because the record was developed based on prior law. The record should be reopened so the parties to this proceeding have an opportunity to present their case fully under the law that now governs this case.

35. Giving the parties an opportunity to introduce evidence to prove their case under the *Lawrence* analysis is particularly critical for PAWC, as PAWC bears the burden of proof in this proceeding. 66 Pa. C.S. § 332(a).

2. *The Commission entered a Tentative Supplemental Implementation Order and a Final Supplemental Implementation Order and Has Applied Them in Approving Several Transactions Since the Commission's Order in This Proceeding.*

36. After the conclusion of the evidentiary hearings, the Commission voted to issue the 2024 TSIO for comment. In pertinent part, the 2024 TSIO proposed the use of the RRR for reviewing acquisitions pursuant to Section 1329. "The crux of the RRR is to determine the ratio of the fair market value to depreciated original cost ('DOC') of a barometer group of similarly situated investor-owned water utility companies." 2024 TSIO p. 6. The Commission stated that the RRR would be used to "help guide the Commission in its determination on the reasonableness of the transaction price within a Section 1329 application." *Id.* at. 7-8.

37. In the 2024 TSIO, the Commission stated that, using then-current data, the RRR would be 1.68. Consequently, if the purchase price for a system would exceed 1.68 times the DOC of that system, the Commission would be unlikely to find the purchase price reasonable, which would weigh against approval of the acquisition. *Id.* at 7.

38. While the Commission apparently considered the 2024 TSIO in evaluating the Application, the 2024 FSIO was issued after the Commission's decision in this proceeding. *March 2024 Order* pp. 77-78 (noting that the System's proposed ratemaking rate base of \$19,364,443 was approximately 2.7 times the DOC of \$7,260,988). *See also* Statement of Chairman DeFrank pp. 1-2. The 2024 FSIO, however, was not intended to be applied retroactively. 2024 FSIO p. 114.

39. Since entering the 2024 FSIO, the Commission has approved several proposed Section 1329 applications, including: *Application of Aqua Pennsylvania Wastewater, Inc. for Approval of its Acquisition of the Wastewater System Assets of Greenville Sanitary Authority,*

Docket No. A-2023-3041695 (Opinion and Order entered Dec. 20, 2024);³ *Application of Aqua Pennsylvania Wastewater, Inc. for Approval of the Acquisition of the Wastewater System Assets of the City of Beaver Falls*, Docket No. A-2022-3033138 (Opinion and Order entered June 18, 2025);⁴ and *Application of PAWC for Approval of the Acquisition of the Wastewater Treatment Plant and Collection System Owned and Operated by the Elizabeth Borough Municipal Authority*, Docket No. A-2025-3052983 (Order entered Oct. 9, 2025).⁵

40. Because the Commission did not enter the 2024 TSIO and the 2024 FSIO until after the conclusion of the evidentiary hearings, the parties did not have an opportunity to introduce evidence addressing any issues arising under those Implementation Orders.⁶ Moreover, because the Commission did not enter the 2024 TSIO and the 2024 FSIO until after the parties filed Exceptions and Replies in this matter, the parties were unable to brief any issues arising under those Implementation Orders. Due process requires that a party have notice of and an opportunity to be heard on the issues presented in this case. *See Pessalano, supra*. To afford the parties due process and equal protection of the law, the Commission should reopen the record so the parties have an opportunity to address issues arising under the 2024 TSIO, the 2024 FSIO, and the Section 1329 acquisitions decided after the entry of those Implementation Orders. Consistency in Commission decision making cannot be achieved unless the parties are permitted to develop an

³ In this case, the Commission approved the acquisition although the proposed ratemaking rate base of the system was 2.63 times its DOC. *Id.* at 25.

⁴ In this case, the Commission approved the acquisition although the proposed ratemaking rate base of the system was approximately 5.94 times its DOC. Docket No. A-2022-3033138 (Statement of Vice Chair Kimberly Barrow) p. 2.

⁵ In this case, the proposed ratemaking rate base of the system was \$27,971,178, which was equal to the system's DOC times the RRR at the time of 1.68. Docket No. A-2025-3052983 (Recommended Decision issued Aug. 22, 2025) p. 77.

⁶ For example, the Commission's Order in this proceeding references the fact that the System's proposed ratemaking base was significantly higher than the DOC. In addition to addressing the legal implications of the 2024 FSIO, the parties also seek to update the appraisals in this proceeding, which may also impact application of the 2024 FSIO.

evidentiary record that allows for a comparison of the facts relied upon by the Commission in those other cases.

C. The Public Interest Requires Reopening of the Record.

41. In *Applications of SEPTA for an Exemption from the Provisions of Subchapter C of 52 Pa. Code Contained in 33.122(b) and (c) and to Exercise the Rights Contained in 52 Pa. Code 33.122(f) to Permit the Construction of Two (2) Partial High Level Platforms Associated with the Renovated and/or Reactivated Baldwin, Chester Transportation Center, Overbrook, Radnor and Strafford Railroad Stations*, Docket Numbers A-00115203 *et al.* (Opinion and Order entered Oct. 27, 2000 and Opinion and Order on Reconsideration entered Dec. 22, 2000), the Commission found that the public interest required reopening the record because of the "major consequences" that could flow from its decision. These consequences included the potential costs of the decision for the parties and the potential precedential impact of the decision for those who were not parties to the case. The Commission determined that "[o]ur examination of the record herein leads us to conclude that we should not direct an outcome that could include some or all of the above-outlined results without a complete and accurate factual record on which to base such a decision." Order entered Oct. 27, 2000, p. 10.

42. Similarly, in this case, the public interest requires reopening the record because of the major consequences that will flow from the Commission's decision. The Commission's decision to approve or disapprove the Transaction will have a considerable impact on Brentwood, PAWC, the customers of Brentwood and PAWC, and the public-at-large. In addition, because this proceeding appears to be the first case in which a municipality in the ALCOSAN regional interceptor system attempted to sell its wastewater system, the Commission's decision will set a precedent for more than 80 other municipalities in that system, many of which face problems

similar to those faced by Brentwood. PAWC Main Brief p. 40 and sources cited therein. Considering the potential consequences of its decision, the Commission should have a complete and accurate factual record before it. Therefore, the Commission should vacate the Recommended Decision and remand this matter to the OALJ for further evidentiary proceedings and the issuance of a Recommended Decision Upon Remand.

43. The public interest also favors reopening the record so that the Commission may consider Brentwood's continued support for the Transaction in light of the substantial passage of time since the Transaction was originally approved. Brentwood's elected governing body approved the sale of the System in 2020. In the nearly six years since that approval, Brentwood has experienced significant turnover in its elected leadership. Only three members of the Borough Council that approved the Transaction in 2020 remain on Council today; four current Council members were not members of Council when the Transaction was approved, and the Borough now has a different Mayor. Notwithstanding these changes in elected leadership, Brentwood continues to support the Transaction and believes that the transfer of the System to PAWC remains in the long-term best interests of the Borough and its residents. During the extended period in which the Transaction has been pending, including the Commission proceedings and subsequent appellate litigation, the Borough has not experienced material community opposition to the proposed sale. These circumstances further support allowing the Commission to consider a current and complete record regarding the public benefits of the Transaction.

D. The Petitioners' Exceptions Cannot be Properly Addressed Based on a Stale Record.

44. Commonwealth Court stated that "the Commission may allow the parties to present additional evidence, in the event it concludes that [the Petitioners'] exceptions to the administrative law judge's Recommended Decision cannot be properly addressed through the record as currently constituted." *Id.* at 1-2.

45. The Petitioners respectfully submit that their Exceptions cannot be properly addressed on the current record for the same reasons described in Paragraphs 25 through 43, *supra*. Many significant changes in fact and/or law have occurred over the three years since the conclusion of the evidentiary hearings, and the public interest requires reopening the record to ensure that the Commission has accurate and complete information on which to base its consequential decision in this case. Therefore, the Commission should vacate the Recommended Decision and remand this matter to the OALJ for further evidentiary proceedings and the issuance of a Recommended Decision Upon Remand.

V. POSITIONS OF THE PARTIES

46. The Petitioners discussed and/or shared this Petition to Reopen the Record with each of the other active parties to this proceeding. Petitioners have been advised that ALCOSAN does not oppose the Petition and that OCA intends to oppose the Petition. I&E and OSBA have not indicated a position on the Petition.

VI. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, for all of the reasons set forth above, Pennsylvania-American Water Company and the Borough of Brentwood respectfully request that the Pennsylvania Public Utility Commission:

- (1) GRANT this Petition to Reopen the Record;
- (2) Vacate the Recommended Decision; and
- (3) Remand these proceedings to the Office of Administrative Law Judge for further evidentiary proceedings and the issuance of a Recommended Decision Upon Remand.

Respectfully submitted,



/s/ Elizabeth Rose Triscari

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Counsel for Borough of Brentwood

Date: August 28, 2026

VERIFICATION

I, Michael Salvo hereby state that the facts above set forth above are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. Cons. Stat. §4904 relating to unsworn falsification to authorities.



Michael Salvo, Director, Business Development
Pennsylvania-American Water Company

Dated August 27, 2026

VERIFICATION

I, George Zboyovsky, Borough Manager for the Borough of Brentwood, have read the foregoing *Petition to Reopen the Record*. The statements of fact contained therein are true and correct to the best of my personal knowledge, information and belief. This statement and verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities which provides that if I make knowingly false averments, I may be subject to criminal penalties.

Dated: August 20
_____, 2026



George Zboyovsky, PE, ICMA-CM
Borough Manager