COMMONWEALTH OF PENNSYLVANIA

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September 17, 2026

Via Electronic Filing
Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code to acquire the wastewater collection and conveyance system owned by the Borough of Brentwood and to provide wastewater service to the public in the Borough of Brentwood in Allegheny County, Pennsylvania
Docket No. A-2021-3024058

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to Joint Petition of Pennsylvania-American Water Company and the Borough of Brentwood to Reopen the Record in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Enclosures
cc: Chief Administrative Law Judge Charles E. Rainey, Jr. (Via Email Only: crainey@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code to acquire the wastewater collection and conveyance system owned by the Borough of Brentwood and to provide wastewater service to the public in the Borough of Brentwood in Allegheny County, Pennsylvania	:	Docket No. A-2021-3024058

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Office of Consumer Advocate's Answer to Joint Petition of Pennsylvania-American Water Company and the Borough of Brentwood to Reopen the Record, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 17th day of September 2026.

SERVICE BY E-MAIL ONLY

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Dated: September 17, 2026

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 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.

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
TO JOINT PETITION OF PENNSYLVANIA-AMERICAN WATER COMPANY
AND THE BOROUGH OF BRENTWOOD TO REOPEN THE RECORD

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Sections 5.61 of the Public Utility Commission's regulations, the Pennsylvania Office of Consumer Advocate (OCA) files this Answer to the Joint Petition of Pennsylvania America Water Company (PAWC) and the Borough of Brentwood (Brentwood) to Reopen the Record (Petition to Reopen). The OCA respectfully requests that the Commission deny the Joint Petitioners' request to reopen the record because it does not comport with the Commonwealth Court of Pennsylvania's (Commonwealth Court) narrow instructions in its Remand Order[1] mandating that the parties file supplemental briefs and that the Commission issue a new Opinion and Order that reflects relevant changes in the law that have occurred while this case was under

[1] *PAWC v. Pa. PUC*, Docket No. 355 C.D. 2024; and *Borough of Brentwood v. Pa PUC*, Docket Now 356 C.D. 2024, Order (May 28, 2026) (Remand Order). PAWC and Brentwood each appealed. The two matters were subsequently consolidated.

review on appeal. Even if the Commission determines that the Petition to Reopen falls within the narrow instructions provided by the Commonwealth Court, the Joint Petitioners have not shown any fact or change in law that would reach the threshold necessitating re-opening the record in this proceeding. The OCA submits that because there is no need to reopen the record, there is subsequently no need to vacate the January 2024 Recommended Decision and remand to OALJ as requested by the Joint Petitioners. Therefore, the OCA respectfully requests that the Commission deny the Petition to Reopen and proceed with filing supplemental briefs as directed by the Commonwealth Court.

I. INTRODUCTION

On March 31, 2023, Pennsylvania-American Water Company (PAWC) filed an Application under Sections 507, 1102, and 1329 of the Public Utility Code. PAWC first requested that the Public Utility Commission (Commission) (1) approve its acquisition of the wastewater system assets of Borough of Brentwood (Brentwood) and (2) approve the right of PAWC to provide wastewater service in the requested territory, by issuing Certificates of Public Convenience under Section 1102. PAWC also requested that the Commission include, in its Order approving the acquisition, the ratemaking rate base of the assets as determined under Section 1329(c)(2) of the Public Utility Code, in addition to other costs associated with the proposed transaction. PAWC also requested approval of the Asset Purchase Agreement (APA), as amended, dated March 2, 2023, the Cooperation Agreement between Borough of Brentwood and Pennsylvania-American Water Company dated March 2, 2023, as well as other municipal agreements, pursuant to Section 507 of the Public Utility Code.

PAWC provides wastewater service to approximately 97,325 customers throughout Pennsylvania. Brentwood owns a sanitary wastewater collection-only system which provides direct wastewater collection service to approximately 3,974 customers in the Borough of Brentwood, who will become PAWC customers if the Application is approved.

On April 7, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, and Public Statement. The OCA filed a Protest and Public Statement on May 4, 2023. On May 12, 2023, the Commission's Bureau of Investigation and Enforcement (I&E) entered its appearance in the matter.

By Secretarial Letter dated July 20, 2023, the Commission conditionally accepted the Application for filing. The Commission directed PAWC to provide individual notice to PAWC's potentially affected existing water and wastewater customers, ensure concurrent notice is provided to all current Brentwood wastewater customers and that newspaper notice be provided in the Brentwood area. Upon completion, PAWC was directed to file proof of publication of the newspaper notice with the Commission. On September 5, 2023, PAWC filed notice it served a copy of the Application on all parties listed in the Secretarial Letter dated July 25, 2023, and on all its customers as well as current wastewater customers of the Borough of Brentwood. PAWC also filed Proof of Publication showing that notice of the Application appeared in the Pittsburgh Post-Gazette on August 17, 2023, and August 24, 2023.

On September 15, 2023, the Office of Administrative Law Judge assigned Administrative Law Judge Katrina L. Dunderdale (ALJ Dunderdale) to the instant matter, and scheduled a telephonic prehearing conference for October 17, 2023, directing the parties to submit a prehearing conference memorandum on or before October 16, 2023. On October 2, 2023, the Borough of

Brentwood filed a Petition to Intervene. On October 11, 2023, the Alleghany County Sanitary Authority (ALCOSAN) filed a Petition to Intervene. ALCOSAN provides treatment services for the Brentwood collection system, as well as 82 other municipally-owned collection systems in Allegheny County. A prehearing conference was held on October 17, 2023, during which the Borough and ALCOSAN's Petitions were granted.

The parties filed direct, rebuttal, and surrebuttal testimony. Evidentiary hearings were held on November 8, 2023, and November 14, 2023, where the OCA and other parties submitted their testimony and associated exhibits into the record. On November 7, 2023, PAWC, the Borough, and ALCOSAN filed a joint stipulation, which was later amended through a subsequent filing on November 14, 2023, to alter provisions contained within the schedules attached to the Asset Purchase Agreement in Appendix 24 to the Application. In an order issued November 16, 2023, ALJ Dunderdale denied the oral motions of PAWC to admit either the original or amended joint stipulation into the record. On January 17, 2024, ALJ Dunderdale issued her Recommended Decision denying the Application.[2]

On March 4, 2024, the Commission issued an Opinion and Order denying the Application.[3] On April 2, 2024, PAWC and Brentwood each filed a Petition for Review with the Commonwealth Court. The two matters were subsequently consolidated (The Appeal). The parties to the appeal were: PAWC, Brentwood, the Commission, the OCA and ALCOSAN. PAWC, Brentwood and

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[2] *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 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*, R.D. at 134 (Jan. 17, 2024) (Jan. 2024 R.D.)

[3] *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 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 No. A-2021-3024058, Opinion and Order (March 4, 2024) (March 2024 Order).

ALCOSAN filed Briefs. The Commission and the OCA subsequently filed Briefs, and PAWC and Brentwood filed Reply Briefs. On December 10, 2025, oral argument was held before an *en banc* panel of the Commonwealth Court.

On December 16, 2025, the Supreme Court of Pennsylvania issued its decision in *Lawrence v. Pa. PUC*, 348 A.3d 108 (Pa. 2025) (Lawrence), which overturned pre-existing law related to Section 1329 proceedings under *Cicero v. Pa. PUC*, 300 A.3d 1106 (Pa. Cmwlth. 2023) (Cicero). 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.

On May 28, 2026, the Commonwealth Court issued an Order vacating the Commission's decision and remanding this proceeding for the issuance of a new opinion and order that comports with *Lawrence.* In its Order, the Commonwealth Court included three explicit and narrow instructions regarding how it wanted the Commission to handle this remand:

> This matter is REMANDED 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 v. Pennsylvania Public Utility Commission*, 348 A.3d 108 (Pa. 2025), and the analytical guidance provided therein;
>
> The Commission shall give the parties an opportunity to file supplemental briefs.
>
> In addition, the Commission may allow the parties to present additional evidence, in the event it concludes that Pennsylvania-American Water Company's and Borough of Brentwood's respective exceptions to the administrative law judge's Recommended Decision cannot be properly addressed through the record as currently constituted.[4]

[4] *See* Remand Order.

On August 28, 2026, the Joint Petitioners filed the Joint Petition of Pennsylvania-American Water Company and the Borough of Brentwood to Reopen the Record. The OCA files this Answer in response to the Petition to Reopen, asserting it should be denied.

II. LEGAL STANDARDS

Pursuant to Section 332(a) of the public utility code, the proponent of a rule or order has the burden of proof.[5] Pursuant to Section 5.571(a) of the Commission's regulations, "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."[6] A petition to reopen a proceeding "must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law to have occurred since the conclusion of the hearing."[7] Additionally, "[t]he 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."[8] The decision to reopen a record is within the discretion of the administrative agency. On review, exercise of that discretion will not be reversed unless a clear abuse is shown.[9] The Commission may deny a request where evidence of all of the additional facts alleged was available at the time of the hearing.[10]

[5] 66 Pa. C.S. § 332(a).
[6] 52 Pa. Code § 5.571(a).
[7] 52 Pa. Code § 5.571(b).
[8] 52 Pa. Code § 5.571(d).
[9] *Fritz v. Dept of Transportation*, 468 A.2d 538 (Pa. Cmwlth. 1983).
[10] *Hess v. Pa. PUC*, 107 A.3d 246, 267 (Pa. Cmwlth. 2014).

III. ANSWER TO THE PETITION TO REOPEN

The allegations in the Petition to Reopen are admitted and denied by the OCA consistent with the discussion below in this Answer. In addition, the OCA further states that: (a) no response is required to the legal conclusions in the Joint Petition; (b) the Petition to Reopen contains various purported facts that are based on information in the possession of Joint Petitioners and are, therefore, denied. To the extent that these paragraphs include conclusions of law, no response is required; (c) the Petition to Reopen references Commission documents and evidence; all of these documents speak for themselves, and any factual allegation in the Petition that is contrary to and/or not corroborated by those documents is specifically denied; and, (d) as to any remaining factual averments contained in the Petition to Reopen which are not expressly addressed by this Answer, the OCA denies them consistent with the responses and discussion herein.

A. The Joint Petitioners request to reopen the record exceeds the scope of what the Commonwealth Court directed on remand and therefore should be denied.

In its Remand Order, the Commonwealth Court provided narrow and explicit instructions regarding how new record evidence should be added to the record during the remand portion of this proceeding:

> In addition, the Commission *may allow* the parties to present additional evidence, in the event it concludes that Pennsylvania-American Water Company's and Borough of Brentwood's *respective exceptions to the administrative law judge's Recommended Decision* cannot be properly addressed through the record as currently constituted.[11]

[11] *See Remand Order* (emphasis added).

PAWC filed three exceptions to the ALJ's *Jan. 2024 R.D.*[12] The Borough of Brentwood also filed three exceptions to the ALJ's *Jan. 2024 R.D.*[13] However, the Joint Petitioners failed to cite either of their respective exceptions in the Petition to Reopen. Here, the Commonwealth Court clearly stated that the Commission *may* consider the inclusion of additional evidence in the event the Joint Petitioners' "respective exceptions to the administrative law judge's Recommended Decision cannot be properly addressed through the record as currently constituted."[14] Not only did the Joint Petitioners fail to cite to their exceptions, they all together fail to cite to the *Jan. 2024 R.D.* whatsoever in order to describe what evidence they find to be flawed and how they would be unable to file a supplemental brief with the record as it stands under *the Lawrence* decision.[15] The Joint Petitioners attach a catch-all subsection with vague assertions about how their exceptions are impacted:

> 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.[16]

The Joint Petitioners do not clearly articulate the scope of their request, and likewise does not reference the *Jan. 2024 R.D.* or their exceptions. As the proponent of an Order, the Joint

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[12] *See 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 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 No. A-2021-3024058, Exceptions of Pennsylvania-American Water Company (Jan. 24, 2026).

[13] See *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 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 No. A-2021-3024058, Exceptions of the Borough of Brentwood to the Recommended Decision of Administrative Law Judge Katrina Dunderdale (Jan. 24, 2026).

[14] *See* Remand Order.

[15] *See* Petition to Reopen.

[16] Petition to Reopen at 16.

Petitioners would fail to meet their burden under the public utility code.[17] The Commonwealth Court's order is more narrow and the Joint Petitioners have failed to adhere to the Commonwealth Court's clear instructions in its request to reopen the record and therefore should be denied.[18]

B. The Joint Petitioners failed to state specifically how re-opening the record would adversely impact the public interest, only providing broad assertions.

The kinds of evidence the Joint Petitioners are requesting to enter into the record are so broad and non-specific, the Commission cannot perform one of its basic tests to evaluate whether the record should be re-opened: did the evidence exist prior to evidentiary hearings?[19] Here the Commission cannot consider whether the facts the Joint Petitioners wish to enter into the record were available before evidentiary hearings or after evidentiary hearings because the Joint Petitioners do not offer any in the Petition to Reopen. The Joint Petitioners furthermore do not describe how even their vague assertions inhibit their ability to file a supplemental brief using the revised legal analysis under *Lawrence*.

1. Examples of the kind of specificity the Commission has considered in a Petition to reopen the record.

This last month, ALJ Eranda Vero issued an Order Addressing two Petitions requesting to re-open the record in a different proceeding.[20] The Petitioners wanted to introduce four concrete pieces of evidence:

- Test Results for Arsenic Sampling Received on May 8, 2026.
- An Annual Report filed with the Commission on April 30, 2026.

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[17] 66 Pa. C.S. § 332(a).
[18] *See* Remand Order.
[19] Hess v. Pa. PUC, 107 A.3d 246, 267 (Pa. Cmwlth. 2014).
[20] *Pa. PUC, Bureau of Investigation and Enforcement v. Conneaut Lake Park Water Corporation, Inc.,* Docket Nos. P-2024-305-1855, *et al*. Order on Respondent's Petition to Reopen the Record (Aug. 3, 2026).

- Deed of Proving a Specific Customer Sold Their Property.
- A Facebook Post[21]

Each of the four items are tangible forms of evidence for the ALJ to evaluate. In her analysis, ALJ Vero examined whether each item was available before evidentiary hearings took place and/or considered whether the new items would prejudice the party's briefs, which had been submitted through the Reply Brief stage in that proceeding.[22] Even the case the Joint Petitioners cite to support of their claim that reopening the record is in the public interest has concrete evidence for the Commission to weigh.[23] 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*, the ALJ issued a Recommended Decision advising the Commission to approve: "exemptions for partial high level platforms at four (4) of the relevant stations . . .but only on the condition that SEPTA must construct, at its sole initial cost and expense, 'gauntlet tracks' at each of these stations."[24] The Commission recognized that:

> In its Petition, SEPTA requested that the Commission reopen these proceedings for the purpose of allowing additional evidence on the following questions: (1) whether partial high level platforms are unsafe when located adjacent to a track used for freight service; and (2) the cost and operational consequences of requiring the

[21] *Id*.
[22] *Id*.
[23] Petition to Reopen at 14; *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 Nos., *et al*: A-00115203 *et al*. Opinion and Order (Oct. 27, 2000)(Oct. 2000 Order); and Opinion and Order on Reconsideration (Dec. 22, 2000).
[24] *See* Oct. 2000 Order at 5-11.

installation of gauntlet tracks at the five (5) stations covered by SEPTA's Applications.[25]

Additionally, the Commission concluded that SEPTA leased the relevant stations from Amtrak, and therefore needed input from Amtrak before it could support rendering an Opinion and Order.[26] In this instance, SEPTA and the Commission explained why reopening the record is justified: the record was incomplete and therefore reopening the record was in the public interest.[27] In the instant 1329 proceeding, the record is complete and as explained *infra*, the Joint Petitioners do not provide any evidence or point to any material change in fact that merits reopening the record or how by not including the kind of record evidence they are requesting will inhibit them from filing a supplemental brief under *Lawrence*.

2. The Joint Petitioners do not provide any solid grounds for reopening the record to insert new evidence in light of *Lawrence.*

The Joint Petitioners aver that the record no longer accurately reflects the rate impact of the transaction on the customers of PAWC or Brentwood.[28] The Joint Petitioners state that the 2023 PAWC rate case has been resolved and that PAWC filed another rate case in 2025, which has also been resolved.[29] Additionally, the Borough of Brentwood raised its rates after evidentiary hearings.[30] However, the Joint Petitioners do not define what is meant by "rate impact." Supposing that there is some quantifiable "rate impact" metric at play in this discussion, the Joint Petitioners do not provide "before" and "current" comparison to show how it might be different. Because the

[25] *Id*.
[26] *Id*.
[27] *Id*.
[28] Petition to Reopen at 9.
[29] *Id*.
[30] *Id*.

Joint Petitioners did not provide a quantifiable metric to demonstrate how the "rate impact" is different, there remains a plausible reality that the "rate impact" is the exact same.

The Joint Petitioners' request here does not comply with the Commission's regulations which stipulate what kind of evidence justifies reopening the record.[31] The Joint Petitioners claimed that the Commission relied on the Borough's compliance with a Pennsylvania Department of Environmental Protection Consent Order and Agreement (COA) pertaining to whether Brentwood is capable of meeting certain environmental compliance targets.[32] The Joint Petitioners state that the "Commission . . . should have the benefit of more recent information on Brentwood's compliance with the COA."[33] The Commission's regulations clearly state that the kind of evidence that justifies reopening the record is limited to "conditions of fact or of law [which] have so changed as to require, or that the public interest requires, the reopening of the proceeding."[34] Here the regulations state that the question turns on whether the public interest benefits from reopening the record, not whether the Commission benefits, as the Joint Petitioners state in their Petition to Reopen.[35] Furthermore, the Joint Petitioners do not explain how by not including more updated COA compliance reports how the Joint Petitioners will be impeded from performing a full legal analysis of the record under *Lawrance*. The Joint Petitioners do not provide a comparison of the Borough's COA compliance records prior to the March 2024 Order as compared with more recent COA compliance records. They do not point out any significant difference that would necessitate reopening the record. The Joint Petitioners do not provide any basis to support its request to reopen

[31] *Id*.
[32] *Id*.
[33] *Id*.
[34] 52 Pa. Code § 5.571(d).
[35] Petition to Reopen at 9.

the record therefore there remains a plausible reality that the impact of the COA compliance records is the exact same.

The Joint Petitioners likewise do not provide an explanation why they should be able to enter two new independent valuation appraisals into the record and they do not explain why such a request is required in order for them to provide a revised supplemental brief in accordance with *Lawrence*.[36] Section 1329(c)(2) provides that "The ratemaking rate base of the selling utility shall be the lesser of the purchase price negotiated by the acquiring public utility or entity and selling utility or the fair market value of the selling utility."[37] Here we know the negotiated purchase price, it is $19,364,443 per the ALJ's findings of fact No. 44.[38] The two Utility Valuation Experts (UVE) appraisals provided were $22,721,549 and $20,934,000 respectively.[39] Both UVE appraisals were higher than the negotiated purchase price, therefore the ratemaking base in accordance with Section 1329(c)(2) is $19,364,443. According to the Joint Petitioners, if the record "does not include updated appraisals, the Commission will be unable to determine the ratemaking rate base of the selling utility."[40] That is untrue, the Commission already has the ratemaking rate base of the selling utility, it is the price negotiated by the Joint Petitioners. The price negotiated by the Joint Petitioners was less than the two fair market appraisals. Here the Joint Petitioners do not provide any evidence to suggest that new UVE appraisals would be less than the negotiated purchase price.

C. The factual record in this proceeding is complete and only requires an updated legal analysis in accordance with *Lawrence*.

[36] Petition to Reopen at 9-10.
[37] 66 Pa. C.S. § 1329(c)(2).
[38] Jan. 2025 R.D. at 12.
[39] *Id*.
[40] Petition to Reopen at 10.

The OCA submits not only have the Joint Petitioners failed to justify approval of its request to reopen the record, such approval would create a vacuum that would need to be filled with other key evidence to put the Joint Petitioners' yet-to-be-generated evidence in context. The Joint Petitioners make an open ended bid requesting the "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."[41] The Joint Petitioners' open-ended request to reopen the record to introduce new expert witness testimony does not present the full extent of due process required to fulfill such a request. This would necessitate the OCA solicit new expert witnesses, provide direct testimony, rebuttal testimony, and surrebuttal testimony. The parties would likely need the opportunity to cross examine the indeterminate number of new witnesses. In order to determine the "benefits and detriments" of the transaction, that would likely require public input hearings. The OCA submits this is far beyond the remand instructions issued by the Commonwealth Court[42] because this open-ended proposal could be as broad as re-litigating the entire case.

The Joint Petitioners speculate that the parties "may not have introduced pertinent evidence previously because they believed that certain benefits/detriments could not be considered under the *Cicero* analysis."[43] The Joint Petitioners do not provide any example of when PAWC or Brentwood made a decision in their case-in-chiefs that they otherwise would have presented evidence differently but-for the *Cicero* decision. The Commission should not permit reopening the record on a speculative basis.

[41] Petition to Reopen at 11.
[42] *See* Remand Order.
[43] Petition to Reopen at 11.

The Joint Petitioners further attempt to broaden the scope of the remand Order by attempting to relitigate an issue completely unrelated to the *Cicero* and *Lawrence* decisions: The Joint Petitioners are raising questions about the timing of when the Commission issued a Tentative Supplemental Implementation Order (TSIO) and a Final Supplemental Implementation Order (FSIO).[44] The timing of the TSIO and FSIO was not at issue when weighing the evidence under a *Cicero* analysis or *Lawrence* analysis.[45] The Joint Petitioners make no reference to exceptions or the *Jan. 2024 R.D*. or discuss how it they would be unable to perform a *Lawrence* analysis because of the timing of the two implementation orders. The OCA submits that this aspect of the case is far more broad than the instructions laid out in the Commonwealth Court's Remand Order.

[44] Petition to Reopen at 12-14.
[45] *Id*.

IV. CONCLUSION

The OCA respectfully request that the Commission recognize that the Joint Petitioners have not provided sufficient justification to reopen the record due to the lack of specificity of the kind of evidence it wishes to include. Furthermore, the Joint Petitioners failed to demonstrate how the current evidentiary record will inhibit their ability to produce a supplemental brief that includes a legal analysis under *Lawrence* as directed by the Commonwealth Court. The OCA further submits because the record does not need to be reopened, there is no need to pursue the Joint Petitioners' subsequent request to vacate the January 2024 Recommended Decision and remand to OALJ. The OCA submits that the right course of action is to proceed to scheduling supplemental briefing deadlines.

Respectfully submitted,

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Dated: September 17, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania-American Water Company under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code to acquire the wastewater collection and conveyance system owned by the Borough of Brentwood and to provide wastewater service to the public in the Borough of Brentwood in Allegheny County, Pennsylvania	:	Docket No. A-2021-3024058

VERIFICATION

I, Darryl A. Lawrence, hereby state that the facts set forth in the Office of Consumer Advocate's Answer to Joint Petition of Pennsylvania-American Water Company and the Borough of Brentwood to Reopen the Record, are true and correct (or 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 herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: September 17, 2026

Signature: /s/ *Darryl A. Lawrence*
Darryl A. Lawrence
Consumer Advocate

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