

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 6, 2016

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Application of Pennsylvania-American Water Company for Approval of (1) the transfer, by sale, of substantially all of the Borough of New Cumberland's assets, properties and rights related to its wastewater collection and treatment system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Borough of New Cumberland, Cumberland County, Pennsylvania and (3) the right of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to three customers in Lower Allen Township, Cumberland County, Pennsylvania
Docket No. A-2016-2544151

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Protest and Public Statement in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon

Senior Assistant Consumer Advocate

PA Attorney I.D. # 83487

E-Mail: EGannon@paoca.org

Attachment

cc: Office of Administrative Law Judge
Office of Special Assistants
Bureau of Technical Utility Services (email only)
Certificate of Service

221906

Melanie J. El Atieh, Esquire
Susan Simms Marsh, Esquire
Pennsylvania American Water
800 West Hersheypark Drive
Hershey, Pennsylvania 17033

/s/ Erin L. Gannon

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Pennsylvania-American Water Company for Approval of (1) the transfer, by sale, of substantially all of the Borough of New Cumberland's assets, properties and rights related to its wastewater collection and treatment system to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to the public in the Borough of New Cumberland, Cumberland County, Pennsylvania and (3) the right of Pennsylvania-American Water Company to begin to offer or furnish wastewater service to three customers in Lower Allen Township, Cumberland County, Pennsylvania :

Docket No. A-2016-2544151

PROTEST OF THE
OFFICE OF CONSUMER ADVOCATE

The Office of Consumer Advocate (OCA) files this Protest in the above-captioned Application pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§5.51-5.53, and Chapter 11 of the Public Utility Code, 66 Pa. C.S. § 1101, *et seq.* Through this Application, Pennsylvania-American Water Company, Inc. (PAWC) seeks Commission approval for the acquisition of the sewage system and sewage treatment works assets of the Borough of New Cumberland (Borough). PAWC also seeks approval to provide wastewater service in the areas served by the Borough and approval of its proposed tariff for service of the transferred

customers.

The OCA files this Protest in order to ensure that the application is approved only if (1) it is found to be in the public interest; (2) it provides substantial, affirmative benefits to the public, and (3) it is in accordance with the Public Utility Code and applicable Commission rules and regulations.

Specifically, the OCA avers as follows:

1. The Protestant is Tanya J. McCloskey, Acting Consumer Advocate, 555 Walnut Street, 5th Floor, Forum Place, Harrisburg, PA 17101-1923. Protestant's attorneys for the purpose of receiving service of all documents in this proceeding are Christine Maloni Hoover and Erin L. Gannon, Senior Assistant Consumer Advocates.

2. The OCA is authorized by law to represent the interests of utility ratepayers in all proceedings before the Commission. 71 P.S. §§ 309-1, *et seq.* This Protest is filed by the OCA to ensure that the interests of PAWC's existing and acquired customers are protected.

3. Section 1102 of the Public Utility Code requires that the Commission issue a Certificate of Public Convenience as a legal prerequisite to an entity offering service, abandoning service and certain property transfers by public utilities or their affiliated interests. 66 Pa. C.S. §1102(a)(1)-(3).

4. The Code further requires that a certificate shall only be granted upon findings that the granting of such certificate is "necessary or proper for the service, accommodation, convenience or safety of the public." 66 Pa. C.S. § 1103(a). See City of York v. Pa. P.U.C., 449 Pa. 136, 141, 295 A.2d 825, 828 (1973); see also Popowsky v. Pa. P.U.C., 594 Pa. 583; 937 A.2d 1040 (2007).

5. Section 1103 explicitly allows the Commission to impose conditions upon the

issuance of a Certificate of Public Convenience. 66 Pa. C.S. § 1103(a). Section 1103(a) of the Code provides: “The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable.” The OCA submits that the Commission may wish to consider the imposition of conditions in order to ensure that the public interest standard is met.

6. Preliminarily, the OCA has identified the following areas that requires further consideration by the Commission and must be resolved prior to Commission approval of this Application.

Substantial, Affirmative Benefits to Existing PAWC Customers

7. PAWC proposes to pay a \$23 million purchase price to the Borough, in addition to a commitment to spend \$2 million for capital improvements to the water and wastewater infrastructure located within the Borough over the five year-period immediately following the closing date. According to the notice provided by the Borough to its residents, the Borough’s Valuation Report determined that the system has a fair market value of \$17.5 million. PAWC also agrees to offer employment to each of the current five (5) employees of the Borough’s wastewater department at comparable wages and benefits. The OCA submits that additional information is necessary to determine if the proposed purchase price, investment and offers of employment are reasonable and how the transaction will substantially and affirmatively benefit PAWC’s existing customers.

Proposed Rates:


7. PAWC has requested, as part of the application for a certificate of public convenience, approval to charge customers the base rates charged by the Borough at the time of closing, except that the quarterly customer charge for residential customers will be converted to a monthly charge. Based on the Borough’s current rates, PAWC would charge \$25.54 plus

\$1.201 per 100 gallons per month up to 900 gallons and \$1.022 per 100 gallons per month up to 3,900 gallons for metered residential customers. Rev. Exh. I. PAWC's current residential wastewater Zone 1 rates are a \$7.50 per month customer charge and \$1.2880 per 100 gallon volumetric charge. An acquired Borough residential customer using 3,000 gallons per month would continue to pay \$32.27 per month once they become PAWC customers rather than \$46.14 that PAWC's Zone 1 customers would pay for the same usage. Further, PAWC proposes that the acquired customer rates would not increase before January 1, 2018 and, for two years thereafter, would not increase by more 2.5% per year. The OCA submits that additional information is necessary to determine if the proposed rates and rate increase limitations are reasonable.

10. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicant.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission not approve this Application at this time due to the issues raised above and the need for additional information. The Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission investigate and hold full hearings, including public input hearings in the Authority's service territory, regarding the Application.

Respectfully submitted,



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Counsel for:

Tanya J. McCloskey
Acting Consumer Advocate

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Dated: June 6, 2016

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PUBLIC STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Acting Consumer Advocate determined to file a Protest and participate in proceedings before the Commission involving the proposed acquisition by Pennsylvania American Water Company (PAWC) of the New Cumberland Borough (Borough).

The objective of the Acting Consumer Advocate in filing a Protest in this matter is to protect the interests of PAWC's current customers and Borough customers. The Acting Consumer Advocate will endeavor to prevent ratepayers from paying costs that are unreasonable or unduly discriminatory, or otherwise violative of the Public Utility Code. The Acting Consumer Advocate will investigate the proposed acquisition and request the Public Utility Commission order all necessary and proper customer protections which are justified, reasonable, and in accordance with sound ratemaking principles.

PAWC serves approximately 21,284 wastewater customer accounts in Pennsylvania. The Borough serves approximately 3,158 customers in the Borough of New Cumberland and three customers in Lower Allen Township, Pennsylvania.