



November 20, 2018

VIA E-FILE

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: Implementation of Section 1329 of the Public Utility Code; Docket No. M-2016-2543193

PENNSYLVANIA-AMERICAN WATER COMPANY'S REPLIES TO COMMENTS ON THE TENTATIVE SUPPLEMENTAL IMPLEMENTATION ORDER

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are Pennsylvania-American Water Company's Replies to Comments filed by the other parties in the above-referenced proceeding. As required by Ordering Paragraph No. 7, these replies are also being provided in Word-compatible format to Law Bureau. Copies have been served as shown on the attached certificate of service.

If you have any questions regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *Pennsylvania-American Water Company*

DPZ:kmg
Enclosure

cc: Andrew L. Swope, Esq.
Shaun Sparks, Esq., Law Bureau (Word-compatible version via e-mail)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of 1329 of the Public Utility Code : Docket No. M-2016-2543193
: :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Replies to Comments on the Tentative Supplemental Implementation Order** on behalf of Pennsylvania-American Water Company, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL

Pennsylvania Rural Water Association
138 West Bishop Street
Bellefonte, PA 16823

Pennsylvania State Association of Township Supervisors
4855 Woodlands Drive
Enola, PA 17025

Pennsylvania State Association of Boroughs
2941 North Front Street
Harrisburg, PA 17110

John R. Evans
Office of Small Business Advocate
300 North Second Street
Suite 202
Harrisburg, PA 17101

David R. Kaufman, Chairman
NAWC PA Chapter
c/o Pennsylvania American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Francis J. Catania, Esq.
Catania & Parker, L.L.P.
230 North Monroe Street, 2nd Floor
P.O. Box 2029
Media, PA 19063
Solicitor for *Chester Water Authority*

Kevin M. Fox, P.E.
Service Group Manager, Financial Services
Herbert, Rowland & Grubic, Inc.
369 East Park Drive
Harrisburg, PA 17111
Representative for *Herbert, Rowland & Grubic, Inc.*

Erika L. McLain, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265
Counsel for *Bureau of Investigation & Enforcement*

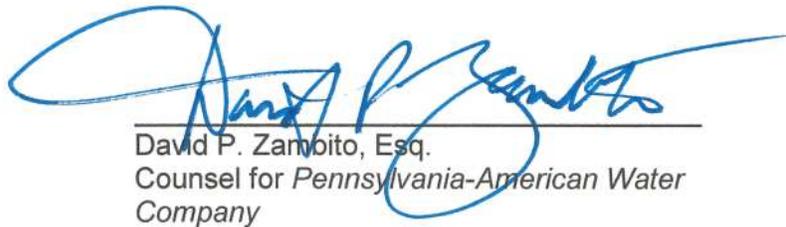
John D. Hollenbach P. E.
General Manager and Vice President
SUEZ Water Pennsylvania Inc.
4211 East Park Circle
Harrisburg, PA 17111-0151
**Representative of SUEZ Water
Pennsylvania Inc.**

Christine Maloni Hoover, Esq.
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
**Counsel for Office of Consumer
Advocate**

Alexander R. Stahl, Esq.
Regulatory Counsel
Aqua Pennsylvania, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
Counsel for Aqua Pennsylvania, Inc.

Steven A. Hann, Esq.
Hamburg, Rubin, Mullin, Maxwell
& Lupin, P.C.
ACTS Center – Blue Bell
375 Morris Road
P.O. Box 1479
Lansdale, PA 19446-0773
**Counsel for Pennsylvania Municipal
Authorities Association**

Jeffrey R. Hines, P.E.
President and Chief Executive Officer
The York Water Company
130 East Market Street
York, PA 17401
**Representative of The York Water
Company**



David P. Zambito, Esq.
Counsel for Pennsylvania-American Water
Company

Date: November 20, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Section 1329 : Docket No. M-2016-2543193
Of the Public Utility Code :

**PENNSYLVANIA-AMERICAN WATER COMPANY’S REPLIES TO COMMENTS
ON THE TENTATIVE SUPPLEMENTAL IMPLEMENTATION ORDER**

NOW COMES PENNSYLVANIA-AMERICAN WATER COMPANY (“PAWC”), pursuant to the Tentative Supplemental Implementation Order (“TSIO”) entered in this matter on September 20, 2018, to submit these Replies to Comments submitted in this matter.

I. INTRODUCTION AND BACKGROUND

PAWC is the largest regulated public utility corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, engaged in the business of collecting, treating, storing, supplying, distributing and selling water to the public, and collecting, treating, transporting and disposing of wastewater for the public. It has completed two acquisition proceedings pursuant to Section 1329 and is currently preparing several additional Section 1329 applications.

PAWC appreciates the opportunity to provide its input to the Commission. In these Replies, PAWC will respond to some of the comments of other public utilities, the statutory advocates, and other interested parties.

II. REPLIES TO COMMENTS OF AQUA PENNSYLVANIA, INC.

A. NOTICE TO CUSTOMERS

On pages 7-10 of its Comments, Aqua Pennsylvania Inc. (“Aqua”) discusses the notice that must be sent to customers affected by the acquisition. This is a critical issue, which PAWC discussed at length in its comments. PAWC Comments pp. 4-7. PAWC will not repeat that discussion here.

Aqua has petitioned for allowance of appeal of the Commonwealth Court of Pennsylvania’s decision in *McCloskey v. Pennsylvania Public Utility Commission*, 1624 C.D. 2017 (September 17, 2018) (“*McCloskey*”) to the Supreme Court of Pennsylvania (“PA Supreme Court”). However, it is unclear, as of the filing of these Replies to Comments, whether the PA Supreme Court will accept the case. Unless and until the *McCloskey* decision is stayed or overruled, PAWC recommends that the Commission comply with the requirements set forth in that case, in order to reduce the risk that a Commission decision approving an acquisition is appealed and, possibly, overturned. Even an unsuccessful appeal challenging the Commission’s approval of an acquisition would cause a delay in closing on the transaction, which could cause the parties to terminate the deal.

Aqua’s comments appear inconsistent with the *McCloskey* decision. Therefore, PAWC continues to recommend the two-track litigation approach discussed at pages 5-6 of its Comments. If the PA Supreme Court stays or overturns the *McCloskey* decision, the PUC can reconsider its approach.

B. CHECKLIST FOR APPLICATIONS REQUESTING SECTION 1329 APPROVAL

On page 11 of its comments, Aqua discusses Item 20 on the revised checklist of items to be appended to Section 1329 applications. This item requires the applicant to provide documentation of all Notices of Violation issued to the seller by Pennsylvania Department of Environmental Protection (“DEP”) for the last five years, and an explanation of each, including a description of any corrective or compliance measures taken. Aqua notes that the buying utility may be the only applicant, and the buying utility may have limited information from the seller regarding explanations of violations and corrective actions taken. PAWC agrees with Aqua. PAWC is concerned that an application could be rejected due to the failure to include information that is within the sole custody and control of the seller.

C. PUBLIC MEETINGS AND THE SECTION 1329(d)(2) SIX-MONTH CONSIDERATION PERIOD

On page 13 of its Comments, Aqua opposes the proposal to allow the Bureau of Technical Utility Services (“TUS”) to hold applications for an additional five calendar days to extend the six-month review period, based on the Commission’s public meeting schedule. PAWC agrees with Aqua’s comments. Section 1329 provides for a six-month period for the Commission’s review of an application. Allowing staff to extend that period is legally questionable and unnecessary. PAWC agrees with Aqua that notational voting can be used to maximize the Commission’s consideration period. In its Comments, PAWC suggested additional ways that the Commission can provide the parties with more time to develop the record and/or negotiate a settlement without artificially extending the six-month review period (such as by using the

certification of the record procedure). The Commission does not need to resort to methods that effectively toll the six-month consideration period.

D. STANDARD DATA REQUESTS FOR APPLICATIONS SEEKING SECTION 1329 VALUATIONS

On page 15 of its Comments, Aqua opposes proposed Standard Data Request 4, arguing that the request asks for a cost of service study. PAWC agrees that the information requested in this data request is unnecessary because of other information that an applicant must provide. As noted in PAWC's Comments, there is a cost to developing all the information required by the standard data requests. If the application is ultimately approved, these costs are borne by ratepayers. For each standard data request, the Commission must therefore consider whether the cost of developing the additional data is warranted by the benefits.

PAWC submits that the benefits from Standard Data Request 4 are minimal. The applicant already must provide extensive financial information about the system, including the seller's historical costs of service. See Checklist Items 19.a. through 19.e. The Commission therefore has the ability to consider the rate impact of the acquisition without this requested information. In addition, every Commission Order to date that has approved a Section 1329 acquisition has included a requirement that the buyer submit a cost of service study to the Commission in its next base rate case. As a result, proposed Standard Data Request 4 seems unnecessary.

Aqua also opposes Standard Data Request 9, regarding leases, easements and public rights-of-way that will not be conveyed at closing. Aqua notes that the buying utility may not have received a completed title report by the date an application is filed. The concern is that an application will be rejected for failing to provide information that is unavailable at the time the

application is filed. For that reason, PAWC agrees with Aqua that this question should be removed from the Standard Data Requests and instead be addressed at a later date during discovery.

Aqua also opposes Standard Data Requests 13-15, requesting copies of proposals to purchase the system, which were not accepted by the seller. PAWC agrees with Aqua. In addition to the reasons stated by Aqua, PAWC questions the relevance of this information to the issue before the Commission (*i.e.*, approval of the acquisition pursuant to 66 Pa. C.S. §§ 1102 and 1329). As a creature of the Legislature, the Commission only has the authority given to it by statute, and the Legislature has not given it the authority to act as a super board of directors with authority to second-guess the business decisions of a utility's management. *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, Docket No. R-2008-2045157 (Opinion and Order entered May 28, 2009). Nor has the Legislature given the Commission the authority to second-guess the judgment of municipal officials when selecting among several offers to purchase its assets. There may be unusual circumstances that justify disclosure of this information in a particular case, but this information should not be requested in a standard data request applicable to all applications.

In its Comments, at page 10, PAWC gave the overall recommendation that the PUC reconsider the standard data requests in the TSIO. Based on Aqua's comments, PAWC reiterates that recommendation.

III. REPLIES TO COMMENTS OF SUEZ WATER PENNSYLVANIA INC.

SUEZ Water Pennsylvania Inc. ("SWPA") recommends at pages 1-2 of its Comments that the Commission create a modified application filing checklist based on the acquisition price of the system being purchased. PAWC agrees with this recommendation; the documentation required to support a \$100 million acquisition seems unnecessary for a \$10 million transaction. If additional

information is necessary for a small transaction, the parties to that proceeding have the ability to request it in discovery.

IV. REPLIES TO COMMENTS OF THE YORK WATER COMPANY

On page 1 of its Comments, the York Water Company (“York”) contends that the Filing Checklist overall is onerous, with many of the items either unnecessary or duplicative. Also on page 1 of its Comments, York advocates the use of a reduced checklist for small transactions. PAWC agrees with these recommendations for the reasons stated above.

V. REPLIES TO COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE

A. USE OF A COLLABORATIVE OR WORKING GROUP

On pages 1-2 of its Comments, the Office of Consumer Advocate (“OCA”) advocates the use of a collaborative or working group to address issues that may remain after consideration of the TSIO. PAWC does not oppose the Commission’s convening of a collaborative or working group to discuss additional means by which to make the Section 1329 process more efficient. However, PAWC opposes the use of a collaborative or working group to slow down or otherwise impede the use of Section 1329 for acquisitions. There is a tremendous public interest in Section 1329 acquisitions and it is the duty of the Commission to ensure that the intent of the Legislature to facilitate fair market value acquisitions is followed. The Commission should promptly enter a Supplemental Final Implementation Order to provide additional guidance and then convene a collaborative or working group to address issues that may develop in the future.

B. CHECKLIST FOR APPLICATIONS REQUESTING SECTION 1329 APPROVAL

On page 4 of its Comments, the OCA suggests that all pages in an application and its supporting exhibits be Bates stamped. This requirement is unnecessary. PAWC's applications are divided into exhibits that match the items on the checklist. Many of these exhibits are short, consisting of less than ten pages. In addition, some of the lengthier exhibits consist of documents that already have numbered pages.

The OCA's comment fails to consider the logistics of gathering the multitude of documents necessary to submit an application. Some documents are obtained only days before an application is filed. Bates stamping could only be done once the application is complete and, once Bates stamping is done, would make it difficult to insert a page if a document is overlooked or needs to be expanded at the last minute. While Bates stamping an entire application from page 1 through the end would be convenient for the parties, it adds costs that may ultimately be borne by the ratepayer.

C. PUBLIC MEETINGS AND THE SECTION 1329(d)(2) SIX-MONTH CONSIDERATION PERIOD

On page 5 of its Comments, the OCA supports the proposal to permit TUS to hold applications for up to five calendar days if doing so will avoid a consideration period of less than 170 days. The OCA then notes alternatives to this approach. As stated above, PAWC disagrees with the proposal to allow TUS to extend the six-month consideration period established in the statute. PAWC, however, agrees with the OCA that calling a special meeting of the PUC, or using notational voting, is a feasible alternative – particularly in a month when only one public meeting is scheduled.

D. PUBLIC NOTICE OF ACCEPTED SECTION 1329 APPLICATIONS

On page 6 of its Comments, the OCA suggests that the statutory advocates be served with a copy of the Secretarial Letter accepting or rejecting an application. PAWC has no objection to this suggestion. This approach would allow the statutory advocates to intervene in a case earlier, and therefore might alleviate the problem, discussed at pages 9-10 of PAWC's Comments, of TUS data requests being issued before the statutory advocates intervene, but answers not being due until after they intervene.

E. STANDARD DATA REQUESTS FOR APPLICATIONS SEEKING SECTION 1329 VALUATION

On pages 7-8 of its Comments, the OCA advocates for the retention of the current requirement that schedules, documents and working papers be filed in electronic format. PAWC's concern with retaining this requirement is that the materials filed with the Commission are placed on the Commission's website. Utility Valuation Experts ("UVEs"), as well as applicants, submit spreadsheets and other working electronic files with the application, and the formulas and other calculations embedded in those files are confidential, proprietary information. If this requirement is retained, PAWC respectfully requests that the Commission direct the Secretary's Bureau not to place working electronic files on the PUC's website.

The OCA proposes additional Standard Data Requests in its Attachment A. PAWC objects to the additional requests. These requests seek valuation studies, other than the UVEs' reports, that the parties used in their evaluation of the system. In other words, these requests seek information on how the buyer and the seller determined their negotiation positions.

As stated above, the Commission is not a super board of directors for the utility, nor does it have authority to second-guess municipal officials. Pursuant to Section 1329, the negotiated purchase price is to be compared to the average of two fair market valuations developed by UVEs; other valuations are irrelevant. The negotiated purchase price should not be compared to how high the buyer was willing to go in the negotiation process, nor should it be compared to how low the seller was willing to go in the negotiation process. The Commission should not require utilities to routinely produce information that will serve no useful purpose.

Moreover, should a transaction not proceed to closing, the parties may have to negotiate a new transaction. If one party has the proprietary business information of the other party, an unfair relationship would develop with respect to negotiations. There would also be a substantial risk that a competitor would have the proprietary information of the original successful bidder to use in a renewed bid process. The Commission should recognize that these practical business realities outweigh any minimal value that the production of such documents may have in the context of a litigated Section 1329 proceeding – where the only relevant information for determining fair market value rate base is, by statute, the negotiated purchase price and the average of the two UVE appraisals.

F. JURISDICTIONAL EXCEPTIONS

The OCA supports the following statement from page 19 of the TSIO:

In short, a Section 1329 appraisal is compliant with the USPAP, and thus Section 1329, when it resolves a conflict between the USPAP and Pennsylvania law by giving preference to Pennsylvania law. For the purposes of requests for a Section 1329 valuation, Pennsylvania law includes the Pennsylvania Constitution, statutes, regulations, court precedent, and administrative rules and orders issued by Pennsylvania administrative agencies.

PAWC, in contrast, requests that the Commission clarify that a PUC Order should only be considered a jurisdictional exception where it is an order of general applicability in a proceeding in which all interested parties have been afforded due process (notice and opportunity to be heard) on the jurisdictional exception in question. The Commission's approval of a settlement agreement between one utility and the statutory advocates should not establish a jurisdictional exception that is binding on all utilities in the Commonwealth.

The OCA's Comments also propose additional Jurisdictional Exceptions. OCA Comments Attachment B. PAWC objects to the OCA's proposed Jurisdictional Exceptions 3 and 4 under the Income Approach and its proposed Jurisdictional Exceptions 3 and 4 under the Market Approach. If these items are included in the TSIO at all, they are more appropriately included in the Additional Guidelines to UVEs, rather than the Jurisdictional Exception Appendix. For example, the OCA's proposed Item 4 states: "If a capitalization rate is used, the calculation of the capitalization rate and the basis for the growth rate will be disclosed and fully explained." This proposal does not appear necessary to resolve a conflict between the Uniform Standards of Professional Appraisal Practice ("USPAP") and Pennsylvania law.

Proposed Jurisdictional Exceptions Items 3 and 4 under the Market Approach also seem more appropriate as guidance to UVEs, rather than Jurisdictional Exceptions. In addition, they seem to be taken verbatim from a settlement agreement, and should be edited before becoming applicable on a state-wide basis.

G. UVE DIRECT TESTIMONY

Finally, the OCA proposes minor wording changes in the Commission's proposed UVE direct testimony template. PAWC has no objections to the OCA's proposed languages, but

suggests that the Commission clarify that the suggested language in its template is just that – suggested. So long as a UVEs address the required topics, they may modify the template as necessary and appropriate in any particular case.

VI. REPLIES TO COMMENTS OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT

A. CONVERSION OF DISCOVERY MATERIAL TO RECORD EVIDENCE

The Bureau of Investigation and Enforcement (“I&E”) raises an important point. On page 3, I&E notes that the standard data requests are similar to interrogatories routinely propounded by the statutory advocates in previous Section 1329 cases. On page 4 of its comments, I&E states that the revised checklist will provide the Administrative Law Judge and the Commission with a more complete record upon which to review Section 1329 filings. Interrogatory responses do not automatically become part of the record in a proceeding, whereas the application and its associated exhibits are generally entered into the record in a Section 1329 proceeding. As a result, in adopting an expanded checklist and standard data requests, the Commission is essentially making record evidence out of a large volume of information that was previously not in the record. Consequently, the Commission should only require items be included in the application and its associated exhibits that are necessary and appropriate to include in the record. Otherwise, the record will become cluttered and unwieldy for the parties, the ALJ and the Commission.

B. RANGE OF VALUES AND REASONABLENESS OF THE NEGOTIATED PURCHASE PRICE

On page 6 of its Comments, I&E addresses the question of whether the Commission should use the range of values from prior Section 1329 proceedings as a check on the reasonableness of

the negotiated purchase price. I&E opposes this use of the range of values. PAWC agrees with I&E. Section 1329 is clear – the average of two UVE valuations is to be used as a check on the negotiated purchase price. Other data points should not be used for that purpose. In addition, the results of prior Section 1329 proceedings are already considered by the UVEs in developing their value of the system using the Market Approach. Using the range of values from prior Section 1329 proceedings as a check on the reasonableness of the negotiated purchase price would place too much emphasis on the range of values.

Every transaction is different, as demonstrated by three simple examples. First, some customer accounts may be bulk service accounts that generate vastly more income than a customer account that is used to serve the water consumption needs of a truly-solitary customer. Second, some acquisitions are collection system-only acquisitions with no associated treatment facilities. Third, every acquired system has different rates and the adoption of those existing rates by the seller will have an impact on the fair market value of the system. These are three simple examples, of many, why it is inappropriate to use the range of values from prior Section 1329 proceedings as a check on the reasonableness of the negotiated purchase price. The use of two UVE valuations is intended, by statute, to provide the necessary check.

C. DISCOVERY MODIFICATIONS

On page 9 of its Comments, I&E suggests that a discovery conference be held soon after acceptance of an application so that modifications to the discovery rules can be established at the beginning of a proceeding. PAWC does not see the need for this procedure in every case. It has been PAWC's experience that the parties can negotiate acceptable modifications to the discovery rules without the need to get an ALJ involved. If, in a particular case in the future, parties are

unable to work out acceptable modifications to the discovery rules, they are able to request that the ALJ step in and address the problem.

D. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

Finally, on page 10 of its Comments, I&E supports the Commission’s proposal to require UVEs to use the version of USPAP in effect at the time of the evaluation. PAWC agrees with I&E; UVEs should be required to use the version of USPAP in effect at the time that they perform the evaluation.

VII. REPLIES TO COMMENTS OF THE PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION

On page 2 of its comments, the Pennsylvania Municipal Authorities Association (“PMAA”) argues that there should be at least one public meeting in the service territory of the system being acquired, at which a representative of the acquiring utility must be present to answer all reasonable questions. PAWC does not see the need for such a meeting because of the public proceedings that have already taken place. It has been PAWC’s experience that, prior to the execution of the Asset Purchase Agreement, the selling municipality or municipal authority has held several public meetings, advertised and open to the public as required by the Pennsylvania Sunshine Act. 65 Pa. C.S. §§ 701-716. In some cases, citizens opposing the transaction have continued to argue against the transaction at public meetings held after the execution of the Asset Purchase Agreement.

In its Comments, PAWC proposed an alternative, paper procedure, for the Commission to receive comments from the public about the proposed acquisition. PAWC Comments pp. 5-6.

This approach would allow the Commission to receive public input without unduly delaying the proceedings. A rate case-style public input hearing is unnecessary.

It is important to keep in mind that the Section 1329 provides an alternative to the traditional valuation methodology that is entirely voluntary; an application will not be governed by Section 1329 unless both parties agree to use the fair market valuation approach. In other words, before a Section 1329 application is submitted to the Commission, local officials have made a determination that (1) selling the system is in the interest of their constituents, and (2) using the Section 1329 valuation procedure is in the interest of their constituents. The Commission's role is to ensure that the transaction is in the public interest by determining whether the transaction "affirmatively promote[s] the service, accommodation, convenience, or safety of the public in some substantial way." *City of York v. Pa. Pub. Util. Comm'n*, 449 Pa. 136, 151, 295 A.2d 825, 828 (1972). When looking at the benefits and detriments of a transaction, the focus of the analysis must be on all affected parties, not merely a particular group or a particular geographic area. The primary objective of the law in this regard is to serve the interests of the public. *Middletown Township v. Pa. Pub. Util. Comm'n*, 85 Pa. Cmwlth. 191, 482 A.2d 674 (1984).

On page 3 of its comments, the PMAA urges the Commission to require Section 1329 applications to include information on future rate increases. PAWC disagrees. Such a requirement would put the acquiring utility in a no-win situation. At the time of filing the application, the company may not have concrete plans regarding future rate increases. The utility should not be required to provide such speculative information to the Commission because the Commission should not make decisions based on speculative information. On the other hand, if the utility does not provide such speculative information to the Commission at the time of the application, and subsequently increases rates, customers of the acquired system may feel that the company has not

been forthright, which can create hard feelings between the utility and its customers for many years. As a result, the application should not require information about future rates unless the parties have addressed future rates in their negotiated agreement (i.e., with a rate stabilization plan).

On pages 3-4 of its comments, the PMAA argues that the Commission should consider the Environmental Rights Amendment (“ERA”) in rendering its decisions pursuant to Section 1329. PAWC agrees but only in a limited sense. Often times, municipal and municipal authority systems suffer from a lack of investment necessary to remediate environmental deficiencies and comply with ever-increasing federal and state environmental requirements. The Commission should take into consideration -- in assessing the public benefits of the transaction -- the fact that investor-owned utilities (namely PAWC because of its size, operational experience and access to capital) are better able to address these environmental needs. PAWC made this argument in its first Section 1329 proceeding. *Application of Pennsylvania-American Water Company-Wastewater under Section 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1329, for approval of the use for ratemaking purposes of the lesser of the fair market value or the negotiated purchase price of The Municipal Authority of the City of McKeesport’s assets related to its wastewater collection and treatment system and other related transactions*, Docket No. A-2017-2606103, Main Brief of PAWC p. 19 (“*McKeesport Application*”). The Commission should limit its review under the ERA to how the new ownership may impact environmental compliance. It should not go beyond the limited scope of its authority under the Pennsylvania Public Utility Code by attempting to direct or give guidance on how a municipal entity should utilize or distribute the proceeds of the sale.

Finally, on page 4 of its comments, PMAA discusses the differences between a system run by a municipal authority and a system run by a public utility. As PAWC has noted in several cases, the acquisition of a municipal system by a public utility is very often in the public interest, in part, because it brings the system under the jurisdiction of the Commission. As a result, the Commission (rather than the courts of common pleas) have authority to regulate the quality of service and the rates charged for utility services. Such a transaction also gives customers access to I&E, the OCA and the Office of Small Business Advocate. These agencies help customers ensure that they are charged rates which are just and reasonable and that they receive adequate and efficient services and facilities.

Similarly, investor-owned utilities are typically better-suited to make necessary capital improvements and to operate systems in compliance with ever-increasing environmental requirements. There are numerous examples throughout the Commonwealth and throughout the nation in which systems owned and operated by municipal entities have fallen into a state of disrepair. The Pennsylvania General Assembly recognized this reality in passing Section 1329 and it is the Commission's duty to carry out the law -- despite opposition from special interest groups who may not necessarily like it.

VIII. REPLIES TO COMMENTS OF HERBERT, ROWLAND & GRUBIC, INC.

On pages 1-2 of its Comments, Herbert, Rowland & Grubic, Inc. ("HRG") discusses the issue of using the range of values from previous Section 1329 cases as a check on the reasonableness of a negotiated purchase price. HRG expresses reservations about this approach. As discussed above, PAWC opposes using the range of values from previous Section 1329 cases as a check on the reasonableness of a negotiated purchase price.

On page 2 of its Comments, HRG discusses the proposed Jurisdictional Exceptions. PAWC agrees with HRG that the phrasing of the proposed Jurisdictional Exceptions for the cost method should be modified to read as follows: “c. exclude overhead costs add-on, future capital improvements, and going concern value.” The phrase “overhead costs add-on” is consistent with the language used in the settlement of PAWC’s *McKeesport Application*, as well as the settlements in Aqua’s *Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Limerick Township*, Docket No. A-2017-2605434, and PAWC’s *In re: Application and related filings of Pennsylvania-American Water Company under Sections 507, 1102(a), and 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 507, 1102(a), 1329, for approval of its acquisition of wastewater system assets of Sadsbury Township, related wastewater service rights, fair market valuation ratemaking treatment, deferral of the post-acquisition improvement costs, and certain contracts with municipal corporations*, Docket No. A-2018-3002437.

Generally, overhead costs are capitalized and included in the overall costs of a construction project. When the construction project is placed in service, the overhead costs are then allocated to the major asset components (by NARUC account) of the project. As a result, overhead costs should be included in the original cost of assets.

IX. REPLIES TO COMMENTS OF CHESTER WATER AUTHORITY

The Chester Water Authority (“CWA”), like the PMAA, argues that the PUC should consider environmental factors in reviewing Section 1329 applications. CWA Comments pp. 2 and 9. As discussed above, PAWC agrees in a limited manner.

CWA suggests that applicants be required to submit numerous documents in addition to those already identified in the TSIO's proposed checklist and proposed standard data requests. For example, CWA argues that the Commission should establish a record of the steps taken by the seller leading to the negotiation of the agreement. PAWC disagrees for the reasons discussed above, in reference to Aqua's objection to Standard Data Request 15. The Commission is not authorized to second-guess the decision of municipal officials in selling the system. Consequently, there is no need for the Commission to request this information.

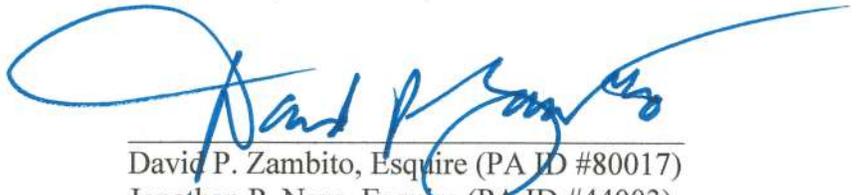
As argued above, the Commission needs to balance the cost and the benefits of requiring an applicant to attach documents to an application, and should not require an applicant to submit documents that would not be useful to the Commission in its consideration of the application. Many of the documents discussed in CWA's comments would not be useful to the Commission in its consideration of the application. For example, PAWC sees no value to the Commission in requiring an applicant to submit such documents as dockets from the Delaware River Basin Commission authorizing water diversions or wastewater discharges. CWA Comments p. 5.

Many of CWA's arguments are more appropriately addressed to the Legislature rather than the PUC. For example, CWA suggests that a public referendum should be required to approve the sale of a system operated by a municipality or a municipal authority. CWA Comments p. 6. CWA also argues that a six-month period for issuing a decision on a Section 1329 application is too short. CWA Comments p. 2. Unless and until Section 1329 is amended, the Commission must abide by the law and strive to make it work, rather than stealthily undermining the public policy adopted by the Legislature by making the process so onerous that parties are unwilling to pursue Section 1329 transactions.

X. CONCLUSION

PAWC appreciates the opportunity to submit replies to comments filed by other parties in response to the TSIO. PAWC respectfully submits that the Commission should provide additional guidance promptly in order to carry out the intent of Section 1329 and to eliminate unnecessary barriers in the Commission's approval process.

Respectfully submitted,



David P. Zambito, Esquire (PA ID #80017)
Jonathan P. Nase, Esquire (PA ID #44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Telephone: (717) 703-5892
Facsimile: (215) 989-4216
E-mail: dzambito@cozen.com
jnase@cozen.com

Susan Simms Marsh, Esquire (PA ID #044689)
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033
Phone: (717) 531-3208
E-mail: susan.marsh@amwater.com

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