

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Investigation into
Pennsylvania-American Water
Company's High Fluoride
Concentration Incident And Of
Existing Notification and Reporting
Requirements**

**Public Meeting-March 2, 2006
MAR-2006 – L-0022*
Docket No.: I-00050109**

STATEMENT OF CHAIRMAN WENDELL F. HOLLAND

Before us for consideration is the Investigation into Pennsylvania-American Water Company's (PAWC) High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements. The investigation was initiated as a result of the Commission's December 15, 2005 adoption of the Motion Commissioner Kim Pizzingrilli and I prepared jointly. Staff found, among other things, that PAWC:

- 1) Acknowledged that the incident was a result of human error (a plant operator bypassed a switch and forgot to disengage it when he left; PAWC has since implemented corrective measures);
- 2) Did not report to appropriate Commission personnel in a timely manner;
- 3) Did not properly notify the public of the possible dangers of drinking water with an elevated level of fluoride concentration;
- 4) Did not identify the population at risk, including any subpopulations of customers that are particularly vulnerable to the contaminant in their drinking water;
- 5) Did not use its website to notify the public about the water advisory;
- 6) Admitted that the Emergency Response Plan for the plant where the spill occurred had not been updated since 1993;
- 7) Admitted that the Emergency Response Plan for its Central Operations is also outdated;
- 8) Had phone numbers for Commission contacts within these two Emergency Response Plans which Staff deemed to be "woefully out of date and basically useless";¹ and
- 9) Nonetheless, certified to the Commission that its physical and cyber security, emergency response and business continuity plans were current, pursuant to Commission requirements at 52 Pa. Code §§101.1-101.7.

¹Staff Report on Investigation into Pennsylvania American Water Company's High Fluoride Concentration Incident and of Existing Notification and Reporting Requirements, Docket No. I-00050109, page 20.

Staff recommendations include, among other things, that the investigatory report be released to the public and that a proposed Policy Statement be prepared on Public Notice Standards Relating to Unscheduled Water Service Interruptions. While I wholeheartedly agree with these recommendations, I would like to offer several comments on the report, along with:

- 1) A differing opinion related to what constitutes the provision of adequate alternative water during an emergency;
- 2) A recommendation that interim customer notification enhancements be implemented prior to the adoption of the proposed policy statement (which could take at least six months to enable time for public comment); and
- 3) A further recommendation that customer notification guidelines be extended to include service issues affecting the character of service, beyond those of contamination, as will be explained.

First, however, I offer my thanks to our Staff for diligently producing this productive and insightful report in such an expeditious manner, particularly considering the very tight timeframe. Next, I must commend the other commenters, most particularly the Office of Consumer Advocate (OCA), whose input was invaluable.

Appropriate Notice - I completely agree with OCA's statement that "utilities must be prepared to file actual, personal, timely notice to customers in any event that endangers public health and safety; it is not enough to rely upon broadcast stations and newspapers to deliver the message."² Innumerable reasons abound as to why this antiquated notification methodology does not come anywhere close to meeting the needs of today's threats from terrorism, meeting, in "real time," the needs and expectations of today's customers, and does not utilize today's technological capabilities. If a contaminant is found in the water, all customers need to know as immediately as possible. Had the fluoride spill involved a lethal contaminant, I shudder to think of what could have happened.

Institute Interim Enhancements - Our directive to initiate a proposed policy statement on customer notification guidelines should help mitigate this situation. But that process will take time, particularly to enable input from all essential parties. In the interim, I recommend and encourage PAWC and all other water utilities to take whatever immediate steps that can be taken now prior to the issuance of guidelines. This can be tested and enhanced over time. The interim steps should be looked upon as a living protocol with enhancements continuously adopted as technology advances and experience of what is effective becomes known.

²Ibid., p. 8

These interim or additional forms of notification (depending on the incident) can be as simple and as immediate as:

- 1) Including a recording on the utility's 24/7 emergency phone line that a particular situation has occurred in a particular location, the potential impact, and a listing of actions customers can take, with updates as often as needed, and
- 2) The same information should be available on the utility's web site as soon as possible.

Still fairly simple, but requiring additional effort, would be for utilities today to begin review of Reverse 911, instant faxing, text messages, or email blasts to customers on an opt-in basis, to supplant traditional messages to the media. Review of these newer methods should have already begun at all large water companies. Smaller water utilities should be reviewing their customer notification procedures as well to determine if they be enhanced, taking into account their level of resources being less than those of the larger water utilities.

Expand Customer Notification to All Adverse Situations - There is no question that customer notification enhancements should be implemented in all safety related issues such as the fluoride spill. But I believe customer notification enhancements can be taken a step further within our new proposed notification guidelines. Enhanced customer notification should be extremely beneficial in situations that may not appear to have direct or immediate health and safety ramifications (as specified within boil water or do not consume advisories), but customers should be alerted that their water quality or quantity may be affected. These situations can include localized events such as a main break, hydrant repair, flushing or other event that most assuredly can be expected to adversely impact at least a number of customers. With notice, a number of common household activities could be rescheduled if customers knew their water could be either in short supply, discolored, sediment-laden or otherwise unpleasant to use on a short-term basis while the problem was being fixed. Customers could then choose if they wanted to drink this type of water, serve it to their family and friends, make ice cubes, cook with it, wash dishes with it, bathe or shower in it, or do the laundry.

I believe that the notifications procedures used by PAWC are no longer appropriate today, especially in light of today's advances in technology. Just imagine the benefits of sparing customers from the adverse impact of service challenges cited above. Imagine if the customer were a restaurant that unknowingly served food prepared with such water, served drinking water and washed dishes. Similarly, imagine the implications if the customer were a hospital, nursing home or school with or without being given the helpful

knowledge to take precautionary steps. Imagine the benefits of an “Adverse Service Possibility Alert.”

I use the “just imagine” scenario to make this point about philosophical points of view. When management is considering how to proceed, a review of its actions should always include placing themselves in the shoes of the customers to see if the customers’ needs and expectations are being met. Everyone then benefits: the customers, the shareholders, the community.

I recommend incorporating within the new notification guidelines a method of notifying customers (who choose to be notified) so that they can be alerted that an event happened and that:

- a) Their water quality or quantity could be affected, and
- b) They may choose to double check the appearance and quantity of their water service prior to starting any water using activity.

PAWC’s Emergency Response Plan - In this post-September 11, 2001 era, with companies having allocated significant expenditures and resources to assess vulnerability and to implement those recommendations, and with all the innumerable lessons to have been learned from the responses to Hurricanes Katrina and Rita, I am appalled to learn from the Staff report that PAWC’s Emergency Response Plan for the Yellow Breeches plant had not been updated since 1993. If ever there were a time that emergency preparedness activities were on the forefront of water utilities’ radar screen, that time is indeed now and has been since September 11, 2001 or possibly dating back to the Oklahoma City bombings. If there ever were a time that a plan from 1993 could be more out-of-date, it would be now.

The recent flooding of last fall would have been yet another trigger of emergency plan review (which should be ongoing, not annual). This glaring failure leads me to yet another glaring failure related to PAWC’s utility self-certification obligation to the Commission and to the DEP that its plans are current, pursuant to 52 Pa. Code §§101.1-101.7 and 25 Pa. C.S. §109.707. Commission regulations require utilities to review and update their physical and cyber security, emergency response and business continuity plans on an annual basis. I ask myself how could PAWC file with this Commission signed statements certifying compliance when the Emergency Response Plan for its Yellow Breeches plant had not been updated since 1993.

I wholeheartedly agree with Staff’s recommendation that PAWC review all of its Emergency Response Plans and verify that they are current. I completely agree that the Audits Bureau should be encouraged to audit all utilities’ progress with their emergency response plans to ensure no other utility is deficient in this area.

Availability of Alternative Water - While the Staff investigation did not find sufficient evidence to fault PAWC with regard to its provision of alternative water supplies during the time period when the “Do Not Consume Alert” was in effect, logic dictates another direction. Imagine 30,000 customers without drinking water and with no knowledge of when safe water would be available. Imagine standing in line at night in the cold (and/or in the ice, snow or rain) to obtain water in a “container” you have brought with you (if you knew to do so). Imagine if that “container” is an unsanitary bucket or other non-sanitized vessel. Imagine that bottled water is not available. Imagine if you are a senior citizen or injured or have the flu. Imagine, over time, local food and supply stores are running low or out of their bottled water. I find PAWC’s provision of alternative water – water buffaloes at two locations-- even if it met current standards -- to be unacceptable.

Free bottled water needs to be available at numerous sites conveniently located throughout the service area. If the outage or contamination is potentially of a longer duration, utility coordination must be done with local vendors. In that way, it can be ensured that adequate quantities of bottled water will be shipped into the area to supplement what the water utility should provide.

Definition of “Service Interruption” - I am perplexed by PAWC’s interpretation of “service interruption” as used in the context of Commission outage reporting requirements at 52 Pa. Code §67.1. The company explained to Staff that its failure to notify the Commission until the day after the spill was because the event did not result in an “outage, supply cut-off, or cessation of service.”³ If customers cannot drink the water, it would seem obvious that, since it is no longer available for drinking or cooking (and possibly bathing or cleaning, depending on the incident or information delivered about the incident), service has been interrupted for these household purposes. I wholeheartedly agree with Staff’s statement that: “Without a doubt, water for consumption is the most vital and important aspect of service provided by a water utility, and if consumers cannot drink it, then from their perspective, and ours, service has been interrupted.”⁴

Future Ramifications – This incident has several ramifications – namely, spills, terrorism, emergency response preparedness for disasters, and notifying customers as soon as possible by utilizing today’s technology. I reiterate Staff’s conclusion: we will not tolerate lax safety standards at water plants in the Commonwealth. We also will not tolerate avoidance of taking care of customers’ needs by providing them with less than timely and useful information.

³ Ibid., p. 17.

⁴Ibid.

For utility management to determine the appropriate notification actions, management need only place itself in the shoes of the customer. The ultimate guide is to determine, as if they were the customer, and their family would be affected personally, what information would be essential in order to protect their own health and safety and that of their family.

On the one hand, I view this incident as a wake-up call to the management of PAWC, that the failures admitted to must not be repeated. This incident has provided PAWC with an opportunity to take corrective measures (some of which have already been completed) and, going forward, to participate in the development and implementation of enhanced customer notification procedures that should improve customers' daily lives. Finally, the entire water industry, both in this state, as well as nationwide, should benefit from the lessons learned in this incident. In fact, the energy industry could benefit from lessons learned here as well.

Date

Wendell F. Holland, Chairman