

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

**SUSAN K. PICKFORD, ET AL
V.
PENNSYLVANIA-AMERICAN WATER COMPANY**

**PUBLIC MEETING
March 13, 2008
JAN-2008-OSA-0084*
Docket No. C-20078029 et al**

**JOINT STATEMENT OF COMMISSIONER KIM PIZZINGRILLI AND
COMMISSIONER TYRONE J. CHRISTY**

Before us for consideration are the Exceptions filed by the Complainants to the Administrative Law Judge's (ALJ) October 5, 2007 Initial Decision. The Initial Decision granted Respondent's Preliminary Objections. In the matter before us, the Complainants allege that Pennsylvania-American Water Company's (PAWC) plan to convert the West Shore Regional Treatment Plant and the Silver Spring Water Treatment Plant from chlorinated to chloraminated water implicates provisions of the Public Utility Code addressing the safety of public utility service. 66 Pa.C.S. §§ 1501 and 1505.

The Complainants request that PAWC be prevented from proceeding with the planned conversion until the Commission has adjudicated the public health issues associated with this plan.¹ The ALJ concluded that the Commission lacks subject matter jurisdiction over the allegations raised in the Complaints. Today the Commission grants the Complainants' Exceptions, reverses the Initial Decision and remands the case to the ALJ for further proceedings.

The use of chloramines in drinking water has been approved by both the Environmental Protection Agency and the Department of Environmental Protection (DEP) and is currently utilized in 73 public water systems across the Commonwealth, serving four million people. The Commission did not inquire into the reasonableness or safety of the service proposed to be provided prior to the introduction of chloramines into those systems.

However, because the Commission remands this case to the ALJ for further proceedings, the DEP should be served with a copy of the Order and shall be given an opportunity to participate in this proceeding. If the DEP chooses not to intervene, the Commission should invoke Section 318(b) of the Public Utility Code, 66 Pa. C.S. § 318(b), and certify the water purity questions raised by the Complainants to the DEP.

¹ PAWC voluntarily agreed to delay the conversion while this matter was pending before the Commission.

§318. Commission to cooperate with other departments.

(b) Purity of water supply.-The commission may certify to the Department of Environmental Resources (now Environmental Protection) any question of fact regarding the purity of water supplied to the public by any public utility which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon determination of such question by the department incorporate the department's findings in its decision.

Through this process, the Commission would elicit the scientific and technical information critical to a determination of the safety and water quality issues raised by Complainants. The DEP report resulting from the certification of these issues could then be incorporated into a subsequent Commission order.

We urge an expedited schedule to provide the complainants with due process on their complaints and to incorporate the experience and expertise of the DEP. We concur with this disposition in result only, recognizing that a further delay will not serve any of the parties or promote the public interest.

March 13, 2008
Date

KIM PIZZINGRILLI, COMMISSIONER

TYRONE J. CHRISTY, COMMISSIONER