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**Senate of Pennsylvania**

August 30, 2017

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
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**Re: 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**

Dear Secretary Chiavetta:

It has come to my attention that the Pennsylvania Office of Consumer Advocate (“OCA”) has filed a Protest against the above-referenced Application of Pennsylvania American Water Company (“PAWC”) to acquire the wastewater system assets of The Municipal Authority of the City of McKeesport (“Authority”). Although I have the utmost respect for the OCA and its mission to protect existing PAWC customers outside of the City of McKeesport, the OCA’s Protest outlines several concerns regarding this Application on behalf of the people of McKeesport with which I take issue. I would like the opportunity to respond as a public official elected to represent the residents who would be most affected by such an acquisition - the customers of the Authority in the City of McKeesport.

In its Protest, the OCA asserts that PAWC’s application does not meet the standard required for granting a certificate of public convenience in Section 1103 of the Pennsylvania Public Utility Code. *66 Pa.C.S. § 1103*. That is, the OCA does not believe the “granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” *§ 1103(a)*. Specifically, the OCA contends that the PAWC’s Application does not provide information necessary to demonstrate that the acquisition will provide “substantial, affirmative benefits to the public,” and submitted direct testimony to that effect on July 17, 2017.

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*See OCA Protest; OCA St. No. 1; See also City of York v. Pa. Pub. Util. Comm'n, 937 A.2d 1040, 1057 (2007).* The testimony suggested the acquisition will unfairly harm both PAWC ratepayers as well as customers in McKeesport. *OCA St. No. 1.*

I have represented the best interests of those McKeesport customers for over two decades as McKeesport City Councilman, McKeesport Mayor and State Senator of the 45<sup>th</sup> State Senatorial District. Considering that commitment, I respectfully disagree with the OCA's position that the acquisition will harm customers of the Authority as well as existing PAWC customers. On the contrary, the acquisition will bring to the City and its residents the sorely needed relief necessary to avoid a declaration of financial distress under the Municipalities Financial Recovery Act ("Act 47") and the resources to protect the health and safety of McKeesport residents and surrounding communities by meeting increasingly strict environmental requirements.

For the last twenty years, I and other McKeesport officials continuously revisited the potential benefits and pitfalls of monetizing the Authority's assets to address the City's ever-growing economic needs. As McKeesport Mayor Michael E. Cherepko outlined in his direct testimony on May 24, 2017, the last Census data indicated that the median income for a household in the City was only \$23,715, and a staggering 38% of the City's residents earned incomes below the poverty line as of 2015. *PAWC St. No. 6.* Moreover, the residents continue to struggle finding employment opportunities and the City continues to struggle with a diminished tax base following the collapse of the local steel industry in the 1980s. Nevertheless, these residents have had to carry the burden of supporting the Authority's debt, which the Mayor indicated is reaching its state statutory limits due to both the system expenditures and improvements required by the Pennsylvania Sewage Facilities Act ("Act 537") to address sewage disposal needs as well as the Authority's defined pension benefit obligations. *Id.* In fact, the City has been on the edge of a state takeover as a financially distressed municipality pursuant to Act 47 for years. The City has attempted to address its deficit problem in the past through liquidation of assets, increased collection of taxes, reduced staffing and strategies to grow its tax base by investing in infrastructure and community development programs designed to attract businesses. *Id.* However, despite these many efforts, the City continues to face rising operating costs and an insufficient tax base. As a result, our poverty rate is growing and our residents continue to struggle finding employment opportunities.

Consequently, my decision to support this sale is not a casual one; rather it is born of years of experience of weighing the costs and benefits of such a decision to a struggling City and other PAWC customers throughout my District. I have concluded that, contrary to the OCA's statements regarding speculated harm to consumers, the acquisition would provide substantial, affirmative public benefits to both PAWC ratepayers and the Authority's customers. As the Mayor clearly stated, "[w]hile the sale of these assets may be politically challenging, it is my firm belief that this action provides the only means by which the City can survive, therefore giving its residents a chance to thrive." *PAWC St. No. 6.*

A company of PAWC's size will have access to the capital needed to provide ongoing system improvements to meet all state and federal environmental requirements. *See PAWC St. No. 1.* The safety benefits of such improvements are a benefit to all PAWC customers.

Moreover, this acquisition would benefit all PAWC customers with regard to rates. It will not only advantage future McKeesport customers by providing for improvements to the Authority's infrastructure, but it will also benefit existing PAWC customers by providing a greater ratepayer base over which PAWC may spread the costs of long-term wastewater system improvements in their own territories. *Id.* Furthermore, I believe that placing authority over McKeesport's customer rates with the Public Utility Commission will ensure that any future rates charged by PAWC will be just and reasonable, as opposed to the current Authority's ability to adopt its own rate increases. It is also worth noting that there will be no immediate rate increase with regard to McKeesport customers, because the Asset Purchase Agreement obligates PAWC to initially adopt the Authority's existing rates. *PAWC Application.*

Finally, the proceeds of this acquisition would give McKeesport much-needed revenue to address the aforementioned financial struggles of the City and its residents. The PAWC's Asset Purchase Agreement provides job protection to residents of McKeesport by explicitly requiring PAWC to offer employment to current, eligible employees of the Authority. *PAWC Application.* This acquisition would also add property tax dollars to the City's coffers. Proceeds from the sale and additional property taxes would supplement the City's need to maintain and build its services for residents including police, fire and community programming. *PAWC St. No. 6.*

In conclusion, not only would the PAWC's acquisition provide substantial affirmative public benefits, but it enjoys overwhelming support from the McKeesport community as demonstrated by multiple city ordinances and a resolution clearly supporting it. *PAWC Exhibits MEC-1 through MEC-3 attached to PAWC St. No. 6.* I and my colleagues in the City have carefully examined the options concerning the Authority's wastewater system assets and conclude that the sale of the City's last remaining significant asset is essential to avoid a designation under Act 47 and to provide for the future health, safety and welfare of its residents.

Thank you for the opportunity to provide a local perspective on this issue.

Sincerely,



Senator James R. Brewster

cc: Honorable Mark A. Hoyer, Deputy Chief Administrative Law Judge  
Honorable Mary D. Long, Administrative Law Judge  
Tanya J. McCloskey, Acting Consumer Advocate  
Counsels of record

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# Senate of Pennsylvania

45TH DISTRICT

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