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VIA e-filing

July 19, 2021

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

Re: Proposed Rulemaking for Diversity Reporting of Major
Jurisdictional Utilities - Docket No. L-2020-3017284

Dear Secretary Chiavetta:

Pennsylvania-American Water Company is submitting the attached Comments in response to Ordering Paragraph No. 5 of the Proposed Rulemaking Statement and Order entered by the Commission on December 17, 2020, in the above-captioned docket, and published in the *Pennsylvania Bulletin* on June 5, 2021.

Should you have any questions concerning this filing, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Susan Simms Marsh".

Susan Simms Marsh

Attachment

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PROPOSED RULEMAKING FOR :
DIVERSITY REPORTING OF : DOCKET NO. L-2020-3017284
MAJOR JURISDICTIONAL UTILITIES :**

**COMMENTS OF PENNSYLVANIA-AMERICAN WATER COMPANY
ON PROPOSED RULEMAKING FOR DIVERSITY REPORTING OF MAJOR
JURISDICTIONAL UTILITIES**

I. INTRODUCTION

Pennsylvania-American Water Company (“PAWC” or the “Company”) submits these comments in response to Ordering Paragraph No. 5 of the Proposed Rulemaking Statement and Order entered by the Pennsylvania Public Utility Commission (“Commission”) on December 17, 2020 in the above-referenced docket and published in the Pennsylvania Bulletin on June 5, 2021. The Order solicits comments on the Commission’s Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities.

II. COMMENTS ON PROPOSED RULEMAKING

Confidential Treatment of Annual Diversity Report

PAWC supports the Commission’s goal of promoting the important economic and social benefits of diversity and inclusion. The Company also recognizes the importance of maintaining information on its workforce and vendor relationships to further these valuable interests. Indeed, the Company has previously submitted voluntary diversity reports consistent with the Commission’s Policy Statement on Diversity at Major Jurisdictional Utilities. The Company supports the Commission’s plan for mandatory diversity reporting believes it will further

the Commission's policy to support hiring, compensating, training and advancing individuals based on merit regardless of their diverse identities while promoting affirmative action steps to eliminate barriers for protected groups.

The Company is also mindful of the confidential nature of the information that will be included in its annual diversity report. The Commission's proposed rulemaking does not detail how the information included in the annual diversity reports will be treated after filing. PAWC has normally marked its previous diversity reports as confidential and these reports have been treated as such by the Commission. Given the proprietary and valuable nature of the information to be included in the annual diversity report, PAWC believes that all information included in each annual diversity report should be treated as confidential and be subject to a standing protective order to prevent public disclosure of individual companies' reports. While it may be appropriate for the Commission to make aggregate statistics public, PAWC submits that the information contained in annual diversity reports should be subject to the confidentiality protections established in 52 Pa. Code § 5.365.

Section 5.365 limits access to proprietary and confidential information, via protective order, when filed with the Commission in both adversarial and non-adversarial proceedings. The Company believes that the factors enumerated in Section 5.365(a), which are considered by the Commission when determining whether to issue a protective order for confidential information in adversarial proceedings, would support designation of the annual diversity reports as confidential.

The relevant factors enumerated in Section 5.365 include:

- The extent to which the disclosure would cause unfair economic or competitive damage;
- The extent to which the information is known by others and used in similar activities;
- The worth and value of the information to the party and to the party's competitors.

PAWC believes that the internal strategic information and vendor relationships that are to be contained in annual diversity reports qualify as confidential information under these factors. PAWC further believes that the personal information of individual employees and vendors, in the form of self-identification and categorization, although not specifically considered in Section 5.365, is similarly deserving of protective treatment.

With these concerns in mind, the Company respectfully requests that all materials and information contained in the annual report of all major jurisdictional utilities be kept strictly confidential in accordance with the protections provided for in Section 5.365. The Company requests further that major jurisdictional utilities be exempt from filing a petition for protective order when submitting annual diversity reports.

Structure of Reporting Form to be used in Annual Diversity Report

PAWC supports the design and structure of the form to be used for reporting the demographic statistics of major jurisdictional utilities' workforces. Having previously used the form for diversity reporting, PAWC believes that the form serves as an efficient and simple way to report its demographic statistics. The structure of the form should assist all major jurisdictional utilities as well as the Commission in measuring performance in the relevant diversity metrics. Therefore, PAWC supports the continued use of the form as it is presently constructed.

Applicable Time Frame for Annual Diversity Report

The Commission's Proposed Rulemaking and Order does not specify the time period that is to be represented in each annual diversity report. The Company's past diversity reports have contained information for the calendar year (January 1 to December 31), immediately preceding the March 1 filing date. PAWC would respectfully request that the Commission

specify the applicable time period for major jurisdictional utilities' annual diversity reports as January 1 to December 31 of the calendar year preceding the March 1 filing date.

III. CONCLUSION

PAWC supports the Commission's goals of promoting and fostering diversity and inclusion at major jurisdictional utilities. PAWC believes that the filing of mandatory annual diversity reports will help further these important goals and will assist major jurisdictional utilities in creating a welcoming and constructive environment for all. PAWC supports the confidential treatment of all information contained in the annual diversity reports of major jurisdictional utilities as well as the continued use of the standardized reporting form in its present format, and requests confirmation of the applicable time period for annual diversity reports.

Respectfully submitted,



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Date: July 19, 2021

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