MEMORANDUM TO
PMAA STAFF, BOARD OF DIRECTORS, AND EXECUTIVE COMMITTEE

FROM: Steven A. Hann, Esquire, PMAA East Solicitor

DATE: November 5, 2026

RE: Pennsylvania Supreme Court Decision – Conyngham Township v. Pennsylvania Public Utility Commission

As we have discussed on numerous occasions in various PMAA meetings and webinars, the Pennsylvania Commonwealth Court issued a decision in October, 2024 entitled *Conyngham Township v. Pennsylvania Public Utility Commission,* in which the Commonwealth Court held that the Pennsylvania Public Utility Commission ("Commission") has jurisdiction over Pennsylvania municipal authorities in certain situations, specifically where an authority provides a service outside the boundaries of its incorporating municipality. As you know, the Commonwealth Court decision raised issues of significant concern to PMAA-member municipal authorities. Following the Commonwealth Court decision, the Commission filed a petition for allowance of appeal with the Pennsylvania Supreme Court, requesting that the Supreme Court exercise its discretionary power to review the lower court's decision. In most cases, Supreme Court review of lower court opinions is indeed discretionary and, historically, the Supreme Court only agrees to hear a small percentage of cases appealed to it. Here, however, the Supreme Court agreed to review the Commonwealth Court decision, framing the issue on review as whether the Commonwealth Court erred when it held that the Commission has jurisdiction over municipal authorities established under Pennsylvania's Municipality Authorities Act ("MAA"). Given the significance of this case, the PMAA Board of Directors authorized the filing of an *amicus* brief, which I prepared and filed (1) in support of the position taken by the Commission and (2) requesting reversal of the Commonwealth Court decision. On October 29, 2026, the Pennsylvania Supreme Court issued its much anticipated opinion in the case, reversing the decision of the Commonwealth Court, and finding

that the Commission does not have jurisdiction over municipal authorities incorporated under the MAA in Pennsylvania[1].

In reviewing the Supreme Court's Opinion, it is noteworthy that the Supreme Court focused on "the conflict between the [Public Utility] Code and the MAA regarding the regulation of municipal authorities that provide public utility service beyond the boundaries of their incorporating municipalities." (Opinion, p.17) In examining the conflict, it is critical, as the Supreme Court did, to focus on the definition of "municipal corporation" under the Public Utility Code ("Code"), which definition includes, among other entities, cities, boroughs, townships, and authorities created or organized under any law of the Commonwealth for the purpose of rendering any service similar to that of a public utility. In analyzing the aforementioned conflict between the Code and the MAA, the Supreme Court focused on the Code's inclusion of "authority" in the definition of "municipal corporation," questioning whether municipal authorities incorporated under the MAA are subject to Commission regulation and are, therefore, required to obtain a CPC if operating beyond the boundaries of their incorporating municipality. (Opinion, p.18) This, not surprisingly, was precisely Conyngham Township's argument. Although Conyngham Township acknowledged that the Pennsylvania courts of common pleas (under MAA Section 5607(d)(9)) have exclusive jurisdiction over disputes involving the "reasonableness or uniformity" of a municipal authority's rates or the "adequacy, safety, and reasonableness" of its services (Opinion, p.19), it nevertheless asserted that a municipal authority operating beyond the boundaries of its incorporating municipality (such as SSABS) is subject to Commission regulation and the Code mandates that a municipal authority operating beyond its borders obtain a CPC. (Opinion, p. 20) However, the Supreme Court looked beyond the Code and suggested that if an authority is incorporated under the MAA and governed by the MAA, the Supreme Court must also consider provisions of the MAA.

Therefore, notwithstanding Conyngham Township's aforementioned argument, the Supreme Court noted that since the Code's enactment, Pennsylvania courts have consistently held that the Pennsylvania courts of common pleas have exclusive jurisdiction over the rates

[1] The Supreme Court Opinion was not unanimous. Five Justices constituted the majority, while two Justices dissented from the Majority Opinion. Reference to the Supreme Court Opinion in this Memorandum refers to the Majority Opinion. Specific references to the Majority Opinion will be designated as (Opinion, p. ____).

and services of municipal authorities incorporated under the MAA, despite the inclusion of "authority" in the definition of "municipal corporation" under the Code. (Opinion, p.23) Moreover, according to the Supreme Court, "[u]nlike a municipality that provides utility service, a municipal authority incorporated under the MAA. . . is an agency of the Commonwealth, not the municipality that created it, and has the power to determine its own rates, service, and service area." (Opinion, p.25) Therefore, the Supreme Court found that "[t]he MAA does not require an authority to obtain the Commission's approval before extending its utility service to areas beyond the boundaries of the incorporating municipality." (Opinion, p.26)

The Supreme Court also observed in its Opinion that the Commission's *amici* (such as PMAA), pointed out that many municipal authorities serve across municipal boundaries (Opinion, p.26) and, further, that "the MAA contemplates that a municipal authority's service area may encompass non-member municipalities…) (Opinion, p.27) Of particular significance, the Supreme Court also noted that an incorporated municipal authority does not have "corporate limits" like a municipality (which has legally defined geographic boundaries). (Opinion, p.27) Therefore, the Supreme Cout found that "the Commission cannot regulate the rates and service of an incorporated municipal authority the same way it regulates a municipality or municipal corporation providing service beyond its corporate limits." (Opinion, p.27)

Accordingly, the Supreme Court concluded that "the Commission's jurisdiction over municipal corporations, as defined in the Code, does not extend to municipal authorities incorporated under the MAA, because the MAA vests the [Pennsylvania] courts of common pleas with exclusive jurisdiction over those authorities' rates and services," and that such authorities "are not subject to Commission regulation when they provide utility service beyond the boundaries of their incorporating municipalities." (Opinion, p.33) The Supreme Court's decision confirms that municipal authorities incorporated under the MAA are not required to obtain a CPC from the Commission merely because they provide services beyond the boundaries of their incorporating municipalities.

This Memorandum is provided for informational purposes only and should not be construed as legal advice on any subject matter. If any PMAA Staff, Member of the Board of Directors, or Member of the Executive Committee would like to discuss this matter further, please let me know. Anyone else reading this Memorandum should consult with their own legal counsel.