

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 06**

**PENNSYLVANIA AMERICAN WATER  
COMPANY**

**Employer**

**and**

**Case 06-RC-382228**

**PENNSYLVANIA AMERICAN WATER  
INDEPENDENT UNION**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

**I. INTRODUCTION**

Pennsylvania American Water Company (“Employer”) a Pennsylvania corporation with offices and places of business throughout Pennsylvania, operates a utility company that provides water service in Pittsburgh (“Pittsburgh District”). Pennsylvania American Water Independent Union (“Petitioner”) seeks to represent the bargaining unit currently represented by United, Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (“Intervenor”). Per the current collective bargaining agreement between the Employer and the Intervenor, that unit consists of:

All production, maintenance, and clerical employees employed by the Employer at its Distribution Center, Meter Shop, and Treatment Plants in Bethel Park, Greentree, Pittsburgh, Aldrich, and Becks Run-Hays Mine facilities. Excluded: All confidential secretaries, executives, guards and supervisors as defined in the Act.

Upon a petition duly filed under Section 9(a) of the National Labor Relations Act (the Act), a hearing was held on March 13, 2026 and March 16, 2026, before a hearing officer of the National Labor Relations Board (“Board”). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated the undersigned its authority in this proceeding.

The sole issue presented is whether the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

Having considered the record, including the parties’ briefs, I find that the Petitioner is a labor organization as defined by the Act. I am, therefore, directing an election as set forth below.

**II. FINDINGS OF FACT**

The Petitioner was created in 2025 after an employee of the Employer, Matthew Bails, reached out to John T. Lee (“Lee”), a retired former employee of the Employer, and former

assistant president of Utility Workers Union of America System Local 537 (“Local 537”) for assistance.

Lee testified on behalf of the Petitioner that Bails reached out to him asking for help getting out of the Intervenor union and bringing in a different union. A meeting was held in about October 2025, where Lee, attorney Samuel Pasquarelli, and current Petitioner Vice President Dan Siegel met and Lee instructed attorney Pasquarelli to draft the constitution and bylaws. There are currently no employee members, and the Petitioner has not yet held any meetings with employees. The Petitioner does not represent employees at any other employer. Lee is now the current President of the Petitioner.

Lee testified that the organization was created to negotiate contracts, working conditions, and deal with grievances. Lee testified that, pursuant to the October 2025 meeting, the Petitioner now has a constitution and a set of bylaws. In Article 2, the constitution and bylaws state that the object of the Petitioner is,

“To unite into one union, all non-supervisory employees who are engaged in work at the Pennsylvania American Water Company's Pittsburgh, Pennsylvania District...To assist each other in every way possible to reduce the hours of daily labor, to secure adequate and increased pay for our work, by legislation, conciliation, negotiation and, if necessary, by strikes, and to promote the general welfare of the members and their dependents.”

Matthew Bails also testified on behalf of the Petitioner. Bails works for the Employer as a pipeline inspector at the Greentree office. Bails testified that he called another independent labor organization that previously represented employees at the Employer to see if the employees could return to that organization. After that labor organization indicated that it did not want to represent the unit, Bails reached out to Siegel to obtain Lee’s number. Bails then called Lee to discuss the concerns that the Intervenor was not representing them and Lee indicated he would call Pasquarelli to set up a new union. Bails is not an officer of the Petitioner. Bails testified that he has not paid any money to the Petitioner or attended any meetings of the Petitioner.

The Petitioner filed documentation with the Internal Revenue Service (IRS) to obtain an Employer Identification Number and has filed an application for non-profit status. To date, the Petitioner has not collected any money.

The record also reflects that Petitioner’s attorney and treasurer Pasquarelli also represents employees in the petitioned for unit in a lawsuit against the Intervenor and the Employer seeking to invalidate the collective-bargaining agreement between the Intervenor and the Employer. Bails is one of the plaintiffs in the ongoing lawsuit.

Neither the Employer nor Intervenor called witnesses to testify.<sup>1</sup>

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<sup>1</sup> During the course of the hearing it was necessary to open a Subpoena Record concerning a subpoena *duces tecum* served by the Employer on the Petitioner. The Petitioner produced some documentation in response to the Employer’s subpoena, but controversy remained concerning several specific items. On the subpoena record, the Employer’s attorney noted a concern with Petitioner’s response to requested item 5 because Petitioner did not provide lists that would identify any other representatives of Utility Workers United Association Local 537, during

### III. APPLICABLE LEGAL STANDARD

As a threshold issue, a proposed bargaining representative must qualify as a “labor organization” to lawfully obtain an election or certification. Section 2(5) of the Act defines a labor organization as:

Any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

The statutory definition of a “labor organization” has long been interpreted broadly. *See Electromation, Inc.*, 309 NLRB 990, 993-94 (1992), *enfd.* 35 F.3d 1148 (7th Cir. 1994). Under this definition, an incipient union that has not yet actually represented employees may, nevertheless, be accorded Section 2(5) status if it was formed for the purpose of representing employees. *Coinmach Laundry Corp.*, 337 NLRB 1286 (2002); *East Dayton Tool & Die Company*, 194 NLRB 266 (1971); *Butler Manufacturing Company*, 167 NLRB 308 (1967); *Alto Plastic Mfg. Corp.*, 136 NLRB 850, 851-852 (1962).

A finding of labor organization status does not require proof that the entity in question has ever “dealt with” an employer. *Coinmach Laundry* 337 NLRB at 1286; *Armco, Inc.*, 271 NLRB 350 (1984); *Steiner-Liff Textile Products Co.*, 259 NLRB 1064, 1065 (1982). Rather, it is the intent of the organization that is critical in ascertaining labor organization status, regardless of the progress of the organization’s development and what activities the organization has yet to actually perform. *Edward A. Utlaut Memorial Hospital*, 249 NLRB 1153, 1160 (1980). Indeed, even if such an organization becomes inactive without ever having represented employees, it is still deemed to have been a statutory labor organization if its organizational attempts “[c]learly ... envisaged participation by employees,” and if it existed “for the statutory purpose although they never came to fruition.” *Comet Rice Mills*, 195 NLRB 671, 674 (1972). Moreover, “structural formalities are not prerequisites to labor organization status.” *Yale New Haven Hospital*, 309 NLRB 363 (1992) (no constitution, by-laws, meetings, or filings with the Department of Labor); *Butler*, *supra*, at 266 (no constitution or officers). Thus, the absence of a constitution or bylaws is irrelevant when analyzing whether a petitioner is a labor organization within the meaning of the Act. *Coinmach Laundry*, 337 NLRB at 1287.

### IV. ANALYSIS

The record evidence is sufficient to establish that Petitioner is a labor organization. The Employer and Intervenor contend that the Petitioner is not a labor organization due to lack of employee involvement. They similarly contend the Petitioner is not a labor organization because

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2020 and 2021. The Employer noted a concern with Petitioner’s response to requested items 6 and 7 because Petitioner did not provide executive board meeting minutes or member meeting minutes of Utility Workers United Association Local 537 referencing the creation of Petitioner Union. In subpoena requested items 9 and 10, the Employer requested a copy of a retainer agreement and billing records with Petitioner’s attorney for civil action Number 2.22-cv-1700. Petitioner declined to provide these items. I affirm the rulings made on the record that these documents are unnecessary to complete the record and it is not necessary to seek enforcement of the subpoena.

the Petitioner's officers are not employees of the Employer. However, I find that the record evidence establishes that Petitioner was formed with the intent to represent employees regarding grievances, wages, and contract negotiations and has demonstrated sufficient employee involvement.

### **1. The Parties' Contentions**

The Petitioner, Employer, and Intervenor submitted briefs in support of their positions. The Employer and Intervenor argue that the Petitioner is not a labor organization because no employees of the Employer are involved with the Petitioner. Both assert that because Petitioner's officers are non-employees and because the Petitioner allegedly has no employee involvement it does not function as a labor organization. The Employer and Intervenor cite Bails' testimony, as the only employee who testified, that he chose not to participate in Petitioner as an officer in support of their contention.

The Employer asserts that Petitioner's bylaws and constitution require union officers to be employees of the company and that because the Petitioner's current officers are not employees they cannot be union officials and therefore the Petitioner is not a labor organization.

The Employer also contends that Petitioner's attorney has a conflict of interest because he represents the Petitioner and other members of the bargaining unit in a lawsuit against the Intervenor and Employer seeking to invalidate the current collective-bargaining agreement between the Intervenor and the Employer. The Employer argues this is a sham that taints the Petition. The Employer has provided no case law to support these arguments.

The Employer also argues in its brief that the Petitioner is an "alter ego" of a union that formerly represented employees in this unit at this Employer.

### **2. Labor Organization Status**

In the instant case, the Petitioner has established employee participation. The requisite showing of interest from at least 30% of employees in the proposed unit is evidence of employee participation. The unrebutted record testimony shows that the Petitioner was established for the purpose of representing employees in collective bargaining with respect to wages, hours and other terms and conditions of employment. Petitioner has expressed a willingness to represent the employees if it is certified.<sup>2</sup> Thus, all the statutory criteria have been met.

That the Petitioner has never negotiated or reached a collective bargaining agreement with any other employer, and that it has no revenue stream, is irrelevant.<sup>3</sup> That the Petitioner may be an alter ego of a former union is also irrelevant to this analysis.

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<sup>2</sup> *Gino Morena Enterprises*, 181 NLRB 808, 808 (1970) ("Consequently, any certification which may eventuate as a result of this proceeding is subject to revocation upon a showing that the Petitioner has not complied with its statutory duties relating to adequate representation and membership rights in behalf of the subject employees.")

<sup>3</sup> The lack of formalities maintained by the Petitioner, as a nascent employee group, does not serve to bar its status as a labor organization. *E.g.*, *Yale New Haven Hospital*, 309 NLRB at 363-64.

As to the argument concerning the requirements in the constitution and bylaws regarding who may be an officer, this is not a factor that is considered in the Board's analysis of labor organization status and has no bearing on labor organization status under the Act.

Finally, the identity of a labor organization's legal counsel is irrelevant to the Board's standards for finding labor organization status.

## V. CONCLUSION

Based upon the record and in accordance with the discussion above I conclude and find as follows:

1. The Hearing Officer's rulings made at the hearing and free from prejudicial error and are hereby affirmed.
2. The parties stipulated, and I find that the Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and is subject to the jurisdiction of the Board, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>4</sup>
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act and claims to represent certain employees of the Employer.
4. The Intervenor is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act and claims to represent certain employees of the Employer.
5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
6. I find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

**Included:** All production, maintenance, and clerical employees employed by the Employer at its Distribution Center, Meter Shop, and Treatment Plants in Bethel Park, Greentree, Pittsburgh, Aldrich, and Becks Run-Hays Mine facilities.

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<sup>4</sup> The parties stipulated to the following commerce facts:

The Employer, Pennsylvania American Water Company, a Pennsylvania corporation with offices and places of business located throughout Pennsylvania, is a public utility engaged in the generation and distribution of water to residential and commercial customers throughout Pennsylvania. During the past twelve months, a representative period, the Employer in the conduct of its operations derived gross revenue in excess of \$250,000. During the same period, the Employer purchased and received goods and materials in excess of \$50,000 directly from points located outside of the Commonwealth of Pennsylvania.

**Excluded:** All confidential secretaries, executives, guards and supervisors as defined in the Act.

## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether they wish to be represented for purposes of collective bargaining by either Pennsylvania American Water Independent Union, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local Union 1211, AFL-CIO, CLC or by neither labor organization.<sup>5</sup>

### **A. Election Details**

A manual election will be conducted on Wednesday, May 13, 2026 and Thursday, May 14, 2026. The time(s) and place(s) of the election will be specified in the Notice of Election that will be issued subsequent to this Decision and after consultation with the parties.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, April 12, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names (that employees use at work), work locations, shifts, job classifications, and contact information

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<sup>5</sup> The parties have not stipulated as to the order in which the choices will appear on the ballot. The order of the ballot will be determined by stipulation or coin toss after the issuance of this decision.

(including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **April 24, 2026**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Subsequent to the issuance of this Decision, the parties will be provided with a Notice of Election. Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

## RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: April 22, 2026

/s/ Nancy Wilson

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NANCY WILSON  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 06  
1000 Liberty Ave Rm 916  
Pittsburgh, PA 15222-4111