



January 21, 2025

The Board of Commissioners
Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203-2494

Dear Commissioners,

This is a petition seeking the Commissioners' approval for the Erie County Water Authority (ECWA) to serve as a temporary operator or assist to a lesser extent with the operation of The Chaffee Water Works Company (Chaffee or the Company), located in the Town of Sardinia in Erie County. This filing summarizes the current state of affairs of Chaffee, New York State Department of Public Service staff (DPS Staff) and New York State Department of Health staff (DOH Staff) efforts on this matter, and a proposal for a collaborative solution involving ECWA.

Chaffee is a small water works corporation privately owned by Rodney Franz. The Company provides metered water service to approximately 70 customers. In May of 2007, the New York State Public Service Commission (PSC) authorized Chaffee to take on a \$381,806 loan from the Drinking Water State Revolving Fund, administered by the New York State Environmental Facilities Corporation (EFC). Chaffee also received \$244,562 in grants to fund the replacement of its water system. Work to be performed included installation of a new well and well restoration, construction of a new treatment building with a generator, installation of a new storage tank and chlorinator, distribution system replacements, and placement of new water meters throughout the system. The PSC authorized Chaffee to take on this debt in order to improve its system and authorized a surcharge to recover the debt service from its customers.¹ Following this initial authorization, project costs increased over time, ultimately reaching a total of \$947,038 as of July 2013.² The project was reportedly completed in or about July 2012, and the Company continued to surcharge its customers to finish repayment of the loan.³

In December of 2023, DPS Staff received reports that customers were not receiving bills for water service, that customers were unable to establish contact with the Company, and that DOH Staff had been experiencing issues getting the Company to meet regulatory standards and provide sufficient response and communications. This triggered

¹ Case 06-W-1160, The Chaffee Water Works – Financing, Order Approving a Loan Agreement and Surcharges Subject to Conditions (issued May 17, 2017).

² Case 12-W-0260, supra, Order Denying Funding Request and Directing Tariff Amendment (issued July 19, 2013).

³ Id.

DPS Staff outreach and investigative measures. While DPS Staff was unable to obtain information directly from the Company, the following findings have been obtained to-date from other sources.

1. The Company has not billed customers fully or properly for approximately three years, starting in 2021. Some customers reported not receiving bills for up to five years, according to DOH Staff.
2. DOH has issued 36 violations, assessed \$12,500 in fines, and reports that multiple customers contacted DOH as well, citing difficulties contacting the Company and not receiving bills.
3. DOH has reported that, recently, the owner of the Company has sought the assistance of another individual to conduct a daily water test, pump check, and reporting; however, this person is not a certified waterworks system operator in New York.
4. EFC reports that the Company defaulted on its loan in 2017 and ceased making even partial payments in 2021. Currently, the Company owes approximately \$267,000 on the loan.
5. County tax records indicate that the Company has not kept current with its property tax payments since 2019.
6. The Town of Sardinia also received complaints from residents served by Chaffee concerning difficulties contacting the Company and lack of proper billing.
7. The owner has attempted to sell Chaffee; however, such attempts appear to have failed historically.

With all of these findings in mind, DPS Staff, DOH Staff, EFC, and Chaffee's customers have concerns regarding the viability of the Company and its ability to provide safe and reliable service. To that end, DPS Staff reached out to local municipal stakeholders to identify entities that could potentially be appointed as a temporary operator or be able to acquire the system and fully subsume the provision of service permanently. DPS Staff has reached out to the Village of Arcade, the Town of Sardinia, the Town of Holland, the Town of Yorkshire, and the Village of Springville. All of these entities stated that they were either not capable of, or not interested in, being appointed as the temporary operator or in acquiring the system due to lack of interest, distance, lack of resources (funding and labor), and/or lack of experience in utility operation.

Therefore, DPS Staff is seeking the Commissioners' assistance in this matter. According to ECWA's mission statement, ECWA was formed to, among other things, finance, construct, operate and maintain a water supply and distribution system to benefit the residents of Erie County. To that end, we are asking the Commissioners to approve ECWA as a temporary operator or, to a lesser extent, to lend its assistance by way of knowledge exchange, consulting and guiding, water testing and related regulatory tasks, occasional site visits, review of records and reports, identifying other possible operators, customer service, customer billing, or by other means that would allow for improved operation of Chaffee. For greater detail regarding the role, rights, and expectations of a temporary operator of a water system, please refer to the enclosed PSC orders. The latest reports from DOH, identifying

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the Company's violations, are also attached. Any assistance with these ongoing efforts would help ensure the customers of Chaffee receive safe and adequate water service.

If you would like further information regarding the items discussed in this letter or would like to discuss these matters further, please contact Joshua Gonyea at (518) 408-1061 or by email at Joshua.Gonyea@dps.ny.gov. DPS Staff can also coordinate a joint discussion with the Commissioners, ECWA, DOH, EFC, and/or the aforementioned municipalities.

Sincerely,



Robert Rosenthal
General Counsel



Michael Rieder
Director, Office of Rates and Tariffs

cc: Legislator Lindsay Lorigo, District 10
Jennifer Delaney, PE, Director, Erie County Department of Health
Henrik Westin, General Counsel, New York State Environmental Facilities Corporation
David M. DiMatteo, Town Attorney, Town of Sardinia