



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Michael W. Hassell

mhassell@postschell.com
717-612-6029 Direct
717-731-1985 Direct Fax
File #: 126896

November 28, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of The York Water Company for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Cost of Certain Customer-Owned Service Line Replacements to the Company's Services Account - Docket No. P-2016-

Dear Secretary Chiavetta:

Enclosed for filing is the Petition of The York Water Company in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink that reads 'Michael W. Hassell'. The signature is written in a cursive style with a large, sweeping 'M' and 'H'.

Michael W. Hassell

MWH/jl
Enclosures

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Date: November 28, 2016



Michael W. Hassell

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of The York Water Company for an :
Expedited Order Authorizing Limited Waivers :
of Certain Tariff Provisions and Granting :
Accounting Approval to Record Cost of : Docket No. P-2016-_____
Certain Customer-Owned Service Line :
Replacements to the Company’s Services :
Account :

**PETITION OF THE YORK WATER COMPANY FOR
AN EXPEDITED ORDER AUTHORIZING
LIMITED WAIVERS OF CERTAIN TARIFF PROVISIONS AND
GRANTING ACCOUNTING APPROVAL TO RECORD COST OF
CERTAIN CUSTOMER-OWNED SERVICE LINE
REPLACEMENTS TO THE COMPANY’S SERVICES ACCOUNT**

Pursuant to 52 Pa. Code § 5.41, the York Water Company (“York Water” or the “Company”) hereby petitions the Pennsylvania Public Utility Commission (“Commission”) to issue an Order on an expedited basis¹ that: (1) grants limited waivers of certain tariff provisions to permit the Company to replace customer-owned service lines made of lead; and (2) grants accounting approval to record the cost of replacement of customer-owned services made of lead to the Company’s Services Account – Account No. 333. In support of the requested relief, York Water states as follows:

¹ As explained in more detail below, the Order sought by this Petition is not an “Emergency Order,” as defined in 52 Pa. Code § 3.1, because York Water is not seeking the Commission to issue an order on an *ex parte* basis and by less than the full Commission. Rather, the Company seeks an Order granting the requested waiver, following consideration by the entire Commission, at the Commission’s public meeting on December 22, 2016. Such an expedited Order is warranted given the current circumstances on York Water’s water distribution system, which will be further explained herein.

I. INTRODUCTION

1. York Water is a public utility engaged in the business of supplying water and wastewater service in Pennsylvania subject to the regulatory jurisdiction of the Commission. *See* 66 Pa. C.S. § 102. York Water provides water service to approximately 66,100 customers throughout its certificated service territory, which includes the City of York and surrounding municipalities in portions of York and Adams Counties, Pennsylvania. York Water provides wastewater service to approximately 642 customers in portions of York County.

2. The names and address of York Water's attorneys are as follows:

Michael W. Hassell, Esquire
Devin T. Ryan, Esquire
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mhassell@postschell.com
E-mail: dryan@postschell.com

II. BACKGROUND

3. In September 2016, York Water completed its triennial water sampling required by the U.S. Environmental Protection Agency ("EPA").² York Water's tests concluded that six of the 50 buildings tested had samples with more than 15 parts per billion ("ppb") of lead. As a result of this action level exceedance, the Company is required to optimize its corrosion control program, fulfill a series of public education requirements, and replace at least 7% of its total lead service lines annually. York Water will be reviewing its corrosion control over the next several months to determine if any improvements can be made. The Company has already begun the public education requirements, including directly notifying potentially affected customers,

² Water samples are to be taken at the customer's faucet or tap.

issuing a press release, sending bill inserts, posting information on York Water's website regarding the health effects of lead, and creating a lead information pamphlet to be distributed to all customers. The Company has been replacing its lead service lines over the past few years at more than 7% per year; however, as explained below, York Water has a plan to expedite the replacements. In addition to these activities, York Water also will be required to perform the testing under the lead and copper rule on a more frequent basis. The Company had previously met the requirements to perform triennial testing. Due to the exceedance, the Company will be required to take 100 samples rather than 50 and to test every six months rather than triennially until the exceedances have been rectified and the Company's samples meet the requirements for two sequential testing periods.

4. Lead can come from a variety of potential sources. Among these sources can be lead service lines.³ Lead pipe was permitted to be installed in public water systems and plumbing for residential or non-residential facilities providing water for human consumption until June of 1986, when it was prohibited by the EPA. Before June of 1986, the amount of permitted lead in water systems and plumbing had been reduced several times. York Water's records indicate that its most recently installed lead service lines date back to 1934. The Company stopped installing lead service lines in the mid-1930's. However, because portions of York Water's system had been constructed pre-1935, lead services do exist.

5. There are two parts to service lines that deliver water to a customer's premises. The first part is the Company-owned service line. This service line extends from the water main

³ Leaded solder and brass fixtures in a home also can leach lead into the customer's water supply.

to a curb stop or valve.⁴ York Water owns and maintains the Company-owned service. The second part of the service is the customer-owned service line, which extends from the curb stop or valve to the premises. It is the customer's responsibility to own and maintain the customer-owned service line.

6. According to the Company's records, approximately 1,660 customers are served by lead Company-owned services.⁵ The Company intends to replace these approximately 1,660 Company-owned services over the next four years, far exceeding the Pennsylvania Department of Environmental Protection ("DEP") requirement to replace 7% per year.⁶

7. York Water does not know the composition of all customer-owned services. However, it does believe that some customer-owned services, which remain in service, are lead pipe. Under DEP requirements, the Company is required to inform the customer when the Company-owned lead service line is being replaced and whether the customer's service is lead. In addition, DEP requires the Company to offer to replace the customer portion of the service line, although this replacement is done at the customer's sole expense. The Company is not required to replace the customer's lead service line at its own cost.

8. As part of its Company-owned lead service replacement plan, York Water proposes to replace, at the Company's initial cost, any corresponding customer-owned service lines made of lead that the Company encounters, subject to the customer's permission. Because of the health issues related to lead, and the costs to customers of replacing their service lines, York Water believes that it is in the best interest of the customers to replace customer lead

⁴ See Rule 1.1 of York Water's water service tariff. Supp. No. 53 to Water-Pa. P.U.C. No. 14, Fourth Revised Page No. 17.

⁵ The 1,660 buildings comprise approximately three percent of the properties served by York Water.

⁶ There is no requirement that York Water obtain the Commission's permission to replace the lead service lines owned by the Company.

service lines when replacing the Company's service lines at its initial cost. In addition, the Company would realize some efficiencies and some economies of scale by replacing both sides of the service line at the same time. York Water also believes that it is in the best interest of customers to assist in the cost of replacing lead customer-owned services that are not connected to lead Company-owned services. The costs of replacing the customer-owned service lines would be capitalized as part of the service line replacement. Although York Water will replace the customer-owned service lines made of lead, the Company will not take ownership of these service lines or maintain them in the future. Rather, the customers would own the service lines and be responsible for maintaining them, in accordance with York Water's tariff. *See* Rule 3.4, Supp. No. 68 to Water Pa. P.U.C. No. 14, Fourth Revised Page No. 10.

9. A strict interpretation of York Water's tariff does not permit York Water to remove the customer-owned service lines made of lead and install new customer-owned services at the Company's initial cost. Rule 3.4 of York Water's tariff provides that "[e]ach Customer's Service Line shall be installed . . . by or on behalf of such Customer at his expense." Rule 3.4, Supp. No. 68 to Water Pa. P.U.C. No. 14, Fourth Revised Page No. 10.

10. It is well-established that public utilities must adhere to the terms and conditions of their tariffs. *See* 66 Pa. C.S. § 1303; *PECO Energy Co. v. Twp. of Upper Dublin*, 922 A.2d 996, 1004 (Pa. Cmwlth. 2007); *Kossmann v. Pa. Pub. Util. Comm'n*, 694 A.2d 1147, 1151 (Pa. Cmwlth. 1997); *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995).

11. Therefore, absent limited waivers of Rule 3.4, York Water must adhere to the terms of its tariff and cannot replace, at its initial cost, customer-owned service lines made of lead.

12. Under the Uniform System of Accounts for Water Companies, the Company normally would not capitalize the cost of replacement of customer-owned services, as the asset is not owned by York Water. However, because the Company seeks Commission approval to vary from its tariff to replace lead customer-owned services, the Company is seeking permission from the Commission to capitalize this cost.

III. PETITION FOR WAIVERS AND ACCOUNTING APPROVAL

13. York Water respectfully requests a limited waiver of Rule 3.4 so that it may replace lead customer-owned service lines discovered when the Company replaces lead Company-owned service lines. This waiver is limited to those customers affected by York Water's lead Company-owned service replacement plan and does not change the rules regarding a customer's obligation to replace or repair leaking or otherwise defective customer-owned service lines unrelated to the replacement plan. Moreover, subsequent to replacing the customer-owned service lines, the customers' ownership of and duty to maintain the service lines will remain unchanged.

14. York Water also respectfully requests an additional limited waiver of Rule 3.4 so that it may, from time to time, replace lead customer-owned service lines whenever they are discovered, regardless of the material used for the Company-owned service line. The Company proposes to offer to make a payment towards the replacement cost of the customer-owned lead service line up to an amount not to exceed the Company's average incremental cost of replacing the customer-owned lead service line as part of the Company-owned lead service line replacement plan.⁷ The payment made by York Water toward the cost of replacing the customer-owned service lines would be capitalized as part of the service line replacement. This additional

⁷ The Company may offer to engage plumbers to do the work and then bill the customers for any difference between the actual cost and the maximum payment amount.

waiver is limited to those customers with a lead customer-owned service line not connected to a lead Company-owned service line and does not change the rules regarding a customer's obligation to replace or repair leaking or otherwise defective customer-owned service lines. Moreover, subsequent to replacing the customer-owned service lines, the customers' ownership of and duty to maintain the service lines will remain unchanged.

15. These limited waivers are in the public interest for several reasons.

16. First, replacing lead customer-owned service lines at the same time as the Company-owned service is replaced will eliminate this source of lead from affected premises. Absent the waiver, lead customer-owned services would still present a potential exposure to lead at the affected premises even after the Company replaces all of its Company-owned services made of lead. Therefore, by replacing these lead customer-owned service lines, York Water will improve the quality and safety of its water service for customers.

17. Second, now is an opportune time to replace the customer-owned service lines made of lead. As mentioned previously, York Water will replace all Company-owned lead service lines over the next four years. To do this, York Water must disconnect all customer-owned service lines connected to the existing Company-owned service lines. York Water will be able to determine if the customer-owned service line is constructed of lead. It would be more efficient for York Water to replace any customer-owned service lines made of lead, rather than coordinating with individual customers to accomplish these tasks.

18. Third, recent studies have indicated that a "partial lead service line" replacement may not significantly reduce the lead level at the customer's tap. In addition, a partial lead service line replacement may temporarily increase lead at the customer's tap due to disturbing the customer-owned service line during the partial replacement. During partial replacement, DEP

requires additional coordination with the customer, including installation of a temporary by-pass hose, extensive flushing, and follow-on sampling of the water at the tap. These costs would be avoided by replacing the lead customer-owned service line at the same time that the Company-owned service line is replaced.

19. Fourth, in 2016, the American Water Works Association (“AWWA”) and the National Drinking Water Advisory Council (“NDWAC”) both passed policy statements recommending the complete removal and replacement of Company and customer-owned lead service lines.⁸

20. Fifth, the additional waiver allowing the Company to make a payment towards replacement of customer-owned lead service lines implements the health and safety recommendations described in the AWWA and NDWAC policy statements.

21. Sixth, by authorizing the additional waiver for customer-owned lead service lines, all customers with lead service lines would be treated equally.

22. Seventh, the Commission has approved the replacement of customer-owned service lines at the utility’s initial expense when there are safety concerns. *See Petition of Peoples Natural Gas Co., LLC for Approval of its Amended Second Revised Long-Term Infrastructure Improvement Plan for its Peoples Division and Equitable Division*, Docket Nos. P-2013-2344596, et al., at pp. 3-4 (Order Entered June 30, 2016); *see also Petition of Columbia Gas of Pa., Inc. for Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement*, Docket No. P-00072337 (Order Entered May 19, 2008). In *Peoples* and *Columbia*, the Commission observed safety concerns with customer-owned bare steel service lines. Peoples

⁸ AWWA News Release: <http://www.awwa.org/resources-tools/public-affairs/press-room/press-release/articleid/4069/awwa-board-supports-recommendation-for-complete-removal-of-lead-service-lines.aspx>

and Columbia were directed to replace customer-owned bare steel service lines as part of their infrastructure replacement program.⁹

23. Here, there are safety concerns with customer-owned service lines constructed of lead. Therefore, it would be consistent with Commission precedent for York Water to replace these service lines, at its initial cost, when replacing any Company-owned service lines made of lead, or upon discovery of a customer-owned lead service line. York Water requests that the Commission act expeditiously on this request in order to begin replacement of customer-owned lead services promptly.

24. York Water also requests permission to capitalize the cost of customer-owned lead services that are replaced as part of the Company's proposed lead services replacement program. It is appropriate to capitalize these costs, as the replacements of customer-owned services are a water quality and safety program. Both Peoples and Columbia capitalize the cost of replacement of customer-owned services, and it is appropriate for York Water also to be authorized to capitalize these costs.¹⁰ York Water intends to file a separate Petition requesting approval to include the cost of replacement of customer-owned services as eligible property for Distribution System Improvement Charge ("DSIC") purposes.

25. For these reasons, York Water respectfully requests that the Commission: (1) grant limited waivers of Tariff Rule 3.4 to permit York Water to replace lead customer-owned

⁹ York Water will engage its current construction subcontractors, who will engage their employed or subcontracted plumbers to install customer-owned service lines and connect those lines to Company-owned services. By subcontracting through its current construction crews, York Water will be able to coordinate the work with its replacement plan, thereby reducing customer outage time and increasing the efficiency of the replacement process.

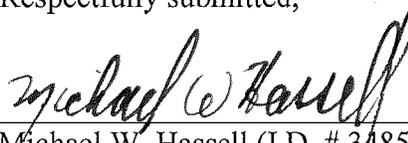
¹⁰ Peoples and Columbia capitalized the cost of customer-owned service line replacement to the mains account because the services were being replaced as part of each utility's main replacement program. Similarly, York Water seeks permission to capitalize the cost of lead customer-owned service lines to its services account.

services identified as part of York Water's lead services replacement program; and (2) authorize York Water to capitalize the cost of these lead customer-owned service line replacements.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, The York Water Company respectfully requests the Pennsylvania Public Utility Commission approve the instant Petition on an expedited basis, at its Public Meeting on December 22, 2016.

Respectfully submitted,



Michael W. Hassell (I.D. # 34851)

Devin T. Ryan (I.D. # 316602)

Post & Schell, P.C.

17 North Second Street

12th Floor

Harrisburg, PA 17101-1601

Phone: 717-731-1970

Fax: 717-731-1985

E-mail: mhassell@postschell.com

E-mail: dryan@postschell.com

Date: November 28, 2016

Attorneys for The York Water Company

VERIFICATION

I, Kathleen M. Miller, being the Chief Financial Officer of The York Water Company, hereby state that the facts set forth are true and correct to the best of my knowledge, information and belief and that I expect York Water to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: Nov. 28, 2016

Kathleen M. Miller
Kathleen M. Miller