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February 7, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority, Docket Nos. M-2018-2640802 (water); M-2018-2640803 (wastewater)

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Comments of Pittsburgh Water and Sewer Authority to Tentative Order Entered January 18, 2018 with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deanne M. O'Dell". The signature is fluid and cursive, written over a light background.

Deanne M. O'Dell

DMO/lww
Enclosure

cc: Cert of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Pittsburgh Water & Sewer Authority's Comments to Tentative Order Entered January 18, 2018 upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: February 7, 2018


Deanne M. O'Dell, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the	:	Docket No. M-2018-2640802 (water)
Public Utility Code Re Pittsburgh Water	:	M-2018-2640803 (wastewater)
And Sewer Authority	:	

**COMMENTS OF PITTSBURGH WATER AND SEWER AUTHORITY
TO TENTATIVE ORDER ENTERED JANUARY 18, 2018**

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Dated: February 7, 2018

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I. INTRODUCTION

In its Tentative Implementation Order (“TIO”), the Pennsylvania Public Utility Commission (“Commission”) takes its first official step to provide for the orderly transition to Commission regulation of the Pittsburgh Water and Sewer Authority (“PWSA”), consistent with new legal requirements as set forth 66 Pa. C.S. §§ 3201-3209 (“Act 65”). PWSA is a municipal authority created in 1984 and is responsible for producing and supplying water along with maintaining and operating the water and sewage infrastructure in Pittsburgh. PWSA also manages stormwater that is conveyed both through its combined sewer systems and separate storm sewer systems. As a municipal authority, it has no shareholders and its sole focus is to provide the best possible service at the most reasonable rates to its customers. PWSA’s goal in coming under the jurisdiction of the Commission is to become a highly responsive and trusted public utility that is recognized for excellence and is valued by the customers it serves. PWSA appreciates these initial efforts of the Commission in attempting to craft a reasonable approach to move forward with the transition. PWSA generally accepts most of the Commission’s proposals including the proposed filing dates for PWSA’s initial Commission-regulated tariff and the Compliance Plan. PWSA looks forward to partnering with the Commission, the statutory advocates, and other interested stakeholders to achieve regulatory compliance and is committed to addressing the complex and interrelated issues involved with satisfying the Commission’s requirements and transitioning to the Commission’s consumer complaint processes.

Additional details about PWSA’s views regarding the issues raised in the TIO are in the sections that follow. However, two of the more “time sensitive” issues which PWSA wishes to specifically highlight here are:

- PWSA’s existing water and sewer rates were approved by PWSA’s Board of Directors in November 2017 (before the new law was passed). As part of this approval, the rates are scheduled to increase over a three-year period. The first

increase went into effect on January 1, 2018, and the second increase is scheduled to go into effect on January 2, 2019. Given the timing of expected final Commission action on the rate filing (after the scheduled January 1, 2019 increase), PWSA suggests that the Final Implementation Order recognize implementation of the pre-approved January 2019 increase (PWSA understands that this and future rate levels will still need to be adjudged to be just and reasonable as part of the Commission's final order approving PWSA's new tariff). By doing this, PWSA can continue its current and on-going activities needed to address the various operational requirements and capital improvement investments that are being undertaken based upon the previously-approved January 1, 2019 rate level.

- PWSA is willing to voluntarily accept the use of the Commission's procedures to process customer disputes on and after April 2, 2018 in accordance with: (1) Pa. Code Chapters 1, 3, and 5; and, (2) 52 Pa. Code §§ 56.140-56.181. Additionally, PWSA agrees to use the Commission's termination rules, set forth at 52 Pa. Code §§ 56.81-56.131, starting April 2, 2018. However, in the interim period between April 2, 2018 and the Commission's approval of PWSA's Compliance Plan, PWSA respectfully requests that the Commission should recognize the intention of Act 65 and establish that PWSA's existing rules and regulations will be relied upon to resolve consumer disputes, any other complaint filed, or any Commission (or prosecutory staff) initiated investigation. Alternatively, PWSA is willing to work with Commission staff to identify those of its rules and regulations which are different and reach agreement about which of these will be applied when addressing disputes during the interim period. Clarity about the standards that will be used to adjudicate disputes and investigations is important to establish reasonable expectations and compliance. It will also be important for customers to understand the new rules and how they are to be applied to customer situations.

Commission directives regarding these two matters will appropriately focus PWSA's attention and resources during this transition process. There is much work to be done to meet the legislative directive and PWSA looks forward to working with the Commission staff (and other stakeholders) to accomplish this task.

II. NEW TARIFF FILING (JULY 2, 2018)

A. Proposals Set Forth In TIO

Section 3203 directs PWSA to “continue to provide service to the authority’s customers in accordance with a prior tariff until the effective date of a commission’s order approving a new tariff.”¹ In the TIO, the Commission invites comments regarding the following:

- Proposing that PWSA file a new tariff subject to the Commission’s review and approval process no later than July 2, 2018;²
- Concluding that the cash flow methodology as detailed in 52 Pa. Code § 69.2703 appears appropriate based on PWSA’s current accounting practices and circumstances;³
- Recommending that PWSA file two separate tariffs – one for water and another for wastewater – with further comment sought about whether PWSA should be required to file a third, separate tariff for stormwater service;⁴
- Whether or not the July 2, 2018 tariff filing satisfies the requirement that a utility must file a base rate case within five years prior to the date of filing a Distribution System Improvement Charge (“DSIC”).⁵

B. PWSA Comments

1. July 2, 2018 filing date and use of cash flow rate methodology

PWSA generally supports the Commission’s view on most issues related to the need for PWSA to submit a tariff to the Commission for approval and accepts the Commission’s proposed July 2, 2018 tariff filing date.

PWSA also fully supports the Commission initial view that the cash flow methodology as set forth in 52 Pa. Code § 69.2703 most appropriately addresses PWSA’s financial situation.

¹ 66 Pa. C.S. § 3203(a).

² TIO at 12-14.

³ TIO at 15-16.

⁴ TIO at 4-6; 18.

⁵ TIO at 23. *See* 66 Pa.C.S. §§ 1353(4), (5) which requires a recent base rate case as a precondition to seeking authority to implement a DSIC.

Similar to the Philadelphia Gas Works, PWSA is not an investor-owned utility (“IOU”). Rather, PWSA is a municipal authority responsible for the water treatment and delivery systems in the City of Pittsburgh, as well as the City’s wastewater collection and conveyance system. PWSA also manages stormwater that is conveyed both through its combined sewer systems and separate storm sewer systems. It has no shareholders and is focused solely on providing its customers with the best possible service at reasonable rates. The traditional ratemaking approach, i.e. the rate base / rate of return method, is specifically designed to allow a reasonable rate of return on assets for a utility’s shareholders. As a municipal authority, PWSA does not have common equity shareholders that require a rate of return. Although a debt-only capitalization would allow PWSA to recover its cost of debt while setting profit at zero, there are other aspects of being a municipal authority that make a rate base / rate of return methodology cumbersome.

First, municipal authorities are tax-exempt entities resulting in depreciation calculations that are materially different from how a regulated IOU would calculate depreciation. Second, a municipal authority has a debt structure that emphasizes periodic principal payments, sinking funds and maturities that substantially exceed depreciation as a measure of return of investment. Finally, municipal debt covenants typically require coverage ratios to establish operating reserves to ensure that the borrower will be able to pay the current debt obligations without drawing on outside sources. These coverage ratios synergistically serve as the basis for pay-as-you-go capital funding, or capital expenditures funded from current rates rather than being funded by issuing additional debt. For these reasons, the most appropriate ratemaking method for setting fair and reasonable water and wastewater tariffs for PWSA is the cash flow method as suggested in the TIO.

Today, PWSA's approach largely aligns with industry accepted guidelines and the principles outlined in the American Water Works Association M1 Manual and Water Environment Federation's Manual of Practice #27. PWSA foresees using this cash basis approach and cost of service analysis principles on a fully forecasted basis in its July 2, 2018 tariff filing and suggest that the Commission's cash basis approach is the most applicable approach for a municipal authority in establishing its cost of service.

PWSA is in the process of investigating any difference in its current cash flow measures as compared to those established by the Commission in 52 Pa. Code §§ 69.2701-2703. Any such differences will be identified in PWSA's Compliance Plan along with a proposal and timeline for making PWSA's cash flow accounting approach completely consistent the Commission's regulation. Pending that, PWSA is working to get as close as possible to the Commission's approach.

2. Maintaining existing Board-approved rate structure pending Commission approval of new tariff

Section 3203(a) authorizes PWSA to continue to provide service at existing rates until the Commission's approves a new tariff. Thus, and pending Commission approval of the rates that PWSA will propose with its July 2, 2018 tariff filing,⁶ PWSA requests that the Final Implementation Order recognize that PWSA will implement the existing previously approved water and sewer rates effective January 1, 2019. PWSA's current rates were approved on November 8, 2017 by its Board of Directors.⁷ These rates include planned increases over a

⁶ At a minimum, PWSA anticipates that the July 2, 2018 tariff filing will support and justify the Board-approved rates including the 2019 rate level.

⁷ PWSA is governed by a seven-member Board of Directors appointed by the mayor for five year terms. The Board makes all policy decisions regarding financial, operational and administrative procedures. The Board meets monthly and these meetings are open to the public.

three-year period beginning on January 1, 2018. The second phase of the approved increase is scheduled to go into effect on January 1, 2019.⁸ This Board action has been noticed to customers and has been posted on PWSA's website.⁹

In anticipation of these previously approved 2019 rates, PWSA has been taking the steps necessary to rebuild its aging water and sewer systems for the benefit of its customers. PWSA must implement critically needed improvements that deliver safe and reliable drinking water, as well as reduce basement flooding, and convey sewage and stormwater. Additionally, some of the system upgrades and infrastructure improvements are necessary to address various consent orders, operational and permitting requirements of the Pennsylvania Department of Environmental Protection and the Environmental Protection Agency. Recognizing that all of this work cannot realistically be completed in one year, the Board's approval of the phased rate plan has enabled PWSA to develop a reasonable implementation schedule that includes an orderly progression for completing the improvements necessary while, at the same time, easing the impact of the rate increases to customers over a longer period of time. Based on the approval of the existing rate plan, PWSA has taken various actions needed to invest in its infrastructure in anticipation of the Board-approved rates (including hiring additional staff).

PWSA recognizes that the Commission will review PWSA's July 2, 2018 tariff submission to determine whether the rates proposed are just and reasonable, and; upon final Commission approval of its tariff, PWSA will be required to charge those Commission approved

⁸ PWSA recognizes that the timing of the Commission's approval of its July 2, 2018 tariff filing will likely occur prior to the January 1, 2020 rates and, therefore, the 2020 rates as previously approved by the Board will be superseded by the Commission's action.

⁹ See, e.g., <http://pgh2o.com/rates>. In addition to information provided on its website, PWSA has also notified customers via 2018 Rates brochures inserted with every bill in January 2018.

rates (superseding any other tariffs that may have been in place). However, final Commission approval of PWSA's rates (to be submitted in the July 2, 2018 tariff filing) will likely not occur prior to the January 1, 2019 Board-approved rate level (March 29, 2019 is the statutory deadline for Commission action).¹⁰ Thus, and consistent with Section 3203(a), PWSA requests that the Commission's Final Implementation Order acknowledge that PWSA can operate on the presumption that it will be permitted to implement the January 2019 rates pending the Commission's approval of its new tariff. This clarification is important to enable PWSA to continue its current activities designed to update its infrastructure and to initiate proactive maintenance and replacement of those systems in reliance on the anticipated January 2019 rates. Importantly, PWSA fully expects to submit financial information in both its tariff filing and its Compliance Plan that will, at a minimum, demonstrate that the tariff rates proposed in the July 2, 2018 tariff submission are just and reasonable and fully necessary to enable PWSA to continue its system modernization and improvement efforts.

To the extent the Commission disagrees with this approach, PWSA would appreciate the opportunity to provide further technical input to clarify and respond to specific concerns identified by the Commission.

3. Tariffed Services – Water, Wastewater, and Stormwater

Consistent with the TIO, PWSA anticipates filing two separate tariffs on July 2, 2018 – one for water and one for wastewater. Given the characteristics of its system and the logistics of developing a new stormwater tariff, PWSA cannot reasonably be in a position to file a separate

¹⁰ 66 Pa. C.S. § 1308 provides for a maximum Commission review period of 270 days from the date of filing which, using July 2, 2018 as the tariff filing date, results in an review period end date of March 29, 2019.

stormwater tariff on July 2, 2018. A majority of PWSA's current wastewater system is a complex and integrated combined sewer and stormwater collection and conveyance network. The majority of the system infrastructure is combined, meaning that the system carries both stormwater runoff and sanitary sewage in the same pipe. Additionally, the vast majority of the separated system eventually flows to a combined system, such that there are very few separate systems that flow to the treatment system of the Allegheny County Sanitary Authority ("ALCOSAN"). PWSA does not separately bill customers for stormwater, rather the costs associated with stormwater are recovered from customers through the sanitary sewer charges (which is similar to how the majority of Commission-regulated utilities handle this issue).

PWSA does, however, support the Commission's suggestion of ultimately delineating stormwater costs and recovering those costs through a separate tariff as a more equitable and appropriate long-term approach to stormwater management. Stormwater runoff volumes and pollutants are influenced largely by the "level of imperviousness" that exists on a property rather than the volume of water used within or the volume of wastewater discharged from a property. Therefore, recovering stormwater costs through a separate stormwater charge that is not based on a customer's water usage is more equitable for PWSA customers. Achieving this goal and integrating the stormwater bill amount as a separate tariff and billing it within the existing utility bill will involve a significant amount of work.

PWSA has already begun some of the work that is necessary to ultimately bill a separate stormwater fee. As a starting point, those customers who contribute stormwater runoff into the PWSA system (and are thereby served by the system), need to be identified. PWSA and its consultants have already begun this process by analyzing property and parcel records and using aerial images to calculate the square footage of impervious area associated with those parcels.

Based on this substantial effort, PWSA estimates that another 40,000 or more new customer accounts will need to be added to its system for stormwater only service. The customer information, property information any other relevant information related to these new customers will need to be incorporated into PWSA's various systems so that they can be properly registered and properly billed. PWSA will need to create a parcel data management database to generate billing determinants and create a cross-reference between Parcel Identifier and Utility Accounts. PWSA will also need to develop new processes for the billing system to design, develop, and complete billing integration between external stormwater parcel database and PWSA's customer information/billing systems. PWSA will also need to hire field staff and acquire equipment to perform activities in the field to ensure that appropriate stormwater service is provided to customers. Significant customer education and a customer appeal protocol will have to be created to ensure that accurate data for these potential new customers has been compiled. Alongside this effort, PWSA will need to develop and create a new stormwater-only tariff. Since the Commission has not required separate stormwater-only tariffs in the past, there is not currently a model tariff to serve as a starting point for this process. PWSA will also need to draft appropriate ordinances that are then submitted to the City Council for its consideration and (hopefully) eventual passage.

While PWSA cannot feasibly complete all of these required tasks in time to submit a separate stormwater tariff to the Commission on July 2, 2018, it proposes the following two-step process to reach this ultimate goal. First, PWSA proposes to show the costs associated with stormwater in the cost of service study it intends to file as part of its July 2, 2018 tariff. At that time, PWSA would not seek to recover these costs through a separate stormwater tariff; rather, the costs would continue to be recovered from the existing sewer conveyance charges as done so

currently. PWSA will employ a detailed functional level cost allocation approach to apportion combined system wastewater operations and maintenance (“O&M”) and capital costs between stormwater and sanitary sewer. In addition, PWSA will identify and assign entirely to stormwater those O&M and capital costs that are exclusive to the provision of stormwater service only. Additionally, PWSA will provide a preliminary estimate of stormwater costs that will be incurred once the stormwater rate is implemented but are not currently incurred. Based on this detailed and methodical allocation process, PWSA will be able to provide a projection of stormwater revenue requirements and sanitary sewer revenue requirements with its July 2, 2018 tariff filing and demonstrate the portion of the current wastewater cost of service that is attributable to stormwater service.

Second, PWSA proposes that it set forth its concrete proposal to reach the goal of developing and implementing a separate stormwater tariff as soon as practicable (to include the steps that need to be undertaken and a reasonable timeline for the process) in its Compliance Plan, to be filed on or before September 28, 2018. As part of the Compliance Plan, PWSA will more fully detail the tasks that need to be done to implement a stormwater tariff and a reasonable timeframe for completion. PWSA anticipates that it will be able at that time to identify when it would be feasible to file a separate stormwater tariff.

4. DSIC and LTIP

The Commission seeks comments regarding several issues related to future infrastructure improvements that would be part of PWSA’s long-term infrastructure improvement plan (“LTIP”) with costs recovered through a future distribution system improvement charge (“DSIC”). Specifically, the TIO seeks comments on how PWSA might implement a DSIC if it chooses a rate making methodology that does not utilize depreciation and pretax return, how future LTIP and DSIC mechanism filings should be structured, and whether or not the July 2,

2018 tariff filing should be considered the filing of a base rate case which is a precondition for seeking a DSIC.¹¹

PWSA is still evaluating these issues (as well as other ones not specifically identified in the TIO but related to the DSIC and LTIIP). As such, PWSA has not yet determined whether it will file a DSIC petition contemporaneously with its LTIIP as part of the Compliance Plan or will set forth a future process to address these issues as part of its Compliance Plan. However, PWSA understands the requirement to submit an LTIIP consistent with the Commission requirements as a precondition to receiving approval to recover the costs of the LTIIP through a DSIC. Further, PWSA recommends that the July 2, 2018 tariff filing be recognized as satisfying the base rate case precondition to file for a DSIC, even if PWSA decides to file its DSIC petition contemporaneously with the July 2, 2018 tariff. Since this will be the Commission's first opportunity to review and approve PWSA's rates and it is anticipated that the process will involve all the litigation that normally occurs with a rate case, the July 2, 2018 filing will clearly be a base rate case. Requiring PWSA to submit a subsequent rate case filing as a precondition of filing for approval of a DSIC would be inefficient and unnecessarily increase costs for all involved (including PWSA, PWSA customers, interested stakeholders and the Commission).

Finally, the Commission should acknowledge that, to the extent that PWSA requests recovery of infrastructure improvement costs in a DSIC, the rate recovery should be consistent with the Company's cash flow ratemaking method. Act 65 has given the Commission the authority to modify the cost recovery provision of 66 Pa. C.S. § 1357 in order to accommodate the special circumstances presented by PWSA.¹²

¹¹ TIO at 23-24.

¹² 66 Pa. C.S. § 3202(b).

III. CUSTOMER COMPLAINTS AND INVESTIGATIONS DURING THE INTERIM PERIOD BETWEEN APRIL 2, 2018 AND APPROVAL OF PWSA'S TARIFF

A. Proposals Set Forth In TIO

Section 3202(a)(1) establishes April 1, 2018 for applicability of the Public Utility Code to PWSA and Section 3203(b) states that the Commission “shall resolve all disputes or conflicts arising under a prior tariff.”¹³ To effectuate these provisions, the TIO proposes that beginning April 2, 2018, the Commission will entertain informal and formal complaints from PWSA customers as it would any other regulated utility.¹⁴ If a customer is dissatisfied with PWSA's resolution of any complaint prior to April 2, 2018, the TIO proposes to treat that as a “dispute” that will be subject to Commission processes.¹⁵ Whether initiated as a new complaint on or after April 2, 2018, or as an unresolved complaint from the period of time prior, the Commission proposes that the following should be applied:

- Pa. Code Chapters 1, 3, and 5. These regulations set forth the procedural processes to be followed when a customer files a formal complaint with the Commission.¹⁶
- 52 Pa. Code §§ 56.140-56.181. These regulations detail the procedures utilities are required to follow in response to a customer dispute (including informal and formal complaints) and prohibit the issuance of a termination notice based on the disputed subject matter.¹⁷
- 52 Pa. Code §§ 56.81-56.131. These regulations address the process utilities must follow prior to terminating service to a customer, including the requirement to

¹³ 66 Pa. C.S. §§ 3202(a) and 3203(b). According to Section 3203(c), the term “prior tariff” means “the tariff, rate schedule and riders incorporated into the tariff, including the terms and conditions or other documents setting forth the rates and terms and conditions of service provided by an authority on the date the commission assumes jurisdiction over the authority.” 66 Pa. C.S. § 3203(c).

¹⁴ TIO at 9.

¹⁵ TIO at 9.

¹⁶ TIO at 10 (emphasis added)

¹⁷ TIO at 9-10.

stay a termination while the case is under investigation by BCS and while formal appeals from BCS are pending.¹⁸

Regarding the standards to be applied for adjudicating complaints arising pursuant to PWSA existing rules and regulations (until final Commission approval of PWSA's tariff), the TIO states that "those parts of the Prior Tariff that conflict with the Public Utility Code, or are silent as to a matter addressed by the Public Utility Code or Commission regulation, shall not be subject to strict enforcement by the Commission after April 1, 2018."¹⁹ Rather, the TIO proposes that cases implicating these sections of PWSA's tariff "will be subject to the same reasonableness analysis applied to all utility tariffs under the Public Utility Code."²⁰ The TIO also seeks comments on whether and how the Commission might examine non-compliance with the Public Utility Code and its regulations pending review of the PWSA Compliance Plan.²¹

B. PWSA Comments

1. PWSA agrees to process consumer complaints (including terminations) in accordance with Commission process pending final approval of Compliance Plan

While Section 3203 states that PWSA "shall continue to provide service . . . in accordance with a prior tariff until the effective date of a commission's order approving a new tariff," PWSA is willing to voluntarily agree to process customer disputes on and after April 2, 2018 in accordance with: (1) Pa. Code Chapters 1, 3, and 5; and, (2) 52 Pa. Code §§ 56.140-56.181. PWSA is also willing to voluntarily agree to follow the Commission's service

¹⁸ TIO at 11. Beginning April 2, 2018, the Commission will entertain requests for payment arrangements and resolve those requests consistent with Chapter 14 of the Public Utility Code and Commission regulations. TIO at 11.

¹⁹ TIO at 8.

²⁰ TIO at 8.

²¹ TIO at 19.

termination procedures for residential customers as set forth at 52 Pa. Code §§ 56.81-56.131.

Because PWSA's current consumer complaint and termination processes are different from what is required in these Commission regulations,²² PWSA will need to devote considerable time and effort will need to be devoted by PWSA to meet the April 2, 2018 deadline. Some of the tasks that need to be accomplished include:

- (1) adapting information technologies to ensure the proper handling of customer interactions and complaints;
- (2) creating new and compliant termination notices that can be issued at intervals consistent with the Commission's processes;
- (3) redesigning the monthly PWSA bill per 52 Pa. Code §§ 56.15;
- (4) hiring a Compliance Group to ensure timely responses to informal and formal complaints consistent with the Commission's requirements;
- (5) instituting robust recordkeeping and record maintenance procedures compliant with Commission standards;
- (6) developing data capture tools to meet Commission reporting requirements;
- (7) educating customers on the new rules and requirements via print/web/in-person campaigns;
- (8) modifying current rules and regulations that establish and require the use of the existing Exoneration Board; and,
- (9) training staff regarding the new dispute processes.

All proposed changes to PWSA's existing rules and regulations will need to be presented to the Board of Directors for approval. PWSA also needs to work with its Information Technology staff and vendors to provide BCS access to its Customer Services Management

²² The TIO specifically concludes that PWSA's current Exoneration Hearing Board process is "incompatible" with the requirements of the Public Utility Code. TIO at 9.

information system as proposed in the TIO.²³ All of these tasks will require time and effort and PWSA is committed to working in good faith to meet the April 2, 2018 deadline to have these changes in place.²⁴

2. PWSA seeks clarity regarding its current rules and regulations that the Commission will not enforce pending final approval of the Compliance Plan

PWSA is in the process of identifying the differences between its existing rules and regulations and those of the Commission. As directed by the Commission, PWSA plans to submit the results of this review as part of its Compliance Plan to be filed no later than September 28, 2018. PWSA anticipates that the Compliance Plan will detail what is needed to bring its current systems and processes into compliance with the Commission's regulations and a timeline to complete these tasks. Pending the Commission's review and final approval of PWSA's Compliance Plan, and noting PWSA's intent to comply with the Commission's procedural regulations (including the procedures for service terminations) as discussed above, PWSA recommends that the Commission apply PWSA's current rules and regulations when reviewing consumer complaints or other investigations effective April 2, 2018 through final approval of PWSA's Compliance Plan. Alternatively, PWSA is willing to collaborate with Commission staff to identify the specific rules and regulations in its existing tariff that will not be applied (or are missing) and work with staff to reach agreement regarding how the

²³ TIO at 10. For security reasons, PWSA intends to provide read-only access to BCS to limit external access points to its critical data systems. This level of access will allow BCS staff to see all the information but prevents parties external to PWSA from making any changes to the data.

²⁴ Notwithstanding this, however, PWSA requests that the Commission clarify that a failure to be fully compliant will not result in the assessment of a civil penalty or fine.

Commission will adjudicate these issues pending final approval of PWSA's Compliance Plan.²⁵ PWSA is open to considering any other process that the Commission may identify and requests that it have an opportunity to provide input regarding such process. PWSA asserts that it is critical for PWSA, its customers and the Commission to establish exactly which rules are to be strictly enforced and it would be unfair to assess a civil penalty or fine on PWSA while it is in the process of bringing itself into compliance and before it is able to address issues in a formal tariff filing and in the required Compliance Plan.

The proposal in the TIO that the Commission will not subject PWSA's current rules and regulations to "strict enforcement" where they conflict with the Public Utility Code or are silent as to a matter addressed by the Public Utility Code injects an unnecessary level of uncertainty for PWSA, its customers, and the Commission during the period of time between April 2, 2018 and final approval of PWSA's Compliance Plan. During this time, PWSA will be: (1) implementing the procedural processes discussed in the previous section for the first time; (2) developing new tariffs to be adjudicated during a litigated rate proceeding; (3) identifying all of the process changes, staffing changes and information technology changes that need to occur to achieve full compliance with the Commission's regulations and developing a plan for implementation; (4) identifying and preparing, as necessary, any requests for waivers as permitted by Section 3202(b); (5) engaging in a Commission process to adjudicate its proposed Compliance Plan; and, (6) addressing all of the other functions required of it as a regulated water and sewer authority. Injecting uncertainty as to the substantive standards that will be used to adjudicate consumer

²⁵ Such agreement could be memorialized in a Memorandum of Understanding or some other written document as may be appropriate.

complaints during this time and potentially assessing a civil penalty or fine against PWSA²⁶ for a failure to comply with these uncertain standards is unreasonable.²⁷

While PWSA is still in the process of determining the differences between its current requirements and those of the Commission, one example that has been preliminarily identified is 52 Pa. Code § 65.8. This regulation sets forth a variety of requirements for meters including the amount of allowable error, the required testing period, the requirement to keep meter test records, the installation and removal of meters, etc.²⁸ PWSA currently tests, maintains, repairs, and replaces meters and remote reading devices in accordance with its own historical practice,²⁹ which likely do not currently comply with all of the Commission's metering requirements. Whether and how PWSA may be able to implement new processes as set forth in Section 65.8 of the Commission's regulations are being carefully considered and the results of this review will be set forth in PWSA's Compliance Plan. Fining PWSA in the interim for non-compliance with the Commission's existing metering regulations or attempting to apply Commission meter

²⁶ Since PWSA is a municipal entity, any penalty imposed would be paid by PWSA's ratepayers. This means that resources could be diverted from PWSA's other goals, which would create an additional burden on PWSA and its ratepayers. While PWSA recognizes that the Commission has imposed civil penalties on other municipal entities, given the newness of the imposition of compliance obligations under the Public Utility Code, PWSA should be given an opportunity to achieve compliance before the Commission issues fines to deter future conduct not in compliance with the Public Utility Code.

²⁷ Moreover, Section 3203(a) maintains that the service provided by PWSA pursuant to its existing tariff (defined broadly to include all documents setting forth the rates and terms and conditions of service) shall continue until the effective date of the Commission's order approving a new tariff. 66 Pa. C.S. § 3203(a) (emphasis added).

²⁸ The Regulations also set forth requirements for the facilities for testing meters, the requirement to remove meters in service without test records, the requirement to test the accuracy of a registration of a water meter upon written request from the customer, and the schedule of fees for testing water meters. 52 Pa. Code §§ 65.8.

²⁹ Section 509 PWSA Rules and Regulations.

accuracy and reliability standards as part of a complaint process prior to final approval of PWSA's Compliance Plan would be unreasonable.

The Commission also has various requirements surrounding minimum and maximum pressures as set forth in 52 Pa. Code § 65.5. PWSA does not currently measure or track pressures in the manner described in the Commission's regulation. While PWSA will detail its proposal to address service standards such as this in its Compliance Plan, this is an example of another issue for which it would not be appropriate to fine PWSA for non-compliance with the Commission's regulations before approval of the Compliance Plan.

Other regulations that PWSA has preliminarily identified as diverging from its own processes include the record maintenance requirement of 52 Pa. Code § 56.432. PWSA does not currently have a rule, regulation, policy, or procedure to keep records of the number (and other required descriptions) of payment agreements, service terminations, and reconnections. Likewise, regarding 52 Pa. Code § 56.411(3), PWSA's current processes do not allow for the payment of interest associated with an amount deemed to be overpaid by a customer and, therefore, PWSA has no calculation method or payment fund to provide for this. Like the metering regulations, assessing PWSA a civil penalty or concluding that it violated the Commission's regulations regarding these provisions pending final approval of PWSA's Compliance Plan would be unreasonable.

PWSA continues to review the Commission's regulations against its own current processes, rules and procedures and has not yet completed this review. Because Section 3203 permits PWSA to continue to provide service in accordance with its existing rules pending the Commission's approval of the new tariff and a proposal to bring PWSA's systems into compliance with the Commission's requirements are to be addressed in the Compliance Plan,

PWSA respectfully requests that the Commission apply PWSA's existing rules to consumer complaints, any other complaint filed, or any Commission-initiated investigation during this interim period.

PWSA is also willing to work with Commission staff to identify those PWSA rules and regulations in its current tariff which are different than Commission's requirements and reach agreement about how these matters will be addressed in this interim period. Undertaking this process will result in providing needed clarity to PWSA, its customers, and all parts of the Commission to ensure that it understands its obligations to the Commission and can proceed accordingly. Not providing this clarity will inject more unnecessary confusion and uncertainty into what is already a very complex and time-consuming process. To the extent the Commission determines there is another way to address PWSA's concerns regarding this issue, PWSA respectfully requests that it be provided with an opportunity to provide input to the Commission before a final determination is made.

The TIO specifically seeks comment on whether PWSA's plans for compliance with Chapter 56 billing, collection and termination procedures should be addressed in the tariff filing or in the subsequent Compliance Plan.³⁰ As discussed in the previous section, PWSA is working to implement the core termination provisions of Chapter 56 relating to termination identified in the TIO by April 2, 2018. PWSA also plans to utilize best efforts to determine what other sections of the Commission's regulations (including Chapter 56) can be identified and addressed in the July 2, 2018 tariff filing. At this time, however, PWSA is unable to determine whether this process will be completed in time for the July 2, 2018 tariff filing. In consideration of this,

³⁰ TIO at 19.

PWSA requests that the Commission provide it flexibility on this issue and can reassess whether further direction in this regard is needed based upon PWSA's July 2, 2018 tariff filing. This proposal appears to be consistent with the Commission's direction in the TIO that "PWSA will propose plans to achieve full regulatory compliance [in its Compliance Plan] in matters not addressed in its Section 3204(a) tariff filing."³¹ Any issues PWSA is unable to include in the July 2, 2018 tariff filing will be an important part of the Compliance Plan.

IV. COMMISSION ASSESSMENTS AND ONGOING REPORTING REQUIREMENTS

PWSA is in the process of identifying the appropriate financial information to be provided to the Commission for purposes of calculating PWSA's proportionate share of the Commission's regulatory expenses for the Commission's 2019 Fiscal Year (i.e. July 1, 2018 – June 30, 2019).³² PWSA expects to provide this information on or before May 1, 2018.

The TIO also seeks comment regarding the development of "an appropriate compliance schedule" for other required reports (i.e. the annual financial report as well as monthly and yearly customer reporting requirements).³³ On a related matter, the TIO seeks comment on whether PWSA should adopt a system of accounts in accordance with 52 Pa. Code § 65.16(a) and how PWSA may comply with the required Self-Certification Form for Security Planning and Readiness.³⁴ PWSA is still reviewing these issues and plans to offer a proposal to the Commission about how to deal with them as part of its Compliance Plan filing. At this time, however, PWSA requests that the Commission temporarily stay these requirements pending final

³¹ TIO at 18.

³² PWSA anticipate

³³ TIO at 26-27

³⁴ TIO at 19.

approval of its Compliance Plan. PWSA is working in good faith to achieve full compliance with the Commission requirements and is willing to work with staff as may be necessary to ensure that it has the information deemed necessary during this interim process.

V. BASELINE AUDITS

The Commission seeks comment on whether it should establish a baseline performance analysis of PWSA's financial operations, processes, billing systems, customer service operations and consumer complaint handling processes.³⁵ PWSA proposes that the Compliance Plan serve the purpose of establishing the baseline and anticipates working closely on an informal basis with staff from the appropriate Commission bureaus in furtherance of developing a well-informed Compliance Plan. As part of that filing, PWSA will need to identify these issues and propose a plan to bring the systems and performance into compliance with the Commission's requirements. Requiring two independent formal audits at the same time PWSA is internally reviewing these issues (and working informally with staff) to prepare a Compliance Plan would overextend PWSA's limited resources. Formal audits are time-consuming as internal staff must be diverted from their normal duties to work with auditors and ensure that the auditors are provided all the information that is needed. Diverting PWSA's staff resources during this period to assist with formal audits does not seem to be an efficient use of time and resources. PWSA fully understands that it will be subject to a formal management effectiveness operational efficiency audit in the future, but such audit would be more productive if performed after approval of PWSA's Compliance Plan. As PWSA moves further along in this process and has the benefit of operating within the parameters expected by the Commission, PWSA will

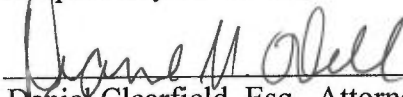
³⁵ TIO at 27-28.

appreciate the Commission's review and suggestions (reflecting decades of experience in regulating some of the best-run utilities in the country) regarding how it can further improve operations going forward to in furtherance of its goal to become a high-performing utility.

VI. CONCLUSION

PWSA is ready to work with the Commission in good faith to implement the process of coming under the jurisdiction of the Commission and seeks to become a highly responsive and trusted public utility that is recognized for excellence and valued by the customers it serves. PWSA is eager to work with Commission staff and other stakeholders to achieve these goals. For the reasons explained herein, PWSA requests that the Commission issue a final implementation order addressing the issues consistent with these comments.

Respectfully submitted,



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