

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :

:

v.

:

Docket No. R-2018-3002645

:

R-2018-3002647

Pittsburgh Water and Sewer Authority :

:

PREHEARING MEMORANDUM OF

PITTSBURGH UNITED

PENNSYLVANIA UTILITY LAW PROJECT

Co-Counsel for Pittsburgh UNITED

Elizabeth R. Marx, Esq.

John W. Sweet, Esq.

Patrick M. Cicero, Esq.

Kadeem G. Morris, Esq.

118 Locust Street

Harrisburg, PA 17101

Tel.: 717-236-9486

Fax: 717-233-4088

Email: pulp@palegalaid.net

NATURAL RESOURCES DEFENSE COUNCIL

Co-Counsel for Pittsburgh UNITED

Dimple Chaudhary, Esq.

Peter J. DeMarco, Esq.

Cecilia Segal, Esq.

1152 15th Street, NW, Ste. 300

Washington, DC 20005

Tel.: 202-513-2267

Fax: (415) 795-4799

Email: dchaudhary@nrdc.org

pdemarco@nrdc.org

csegal@nrdc.org

July 18, 2018

I. INTRODUCTION

On July 12, 2018, a Prehearing Conference Order was issued by Administrative Law Judges Mark A. Hoyer and Conrad A. Johnson, setting a prehearing conference for Thursday, July 19, 2018 at 2:00 p.m., and requiring parties to file a Prehearing Memorandum no later than Wednesday July 18, 2018 at 2:00 p.m. In response, Pittsburgh UNITED, through its counsel at the Pennsylvania Utility Law Project and Natural Resources Defense Council, hereby submits this Prehearing Memorandum.

II. HISTORY OF THE PROCEEDING

On July 2, 2018, Pittsburgh Water and Sewer Authority (PWSA) filed a base rate case pursuant to 66 Pa. C.S. § 1308(d). In the filing, PWSA proposes to increase residential rates by 16.7%. (PWSA St. No. 1 at 23.) PWSA proposes to increase its minimum charge for residential water service from \$23.25 to \$27.77 each month (PWSA St. No. 5 at 17-19; see Sched. HJS-10W) and to raise its minimum charge for residential wastewater service from \$7.71 to \$11.28 each month (PWSA St. No. 5 at 27-29; see Sched. HJS-10WW). PWSA's tariff filing includes updated billing, collection, and termination provisions, which it asserts are compliant with the requirements contained in Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations. 66 Pa. C.S. Ch. 14; 52 Pa. Code Ch. 56. As part of its filing, PWSA seeks to continue its existing low-income programs without change. (PWSA St. 4 at 3-4.) It also proposes to replace at least 2,100 out of an estimated 15,000 lead service lines in its system. (PWSA St. 1 at 8-9.)

On July 12, 2018, the Commission entered two Orders suspending the PWSA tariffs by operation of law. The Orders opened an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained therein. The Orders stated that the

investigation “shall include consideration of the lawfulness, justness, and reasonableness of the existing rates, rules, and regulations of The Pittsburgh Water and Sewer Authority.” (See PWSA-W S&I Order at 2; PWSA-WW S&I Order at 2.)

On July 13, 2018, Pittsburgh UNITED filed a Petition to Intervene and Motions for Admission *Pro Hac Vice* of attorneys Dimple Chaudhary and Cecilia Segal on behalf of Pittsburgh UNITED.

III. ISSUES TO BE ADDRESSED

In addition to complying with sound rate-making principles, including the requirement that rates be just and reasonable, PWSA must also ensure that its rates and tariff comply with the billing, collections, and termination standards contained in Chapter 14 of the Public Utility Code, and other applicable laws, regulations, and policies of the Commonwealth. See 66 Pa. C.S. Ch. 14; 52 Pa. Code Ch. 56.

In the event that the Commission approves any distribution rate increase, the Commission should condition approval on PWSA’s agreement to perform such actions as are necessary to assure compliance with applicable sections of the Public Utility Code, Commission regulations and guidelines, and prior approved settlement agreements. In turn, the policies, programs, and procedures contained in PWSA’s tariff should be adequately designed and implemented to ensure that all residents within PWSA’s service territory are able to access safe, stable, and affordable water services.

Counsel for Pittsburgh UNITED has preliminarily reviewed PWSA’s rate filing, and generally objects to PWSA’s request for increase on the grounds that the proposed rate increase could result in unjust and unreasonable rates or unsafe service that would impose severe hardship on low- and moderate-income residential customers and consumers.

While Pittsburgh UNITED is still formulating its positions on all of the issues presented, it is concerned about the effect that the proposed rate increase will have on the safety and affordability of service for economically vulnerable households within PWSA's service territory, and has tentatively identified the following issues presented by the filing that affect its members:

- i. The financial impact of PWSA's proposed rate increase on the residential customer class, particularly low-income households, and the adequacy of existing low-income programs to fully remediate rate unaffordability;
- ii. The effect of PWSA's proposal to increase its minimum charge on residential customers with low or moderate income, and the impact such an increase may have on the ability of low-income consumers and affordable housing providers to mitigate the impact of the rate increase through conservation and water efficiency;
- iii. Whether PWSA's lead remediation efforts are sufficient to ensure that the drinking water of PWSA's customers is safe and properly control for the release of lead from PWSA's infrastructure.

Pittsburgh UNITED asserts that these matters must be thoroughly reviewed through discovery and a hearing to ensure that any approved rate increase is in the public interest, and that the Company's low- and moderate-income customers are safe from lead contamination and sufficiently protected from the financial harm caused by any rate increase. Pittsburgh UNITED anticipates that additional issues may arise as a more comprehensive review of the Company's filing is undertaken, discovery is conducted, and other parties present evidence and testimony. Pittsburgh UNITED reserves the right to present evidence on any of the other issues contained in PWSA's filing but not specifically identified above, as well as issues raised by other parties.

IV. WITNESSES

Pittsburgh UNITED intends to present the following witness to testify in this matter, but reserves the right to call additional or substitute witnesses as may be warranted upon proper notice to Your Honor and the parties:

Mitchell Miller
Mitch Miller Consulting LLC
60 Geisel Road
Harrisburg, PA 17112
717-903-2196
Mitchmiller77@hotmail.com

Mr. Miller will testify about the impact of the rate increase generally on low-income households and the need to mitigate this increase to ensure that rates remain just and reasonable for those least able to afford water and sewer service.

Pittsburgh UNITED is in the process of identifying one or more expert witnesses to testify about PWSA's lead remediation program, the dangers of lead contamination, and the effect of PWSA's current proposals on Pittsburgh's low- and moderate-income households.

Pittsburgh UNITED is also investigating whether to present a witness on connection/tap rates for affordable multifamily housing developments within PWSA's service territory.

If additional witnesses are identified, Pittsburgh UNITED will notify the parties and the ALJs in advance of presenting their testimony.

V. DISCOVERY

Pittsburgh UNITED is actively working with the other parties to reach an agreement on appropriate discovery modifications. Discussions are ongoing at the time of this filing.

VI. SETTLEMENT

Pittsburgh UNITED is ready and willing to work with any and all of the other parties in this proceeding in an attempt to come to a full or partial settlement of the litigated issues.

VII. SERVICE ON PITTSBURGH UNITED

Service on Pittsburgh UNITED may be made on its attorneys at the Pennsylvania Utility Law Project and Natural Resources Defense Council as follows:

Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
Patrick M. Cicero, Esq.
Kadeem G. Morris, Esq.
PENNSYLVANIA UTILITY LAW PROJECT
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
pulp@palegalaid.net

Dimple Chaudhary, Esq.
Peter J. DeMarco, Esq.
Cecilia Segal, Esq.
NATURAL RESOURCES DEFENSE COUNCIL
1152 15th Street, NW, Ste. 300
Washington, DC 20005
Tel.: 202-513-2267
Fax: (415) 795-4799
dchaudhary@nrdc.org
pdemarco@nrdc.org
csegal@nrdc.org

Pittsburgh UNITED requests that parties serve *one hard copy each* on Pennsylvania Utility Law Project *and* Natural Resources Defense Council in addition to an electronic copy of all documents served in this proceeding.

VIII. LITIGATION SCHEDULE

Pittsburgh UNITED is actively engaged in discussions with the other parties in an attempt to reach an agreement on a litigation schedule. At the time of this filing, the parties have not reached consensus on a proposed schedule; however, we continue to work in good faith with the parties in an attempt to reach a workable solution.

IX. CONCLUSION

Pittsburgh UNITED respectfully requests that its Prehearing Memorandum be entered into the record of this proceeding

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Co-Counsel for Pittsburgh UNITED



Elizabeth R. Marx, Esq., PA ID: 309014
John W. Sweet, Esq., PA ID: 320182
Patrick M. Cicero, Esq., PA ID: 89039
Kadeem G. Morris, Esq., PA ID: 324702
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088
Email: pulp@palegalaid.net

NATURAL RESOURCES DEFENSE COUNCIL
Co-Counsel for Pittsburgh UNITED



Dimple Chaudhary, Esq., Pro Hac Vice Pending
Peter J. DeMarco, Esq., PA ID: 319087
Cecilia Segal, Esq., Pro Hac Vice Pending
1152 15th Street, NW, Ste. 300
Washington, DC 20005
Tel.: 202-513-2267
Fax: (415) 795-4799
Email: dchaudhary@nrdc.org
pdemarco@nrdc.org
csegal@nrdc.org

Date: July 18, 2018

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Certificate of Service

I hereby certify that I have this day served copies of the **Prehearing Memorandum of Pittsburgh UNITED** upon the parties of record in the above-captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

VIA FIRST CLASS MAIL AND EMAIL

The Honorable Mark A. Hoyer
Deputy Chief Administrative Law Judge
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222
mhoyer@pa.gov

The Honorable Conrad A. Johnson
Administrative Law Judge
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222
cojohnson@pa.gov

Christine M Hoover, Esq.
Erin L. Gannon, Esq.
Lauren M. Burge, Esq.
Office of Consumer Advocate
555 Walnut Street 5th Floor
Forum Place
Harrisburg, PA 17101
choover@paoca.org
egannon@paoca.org
lburge@paoca.org

Gina L. Miller, Esq.
John M. Coogan, Esq.
Richard A Kanaskie, Esq.
Bureau of Investigation and Enforcement
400 North Street 2nd Floor West
Harrisburg, PA 17120
ginmiller@pa.gov
jcoogan@pa.gov
rkanaskie@pa.gov

Daniel Clearfield, Esq.
Carl R. Schultz, Esq.
213 Market Street, 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com

Elizabeth Rose Triscari, Esq.
Sharon Webb, Esq.
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov
swebb@pa.gov

Debbie Marie Lestitian, Esq.
Pittsburgh Water and Sewer Authority
Penn Liberty Plaza 1
1200 Penn Aveune
Pittsburgh, PA 15222
dlestitian@pgh2o.com

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Co-Counsel for Pittsburgh UNITED

A handwritten signature in black ink, appearing to read "John W. Sweet". The signature is stylized with a large, sweeping initial "J" and "S".

John W. Sweet, Esq., PA ID: 320182
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@palegalaid.net

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