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July 18, 2018

Via Electronic Filing

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

Re: PA PUC v. Pittsburgh Water and Sewer Authority
Docket Nos. R-2018-3002645 and R-2018-3002647

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pittsburgh Water and Sewer Authority's ("PWSA") Prehearing Memorandum with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield

DC/lww
Enclosure

cc: Hon. Mark Hoyer w/enc.
Hon. Conrad Johnson w/enc.
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PWSA's Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email and/or First Class Mail

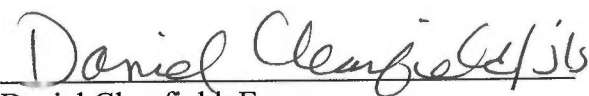
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Daniel Clearfield, Esq.

Dated: July 18, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:		
	:	Docket No.	R-2018-3002645
	:		R-2018-3002647
V.	:		
	:		
PITTSBURGH WATER AND SEWER AUTHORITY	:		

**PREHEARING MEMORANDUM OF
THE PITTSBURGH WATER AND SEWER AUTHORITY**

The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) submits this Prehearing Memorandum in response to the Prehearing Conference Notice and Order issued on July 12, 2018 by Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Conrad A. Johnson.

I. PROCEDURAL HISTORY

Under Chapter 32 of the Public Utility Code,¹ the Commission now has jurisdiction over the provision of water and wastewater² service by the PWSA.³ Section 3204(a) directs PWSA to file initial tariffs with the Pennsylvania Public Utility Commission (“Commission” or “PUC”) on July 2, 2018.⁴

¹ 66 Pa.C.S. §§ 3201 to 3209. Chapter 32 was added by Act 65 of 2017.

² The term “wastewater” includes (but is not limited to) sewage, infiltration or inflow into sewers, and storm water which is or will become mixed within a combined sewer system. *See* 66 Pa.C.S. § 102. The term does not include storm water collected in a municipal separate storm sewer. *Id.*

³ *Id.* The Commission has also interpreted Chapter 32 as providing it with jurisdiction over the stand-alone stormwater service provided by PWSA. *See Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water And Sewer Authority*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Final Implementation Order entered March 15, 2018, at p. 5.

⁴ *See* 66 Pa.C.S. § 3204(a); *See also Implementation of Chapter 32 of the Public Utility Code; RE: Pittsburgh Water And Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803, Final

On July 2, 2018, PWSA filed Water Service Tariff - PA. P.U.C. No. 1 (“Water Tariff”) and Wastewater Service Tariff - - PA. P.U.C. No. 1 (“Wastewater Tariff”) (collectively, the “Tariffs”) to become effective on August 31, 2018. These Tariffs as filed seek an overall rate increase of \$27.0 million per year. If PWSA’s entire request is approved, the total water and wastewater conveyance bill for a residential customer using 3,000 gallons per month would increase from \$63.62 to \$74.23 per month or by 16.7%.

At that time, PWSA also filed (1) a Petition for Waiver⁵ seeking waiver of the application of the statutory definition of the fully projected future test year (“FPFTY”) so as to permit PWSA to use a FPFTY beginning on January 1, 2019 in this proceeding; (2) a Petition for Consolidation⁶ requesting (a) that the above-captioned proceedings be formally consolidated into a single proceeding and (b) that the Commission authorize (or grant a waiver) so as to permit the use of a consolidated, water/waste water revenue requirement by PWSA, in the above-captioned proceedings for the requested base rate increases.

By Order entered July 12, 2018 (“Suspension Order”), the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. The Tariffs were suspended by operation of law until March 31, 2019, unless permitted by Commission Order to become effective at an earlier date.

On July 5, 2018, the Office of Consumer Advocate⁷ (“OCA”) filed a Notice of Appearance and Formal Complaint.⁸ On July 6, 2018, the Commission’s Bureau of Investigation

Implementation Order entered March 15, 2018 and Tentative Implementation Order entered January 18, 2018.

⁵ <http://www.puc.state.pa.us/pcdocs/1575185.pdf>.

⁶ <http://www.puc.state.pa.us/pcdocs/1575169.pdf>.

⁷ <http://www.puc.state.pa.us/pcdocs/1575338.pdf>.

⁸ Docket Nos. C-2018-3003165 (water), C-2018-3003165 (wastewater).

and Enforcement (“BIE”) filed a Notice of Appearance.⁹ On July 13, 2018, the Office of Small Business Advocate filed a Notice of Appearance and Formal Complaint.¹⁰

As of this date, the Company has been served with Petitions to Intervene of Pittsburgh UNITED, through its legal counsel at the Pennsylvania Utility Law Project (PULP) and the Natural Resources Defense Council (NRDC).¹¹

This matter was assigned to Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Conrad A. Johnson (collectively the “ALJs”). A Prehearing Conference Order was entered on Thursday, July 12, 2018 scheduling a prehearing conference for in this case for Thursday, July 19, 2018 at 2 PM.

II. SERVICE OF DOCUMENTS

PWSA’s Counsel for this proceedings are: Daniel Clearfield, Esquire; Deanne O’Dell, Esquire; and Carl R. Shultz, Esquire.

PWSA prefers that documents be served electronically in this proceeding, and agrees to receive service of documents electronically in this proceeding. To the extent that materials are available electronically, it is requested that copies be served upon:

Daniel Clearfield	dclearfield@eckertseamans.com
Deanne O’Dell	dodell@eckertseamans.com
Carl R. Shultz	cshultz@eckertseamans.com

To the extent that materials are not available electronically, PWSA requests that **only one** hard copy of documents, if any, be served only upon Daniel Clearfield at the following address:

⁹ <http://www.puc.state.pa.us/pcdocs/1575760.pdf>.

¹⁰ <http://www.puc.pa.gov/pcdocs/1576805.pdf>.

¹¹ <http://www.puc.state.pa.us/pcdocs/1576870.pdf>.

Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101

Please note that Mr. Clearfield will be PWSA's lead attorney for the purposes of this proceeding, including the prehearing conference.

III. ISSUES AND WITNESSES

A. Issues

The primary issue in this proceeding is what level of base rate increase is just and reasonable for PWSA using the "Cash Flow" method. The requested increase in revenues (of \$27 million) is necessary, as explained in greater detail by PWSA's witnesses and the supporting materials, to enable PWSA to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability and customer service levels; to maintain the integrity of its existing capital; and to attract additional capital at reasonable costs.

Additional issues in this initial tariff filing and rate request proceeding include the appropriate allocation of the rate increase among the customer classes and the reasonableness of the rules set forth in the Tariff relating to the provision of water and wastewater service.

PWSA is proposing that other issues having to do with compliance with the Public Utility Code, PUC rules and regulations and/or PUC Orders will be resolved in PWSA's Compliance Plan proceeding. Act 65, which added Chapter 32 to the Public Utility Code, contemplates that PWSA's plan for compliance with PUC rules and regulations, including all requirements of 52 Pa Code Chapter 65, shall be determined via a compliance plan process. PWSA's proposed Compliance Plan will set forth the degree to which PWSA is or is not currently in compliance with Commission regulations, rules and policies, and, if not in compliance, PWSA's proposal for

coming into compliance. The Compliance Plan will also propose a time line for coming into compliance. See, 66 PA C.S. § 3204(b); PWSA St. 1 at 21-23. PWSA is required to file its Compliance Plan by September 28, 2018. A list of issues that PWSA intends to attempt to resolve are listed in PWSA's Compliance Plan outline, set forth in PWSA Exhibit RAW-4. As such, numerous issues – which may be raised by the other parties – are appropriately deferred for development and resolution in upcoming compliance plan process.

B. Witnesses

PWSA anticipates offering the following witnesses to testify in this proceeding on the following subject matters:

<u>PWSA</u> <u>Statement</u>	<u>Witness</u>	<u>General Subject Matter</u>
1	Robert “Bob” A. Weimar PWSA Executive Director	Mr. Weimar provides an overview of PWSA and PWSA's initial tariff and rate request filing.
2	Debbie M. Lestitian PWSA's Chief Corporate Counsel and Chief of Administration.	Mr. Weimar also describes the various issues that PWSA will be addressing in its forthcoming “Compliance Filing,” due to be filed by September 28 (as well as in subsequent proceedings) so that the Commission and parties can evaluate this tariff filing with a more complete picture of PWSA's plans and intentions. Ms. Lestitian provides documentation and supporting methodology for the schedules and exhibits that support PWSA's base rate increase including financial schedules for the Fully Projected Future Test Year (“FPFTY”), 2019. She describes PWSA's financial results for the FPFTY at both present and proposed rates. She also details and provides supporting justification for PWSA's requested annual increase in

existing base rate of \$27.0 million.

Ms. Lestitian further describes and supports the process used to separate water and wastewater conveyance costs as well as to identify the portion of wastewater conveyance costs that currently are associated with stormwater management. Finally, she testifies to the proposed base rate increase by customer class.

3 **Katherine Clupper**
Managing Director and Partner
with PFM Financial Advisors LLC

Ms. Clupper testifies to the importance of obtaining the rate increase being sought, in order to maintain PWSA's bond ratings, access to the municipal capital markets at reasonable pricing, and to ensure there are not unforeseen impacts to PWSA's capital structure. Specifically, her testimony focuses on the adverse financial consequences to PWSA, which could be considerable and broadly based, if the Company does not receive its requested rate increase. Ms. Clupper also discusses the results of a comparable utility (benchmarking) analysis.

4 **Julie Quigley**
PWSA's Director of
Administration

Ms. Quigley describes PWSA's existing universal service programs. She also explains and provides support for the Company's proposed customer service rules, and sponsors PWSA's proposed water and its separate wastewater tariff.

5 **Harold Smith**
Vice President of Raftelis
Financial Consultants, Inc.

Mr. Smith presents the Company's class cost of service study ("CCOSS"). Mr. Smith also shows the monthly fixed customer cost per class, and supports the proposed increase in rates for each class. Mr. Smith also explains the calculation of the proposed minimum charges.

PWSA previously filed copies of these statements. The testimony and exhibits fully support PWSA's proposed rate increase, allocation of that increase among customer classes, and the design of rates to recover that increase from customers.

PWSA reserves the right to submit additional witnesses after the submission of the direct testimony of the other parties in rebuttal, surrebuttal or rejoinder.

C. Admissions or Stipulations

There have been no admissions or stipulations finalized at this time.

IV. PROPOSED SCHEDULE AND DISCOVERY

A. Proposed Schedule

1. Procedural Schedule

PWSA has had informal discussions with the other parties concerning the procedural schedule.

PWSA notes that the Pre-hearing Conference Order indicates that a schedule should be established in which reply briefs would be due on December 21, 2018. The below proposed schedule — which would commence the evidentiary hearing the week AFTER Thanksgiving — does not use December 21st as the date for reply briefs. A schedule that sets the reply brief due date for December 21, taking into account the availability of the presiding officers, would require hearings the week of Thanksgiving and is likely to create issue with the availability of witnesses. The schedule set forth below has been reviewed and endorsed by all parties. PWSA respectfully requests that the ALJs consider this proposed schedule:

Description	Date		Days Between Tasks
On site Informal Discovery Session(s)	Early August	TBD	--
Public Input Hearing(s) (In Pittsburgh)	3rd Week of September ¹²	TBD	--

¹² Proposal starts public input hearing after the Labor Day Holiday on Monday, September 3, 2018.

Settlement Conference	1st Week October	TBD	--
Other Parties' Written Direct Testimony	October 2, 2018 ¹³	Monday	91 days from July 2nd
Written Rebuttal Testimony – PWSA and Other Parties	November 1, 2018	Thursday	30
Written Surrebuttal Testimony – PWSA and Other Parties	November 20, 2018	Tuesday	19
Evidentiary Hearing for oral rejoinder (if any) from PWSA witnesses and cross-examination (if any) of all witnesses	November 27, 2018 to November 30, 2018	Tuesday to Friday	7
Main Briefs – All Parties	December 17, 2018	Monday	17 days from end of Hearing
Reply Briefs – All Parties	December 28, 2018	Friday	11
Recommended Decision (Projected)	January 28, 2019	Monday	31
Exceptions	February 12, 2019	Tuesday	15
Reply Exceptions	February 20, 2019	Wednesday	8

The below **ALTERNATIVE** schedule — which would commence the evidentiary hearing the week BEFORE Thanksgiving is being presented if a reply brief due date of December 28th is not acceptable to the ALJs.

Description	Date		Days Between Tasks
On site Informal Discovery Session(s)	Early August	TBD	--
Public Input Hearing(s) (In Pittsburgh)	3rd Week of September	TBD	--
Settlement Conference	1st Week October	TBD	--
Other Parties' Written Direct Testimony	September 24, 2018	Monday	84 days from July 2nd
Written Rebuttal Testimony – PWSA and Other Parties	October 25, 2018	Thursday	31

¹³ The OCA direct testimony of T. Fought (related to Public Input Hearing testimony) will be due no later than October 4th. That being said, OCA will use best efforts to provide said testimony by October 2nd.

Written Surrebuttal Testimony – PWSA and Other Parties	November 7, 2018	Wednesday	13
Evidentiary Hearing for oral rejoinder (if any) from PWSA witnesses and cross-examination (if any) of all witnesses	November 13, 2018 ¹⁴ (1 to 4 days in week before Thanksgiving, depending on availability of ALJs¹⁵)	Tuesday	6
	November 19, 2018 to November 21, 2018 (Up to 3 days in week of Thanksgiving, if needed)	Monday to Wednesday	--
Main Briefs	December 10, 2018	Monday	19 days from end of Hearing
Reply Briefs	December 21, 2018	Friday	11
Recommended Decision (Projected)	January 22, 2019 ¹⁶	Tuesday	32
Exceptions	February 11, 2019	Monday	20
Reply Exceptions	February 21, 2019	Thursday	10

For each proposed schedule: All dates are in-hand delivery. Electronic mail for receipt and distribution will satisfy in-hand service dates.

2. Public Input Schedule

PWSA understands that a reasonable number of public input hearings should be held in the City of Pittsburgh. PWSA suggests that the public input hearings be held in the third week of September. PWSA will attempt to accommodate the public input hearing schedule that best meets the needs of the other parties.

¹⁴ Evidentiary hearing is scheduled to start following Veterans Day, which is Monday, November 11th.

¹⁵ ALJ Hoyer is tentatively not available on Wednesday, November 14th, through Friday, November 16th.

¹⁶ Monday, January 21, 2019 is Martin Luther King Day.

B. Discovery

PWSA encourages the use of informal discovery to expedite the discovery process.

PWSA has established a cloud-based, secure site for the assistance of the parties in handling discovery. Discovery responses including attachments are available at ESCM Share File site. For a party to receive access, please contact Deanne O'Dell (dodell@eckertseamans.com) or 717-255-3744 and provide the name and email address of the person seeking access.

As of today, PWSA has received and responded to, or is in the process of responding to, approximately 530 interrogatories and data requests.¹⁷

PWSA has had informal discussions with the other parties concerning modifications to the Commission's timelines as follows:

- A. Answers to interrogatories shall be served in-hand within fifteen (15) calendar days of service of the interrogatories. After service of rebuttal testimony, the parties shall use their best efforts to provide answers to written interrogatories, served in hand within ten (10) calendar days of service.
- B. Objections to interrogatories to be communicated orally within three (3) days of service; unresolved objections shall be served to the ALJ in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

¹⁷ <http://www.puc.state.pa.us/pcdocs/1575340.docx>.

- E. Rulings on such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.
- F. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- G. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.
- H. Any discovery served after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of tracking due dates.
- I. All discovery due dates shall be “in-hand” and electronic or fax service on the due date will satisfy the “in-hand” requirement.
- J. Interrogatories, requests for production and requests for admission that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.

Because PWSA has never participated in administrative rate case litigation, it has not built up the institutional resources or experience to permit it to be able to answer the anticipated large volume of written discovery requests in ten days. Accordingly, PWSA is proposing that the time for initial discovery (until the filing of other parties’ direct testimony) remain at 15 days. PWSA will commit to trying to answer all questions as soon as possible and has suggested holding informal discovery conferences to help the Parties obtain the information they need to present their case.

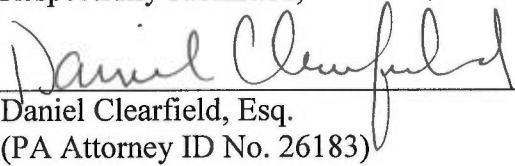
C. Protective Order

If deemed necessary by PWSA, PWSA will submit a Motion for Protective Order.

V. SETTLEMENT

PWSA is willing to discuss the settlement of its claims, and will be initiating such discussions as soon as the parties indicate that they have had sufficient time to review PWSA's direct case.

Respectfully submitted,



Daniel Clearfield, Esq.
(PA Attorney ID No. 26183)

Deanne M. O'Dell, Esq.
(PA Atty I.D. 80614)

Carl R. Shultz, Esq.
(PA Attorney ID No. 70328)

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Dated: July 18, 2018

Counsel for
The Pittsburgh Water and Sewer Authority