



Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Deanne M. O'Dell
717.255-3744
dodell@eckertseamans.com

August 28, 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") Objections to the Bureau of Investigation and Enforcement's Interrogatories: I&E-RE-40 through 44 and I&E-RS-12, with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deanne M. O'Dell".

Deanne M. O'Dell

DMO/jls
Enclosure

cc: Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PWSA's Objections to the Bureau of Investigation and Enforcement's Interrogatories: **I&E-RE-40 through 44 and I&E-RS-12** 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

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

Christine Maloni Hoover, Esq.
Lauren M. Burge, Esq.
Erin L. Gannon, Esq.
Office of Consumer Advocate
555 Walnut St., 5th Fl., Forum Place
Harrisburg, PA 17101-1923
choover@paoca.org
lburge@paoca.org
egannon@paoca.org

Gina L. Miller, Esq.
John M. Coogan, Esq.
Bureau of Investigation & Enforcement
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
ginmiller@pa.gov
jcoogan@pa.gov

Elizabeth R. Marx, Esq.
John Sweet, Esq.
The Pennsylvania Utility Law Project
118 Locust St.
Harrisburg, PA 17101
pulp@palegalaid.net
jsweetpulp@palegalaid.net

Paul Diskin, Director
Bureau of Technical Utility Services
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
pdiskin@pa.gov

Dimple Chaudhary, Esquire
Peter J. DeMarco, Esquire
Cecilia Segal, Esquire
Natural Resources Defense Council
1152 15th Street, NW, Ste. 300
Washington, DC 20005
dchaudhary@nrdc.org
pdemarco@nrdc.org
segal@nrdc.org

Terry L. Fought
780 Cardinal Drive
Harrisburg, PA 17111
tlfengr@aol.com

Brian Kalcic
Excel Consulting
225 S. Meramec Ave., Suite 720T
St. Louis, MO 63105
Excel.consulting@sbcglobal.net

Susan Simms Marsh, Esq.
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033
Susan.marsh@amwater.com

Michael A. Gruin, Esq.
Stevens & Lee
17 North Second St., 16th Fl.
Harrisburg, PA 17101
mag@stevenslee.com



Deanne M. O'Dell, Esq.

Dated: August 28, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	Docket No. R-2018-3002645, <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority - Water	:	
	:	
Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	Docket No. R-2018-3002647, <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority -	:	
Wastewater	:	

**PITTSBURGH WATER AND SEWER AUTHORITY'S
OBJECTIONS TO BUREAU OF INVESTIGATION & ENFORCEMENT
INTERROGATORIES I&E-RE-40 THROUGH I&E-RE-44 AND I&E-RS-12**

The Pittsburgh Water and Sewer Authority ("PWSA") hereby objects to the Bureau of Investigation & Enforcement's ("I&E") Interrogatories I&E-RE-40 through 44 and I&E-RS-12 served on August 23, 2018. (PWSA communicated to I&E its intention to object on August 27, 2018 consistent with the July 20, 2018 Prehearing Order). Without waiver of these objections, PWSA will attempt to respond to these questions to the extent that they can reasonably be responded to.

INTERROGATORIES

I&E's Interrogatories, set forth as Attachment "A" hereto, request extensive and detailed information concerning: (1) Allegheny County Sanitary Authority ("ALCOSAN") charges and collections; (2) the rate subsidy to Pennsylvania American Water Company ("PAWC"); (3) the Cooperation Agreement between PWSA and the City of Pittsburgh ("City"); and (4) unmetered and/or unbilled water, including public fire protection costs that are not being charged to the City as well as subsidies of development projects.

By way of further background on I&E-RE-40 and I&E-RE-44(d), all of the wastewater collected by the PWSA system is conveyed to and treated at the ALCOSAN wastewater

treatment facilities. PWSA customers are billed by ALCOSAN for wastewater treatment service via a “pass-through” charge on PWSA’s bill. PWSA pays ALCOSAN the full amount of their billings and PWSA is responsible for collecting these revenues. The arrangement is reflected in a contract between ALCOSAN and the City.

With regard to the rate subsidy to PAWC (raised in I&E-RE-41, 42(a)(b), 44(a)), the City (predecessor to PWSA) and Western Pennsylvania Water Company (predecessor to PAWC) entered into an Agreement dated December 28, 1973, which requires PWSA to pay PAWC to partially cover the charges for certain PAWC customers who are Pittsburgh residents. PWSA covers the difference, if any, between the bill calculated on current PAWC rates and a bill calculated on PWSA’s current water rate schedule.

Interrogatories I&E-RE-42(b)-(d), 43, and 44(b) inquire about the Cooperation Agreement between PWSA and the City. PWSA and the City provide various services to and undertake various responsibilities for one another. The services are provided pursuant to a Cooperation Agreement, first executed in 1995, pursuant to which PWSA will pay the City \$7.15 million in 2019. PWSA is in the process of renegotiating the Cooperation Agreement with the City to insure that the agreement is fair to both parties.

The last topic addressed in the interrogatories is unmetered and/or unbilled water usage (including City usage) (see I&E-RE-44(c), (e)). In I&E-RE-44(e), I&E seeks an update on the implementation of a recommendation that PWSA cease subsidies of development projects. I&E also requests a breakdown of the public fire protection costs that are not being charged to the City in I&E-RE-44(c). PWSA did not make a charge for public fire protection service as part of this rate case filing due to various outstanding issues, including the: (1) enforceability of charges and guarantee of payment from the City of Pittsburgh (“City”); (2) evolving relationship with the City; (3) expedited timeline for submission of the rate filing; and (4) lack of clarity as to whether the public fire protection services that PWSA currently provides meet the requirements for

imposing such a charge. PWSA intends to seek recovery of public fire protection costs in future rate filings but did not do so in this filing primarily because the existing agreement between PWSA and the City does not allow for such a charge.

OBJECTION:

PGW objects to I&E-RE-40 through I&E-RE-44 and I&E-RS-12 on the following grounds:

(a) I&E-RE-40 through I&E-RE-44 and I&E-RS-12 are beyond the scope of this proceeding and irrelevant. 52 Pa. Code § 5.321(c).

I&E-RE-40 through I&E-RE-44 and I&E-RS-12 ask extremely detailed questions on issues directed to be addressed in PWSA's Compliance Plan. A detailed inquiry of this nature is well beyond the scope of this Tariff proceeding, the purpose of which is to set the rate levels for PWSA and to approve its initial Tariff. Section 3204 of the Public Utility Code specifically states that PWSA's Compliance Plan shall include "provisions to bring [the Authority's]...accounting, billing, collection and other operating systems and procedures into compliance...."¹ In its Final Implementation Order ("FIO"), the PUC directed that PWSA's Compliance Plan shall include "plans to fully comply with the billing, collection, complaint, and termination rules of Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations...." FIO, pg. 45, Ordering Paragraph 6. In addition, the FIO directed that PWSA's Compliance Plan contain a "metering plan identifying unmetered accounts and plans to meter all customers." FIO, pg. 45, Ordering Paragraph 6. Consistent with Section 3204 of the Public

¹ 66 Pa.C.S. § 3204(b).
{L0774953.1}

Utility Code and the FIO, Witness Weimar indicated in PWSA St. No. 1 that PWSA would address the following matters in its Compliance Plan: (1) PWSA's billing arrangement with ALCOSAN; (2) the rate subsidy to PAWC; (3) the PWSA/City Cooperation Agreement; and (4) the provision of unmetered and/or unbilled water.² As such, detailed questions about the above-referenced matters are not relevant to the subject matter of this proceeding (the reasonableness of PWSA's rate increase and the reasonableness of its initial Tariff) and are not reasonably calculated to lead to the discovery of admissible evidence.

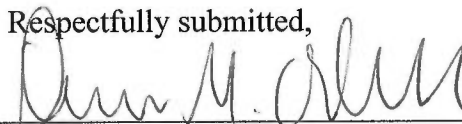
(b) I&E-RE-40 through I&E-RE-44 and I&E-RS-12 are unreasonably burdensome and would require an expensive special investigation. 52 Pa. Code § 5.361(a)(2), (4).

A review of the questions shows that they demand detailed and extensive data on ALCOSAN charges and collection, detailed calculations and analysis of the PAWC rate subsidy, and rates and consumption estimates for other local water utilities/municipalities. The questions also seek detailed and extensive data on the provision of unmetered and/or unbilled water and detailed status updates regarding various matters directed to be addressed in the Compliance Plan. While upon initial review, some of the material demanded appears to be available in PWSA's records, the extensive nature of the requests would require an extremely time consuming and difficult effort to produce in the form demanded by I&E. PWSA's initial estimate is that it would take several weeks, and scores of hours to locate the information demanded and to produce it in the form demanded.

² PWSA St. No. 1 at 22.
{L0774953.1}

Notwithstanding these objections, and without waiver thereof, in an effort to be cooperative PWSA will attempt to answer I&E-RE-40 through I&E-RE-44 and I&E-RS-12, to the extent that they can reasonably be responded to. Moreover, this cooperative production is without waiver of its position that Section 3204 of the Public Utility Code and the PUC's Final Implementation Order direct that the review of the following items occur in PWSA's Compliance Plan proceeding: (1) ALCOSAN charges and collections; (2) the rate subsidy to PAWC; (3) the PWSA/City Cooperation Agreement; and (4) unmetered and/or unbilled water, including public fire protection costs that are not being charged to the City as well as subsidies of development projects.

Respectfully submitted,



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

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

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

Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717.237.6000
717.237.6019 (fax)
dclearfield@eckertseamans.com
dodell@eckertseamans.com
cshultz@eckertseamans.com

Dated: August 28, 2018

Counsel for
The Pittsburgh Water and Sewer Authority

Attachment A

I&E-RE-40 through I&E-RE-44 state as follows:

- I&E-RE-40** Reference PWSA's response to I&E-RE-25 concerning the ALCOSAN charges and collection, provide the following:
- A. A breakdown of ALCOSAN charges and collection by year for 2008 through 2014 in a similar format to the 2015 through 2019 information provided in response to I&E-RE-25 Attachment;
 - B. A current breakdown of PWSA wastewater customers who are also PWSA water customers;
 - C. A current breakdown of PWSA wastewater customers who are also non-PWSA water customers. Such breakdown should identify the number of customers by non-PWSA water utility/municipality;
 - D. A current breakdown of non-PWSA wastewater customers for which PWSA assumes billing and collection responsibility for ALCOSAN sewage treatment charges. Such breakdown should identify the number of customers by non-PWSA wastewater utility/municipality;
 - E. A breakdown of payments by PWSA to ALCOSAN between PWSA wastewater customers and non-PWSA wastewater customers for ALCOSAN charges billed and collected by PWSA by year for 2008 through 2017 and projected for 2018 and 2019;
 - F. Detailed explanation with supporting documentation for PWSA booking losses for the uncollected ALCOSAN charges every year; and
 - G. Uncollected dollar amounts for ALCOSAN sewage treatment charges incurred by non-PWSA wastewater customers by year for 2008 through 2017 for which PWSA assumes billing and collection responsibility. Explain whether these amounts are included in the ALCOSAN billing losses booked by PAWC every year.
- I&E-RE-41** Reference PWSA's response to I&E-RE-29 concerning the rate subsidy to Pennsylvania American Water Company (PAWC), provide the following:
- A. A breakdown of the rate subsidy cost by year for 2008 through 2017 separately for PAWC and other local water utilities/municipalities;
 - B. Detailed basis and calculation for the HTY-2017, FTY-2018, and FPFTY-2019 subsidy cost breaking down between PAWC and other local water utilities/municipalities;

- C. If not included in response to Part B above, include the HTY-2017 actual and the projected FTY-2018 and FPFTY-2019 total water consumption (by gallon) eligible for rate subsidy for PAWC and each local water utility/municipality; and
- D. Provide current rates charged by PAWC and other local water utilities/municipalities identified in the responses to Parts A through C above, and the current rates charged by PWSA, which are used to project subsidy cost for FTY-2018.

I&E-RE-42

If PWSA has reviewed the PWSA Performance Audit Report of December 2017 issued by the Department of Auditor General, provide a current update on the implementation of following recommendations (pp. 37-38) listed below. If PWSA has either not reviewed the Performance Audit Report or updates are not available, explain why.

- A. Develop a strategy to reduce and ultimately close the subsidy gap between the PAWC company charges and the PWSA rates (Item No. 7);
- B. City to negotiate an amendment to the Cooperation Agreement to have it accurately reflect what services the City is to provide and be paid by PWSA and vice versa. The negotiation should include whether PWSA should continue to subsidize the water bills of PAWC customers and should ensure that the City is paying its fair share and that PWSA is only paying the City for costs or services it uses (Item No. 12);
- C. Immediately request the City to provide detailed invoices or detailed support for each quarterly bill to verify charges for both actual direct expenses and overhead expenses (Item No. 16); and
- D. Discontinue payment of City invoices for services unless those invoices have complete documentation to show valid details of those charges (Item No. 17).

I&E-RE-43

Provide copies of the invoices received as referenced in Part C of I&E-RE-42 as soon as they become available.

I&E-RE-44

If PWSA has reviewed the Mayor's Blue-Ribbon Panel Report on restructuring of PWSA dated December 28, 2017, provide a current update on the implementation of the following recommended action steps (pp. 13-14) listed below. If PWSA has either not reviewed the Blue-Ribbon Panel Report or updates are not available, explain why.

- A. Elimination of subsidy to PAWC (Item No. 1);

- B. Cease subsidy of \$7.1 million to the City under Cooperation Agreement (Item No. 2);
- C. Cease free water to the City (Item No. 3);
- D. Transfer ALCOSAN billing and collection to ALCOSAN (Item No. 5);
and
- E. Cease subsidies of development projects (Item No. 7).

I&E-RS-12 states as follows:

I&E-RS-12 Reference the Company's response to OCA-III-3 regarding public fire protection costs. Provide a breakdown of the public fire protection costs that are not being charged to the City of Pittsburgh. Include a monthly estimate of public fire protection usage and revenue that are not being charged to the city.