



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 31, 2018

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, Second Floor
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.
Pittsburgh Water and Sewer Authority
Docket Nos. R-2018-3002645 (water), R-2018-3002647 (wastewater)

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
**Motion to Dismiss Pittsburgh Water and Sewer Authority's Objections and to
Compel Discovery Responses** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of
service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

John M. Coogan
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313920

GLM/JMC/sea
Enclosure

cc: Certificate of Service
ALJ Mark A. Hoyer
ALJ Conrad A. Johnson

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2018-3002645
	:	R-2018-3002647
Pittsburgh Water and Sewer Authority	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Motion to Dismiss Pittsburgh Water and Sewer Authority's Objections and to Compel Discovery Responses** dated August 31, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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John M. Coogan
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313920

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2018-3002645 <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority – Water	:	
Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2018-3002647 <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority	:	
– Wastewater	:	

NOTICE TO PLEAD

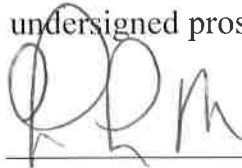
To: Daniel Clearfield, Esq., Carl R. Shultz, Esq., and Deanne M. O'Dell, Esq., Counsel for Pittsburgh Water and Sewer Authority

You are hereby notified to file a written response to the attached Motion to Compel of the Bureau of Investigation and Enforcement (I&E) within three (3) days from the date of service of this notice. If you do not file a written response denying the enclosed Motion to Compel within three (3) days of service, the presiding officers may rule in favor of I&E on the attached Motion without a hearing. Failure to respond to this Motion could result in an order directing the production of documents to I&E.

All pleadings, such as answers to motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned prosecutors.

A handwritten signature in black ink, appearing to read 'Gina L. Miller', written over a horizontal line.

Gina L. Miller, Prosecutor
PA Attorney ID No. 313863

John M. Coogan, Prosecutor
PA Attorney ID No. 313920

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor West
Harrisburg, PA 17120

August 31, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2018-3002645 <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority – Water	:	
Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
v.	:	R-2018-3002647 <i>et al.</i>
	:	
Pittsburgh Water and Sewer Authority	:	
– Wastewater	:	

**MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT TO
DISMISS PITTSBURGH WATER AND SEWER AUTHORITY’S OBJECTIONS
AND COMPEL RESPONSES TO INTERROGATORIES IDENTIFIED AS I&E-
RS-12 AND I&E RE-40 THROUGH I&E-RE-44**

I. Introduction

1. On July 2, 2018, the Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) filed Tariff Water – Pa. P.U.C. No. 1 and Tariff Wastewater – Pa. P.U.C. No. 1 to become effective August 31, 2018. Both tariffs are the first proposed PWSA water and wastewater tariffs submitted for approval of the Pennsylvania Public Utility Commission (“Commission”). These filings have been docketed as R-2018-3002645 and R-2018-3002647, respectively. The proposed tariff changes increase total annual operating revenues for water service by approximately \$21.38 million, or 22.01%, and for wastewater service by \$5.63 million, or 9.25%. Until the effective date of a Commission

order approving a new tariff, PWSA is providing service to customers in accordance with its prior tariff.¹

2. I&E entered its appearance in this matter on July 6, 2018.

3. On July 12, 2018, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of PWSA's proposed tariffs until March 31, 2019, unless permitted by Commission Order to become effective at an earlier date.

4. On July 12, 2018, the Commission assigned PWSA's tariff filings to the Office of Administrative Law Judge ("OALJ") for the development of an evidentiary record, including a Recommended Decision. The OALJ assigned the proceeding to Deputy Chief Administrative Law Judge Mark A. Hoyer ("ALJ Hoyer") and Administrative Law Judge Conrad A. Johnson ("ALJ Johnson") (collectively, the "ALJs").

5. The ALJs conducted a telephonic prehearing conference in this matter on July 19, 2018. Counsel for the following parties attended: I&E, PWSA, the Office of the Consumer Advocate, the Office of the Small Business Advocate, and Pittsburgh United.

6. During the prehearing conference, the participating parties agreed upon the following modifications of the Commission's discovery rules that are pertinent to this Motion:

- a) Answers to interrogatories shall be served in-hand within fifteen (15) calendar days of service of the interrogatories. All parties will make best efforts to provide responses within ten (10) calendar days of service. After service of rebuttal testimony, the parties shall use their best

¹ See 66 Pa. Code § 3203.

efforts to provide answers to written interrogatories, served in-hand within ten (10) calendar days of service.

b) Objections to interrogatories shall be communicated orally within three (3) days of service; unresolved objections shall be served to the presiding ALJs 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.

e) Rulings on such motions shall be issued, if possible, within seven (7) calendar days of filing the motion.²

7. On August 23, 2018, pursuant to 52 Pa. Code § 5.341, I&E served upon PWSA its Interrogatories – I&E-RS-11 through I&E-RS-12 and I&E-RE-40 through I&E-RE-45. A true and correct copy of I&E-RS-11 through I&E-RS-12 and I&E-RE-40 through I&E-RE-45 is attached hereto and marked as **Exhibit A**.

8. Pursuant to the Commission's regulations, I&E is entitled to propound discovery, including written interrogatories, on any matter that is not privileged and that is relevant to the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence.³

9. Pursuant to the above-mentioned terms of the prehearing order, PWSA has an affirmative obligation to fully and completely answer I&E-RS-11 through I&E-RS-12

² *Pa PUC v. Pittsburgh Water and Sewer Authority*, R-2018-3002645 et al., Prehearing Order, p. 7 (entered July 20, 2018).

³ 52 Pa. Code § 5.321(c).

and I&E-RE-40 through I&E-RE-45 within 15 days of service. Alternatively, to the extent that PWSA had objection to any of the interrogatories, PWSA had an obligation to orally inform I&E's counsel within three days of service, or by Monday, August 27, 2018, or to serve any unresolved objection to those interrogatories within five days of service, or by Tuesday, August 28, 2018.

10. On the afternoon of Friday, August 24, 2018 counsel for PWSA contacted I&E's counsel by telephone and left a message requesting a call back regarding the PWSA case.

11. On Saturday, August 25, 2018, I&E's counsel contacted PWSA's counsel by electronic mail to indicate that she would return PWSA's call on Monday, August 27. On the morning of Monday, August 27, 2018, I&E's counsel contacted PWSA's counsel by telephone. During this conversation, PWSA's counsel indicated that PWSA viewed I&E interrogatories identified as I&E-RS-12 and I&E-RE-40 as "beyond the scope of this case" and as being "overly broad and burdensome." PWSA's counsel indicated that it would soon file objections to those questions.

12. Later in the day on Monday, August 27, 2018, PWSA left I&E's counsel a telephone message indicating that PWSA also now planned to object to I&E-RE-41 through I&E-RE-44 on the same grounds as I&E-RS-12 and I&E-RE-40.

13. On Tuesday, August 28, 2018, I&E's counsel contacted PWSA's counsel to determine why PWSA reached the conclusion that I&E-RS-12 and I&E-RE-40 through I&E-44 (the "identified interrogatories") were overly broad and burdensome. I&E's counsel also inquired whether PWSA could identify the specific areas of concern and,

whether, once identified, it would be fruitful to have a conversation about how those concerns could be addressed by possibly limiting the scope of certain questions. Counsel for PWSA noted that because PWSA considered the identified interrogatories as beyond the scope of this case, the conversation may not be fruitful, but she agreed to check into the option further and to contact I&E's counsel if a determination was reached.

14. To date, PWSA's counsel has not specifically identified the portions of I&E's interrogatories which are deemed overbroad and burdensome so as to enable a discussion specifically tailored to PWSA's concerns. I&E's counsel remains available to have such a discussion.

15. On August 28, 2018, PWSA served Objections to I&E's Interrogatories I&E-RS-12 and I&E RE-40 through I&E-RE-44 ("Objections"). A true and correct copy of these Objections are attached and herein incorporated as **Exhibit B**.

16. As discussed more thoroughly below, PWSA objects to each of the identified interrogatories on two grounds: (1) PWSA claims that they are beyond the scope of this proceeding and irrelevant pursuant to 52 Pa. Code §5.321(c);⁴ and (2) PWSA claims that they are unreasonably burdensome and would require an expensive special investigation pursuant to 52 Pa. Code §5.361(a)(2), (4).⁵

17. In its Objections, PWSA indicates that "[n]otwithstanding 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

⁴ PWSA Objections, pp. 3-4.
⁵ Id. at 4.

be responded to.”⁶ While I&E appreciates PWSA’s comments, the value of them is diminished in that PWSA has qualified them in a manner that casts significant doubt about the type of information that PWSA will provide, which is now dependent upon PWSA’s interpretation of “the extent that they can reasonably be responded to.” This uncertainty is further compounded by the fact that PWSA has only made general averments of an unreasonable burden in its Objections, meaning that there is no metric to gauge which responses can “reasonably be responded to.”

18. As I&E demonstrates below, PWSA’s Objections are without merit, and they should be dismissed. I&E respectfully request that the ALJs dismiss PWSA’s Objections and issue an Order compelling PWSA to fully respond to I&E’s identified interrogatories within fifteen days of service, by Friday, September 7.

II. Discussion

A. PWSA’s Objection that the Identified Interrogatories are Beyond the Scope of this Proceeding and Irrelevant is Unsupported and Contradicted by the Public Utility Code and the Commission’s Final Implementation Order for Chapter 32

1. The Scope of this Case

The foundation for PWSA’s claim that the identified interrogatories are beyond the scope of this case and irrelevant appears to be PWSA’s self-imposed limitations on the scope of this proceeding. More specifically, PWSA states that one of its witnesses in this proceeding, Mr. Robert Weimar, indicated that PWSA will address the following matters in its Compliance plan, and not in this proceeding: (1) PWSA’s billing

⁶ Id. at 5.

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.⁷ Accordingly, PWSA argues that detailed questions about each of the identified subjects are not relevant to the subject matter of this case and not reasonably calculated to lead to the discovery of admissible evidence simply because it wishes to defer those topic to another proceeding. The proceeding PWSA deems appropriate for these topics is a compliance plan filing that PWSA must make under Chapter 32 of the Public Utility Code (“Code”).⁸ As explained below, neither the Code, nor the Commission’s Final Implementation Order Implementing Chapter 32 of the Code Regarding PWSA⁹ (“Final Implementation Order”) support PWSA’s averment that the enumerated topics are to be confined to a compliance plan filing.

First, the compliance plan requirement that PWSA relies upon in Chapter 32 of the Code is not determinative of the scope of this rate proceeding. Instead, as indicated in its plain language below, the compliance plan requirement that PWSA references focuses upon PWSA’s development of practices and procedures that comply with the Code, and with the Commission’s regulations and Orders.

Within 180 days of the effective date of this section, an authority shall file a compliance plan with the commission which shall include provisions to bring an authority's existing information technology, accounting, billing, collection and other operating systems and procedures into compliance with the requirements applicable to jurisdictional water and

⁷ PWSA Objections, p. 4.

⁸ Id. at 3.

⁹ *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority, M-2018-264802 et al*, Final Implementation Order (entered on March 15, 2018) (“Final Implementation Order”).

wastewater utilities under this title and applicable rules, regulations and orders of the commission. The compliance plan shall also include a long-term infrastructure improvement plan in accordance with Subchapter B of Chapter 13 (relating to distribution systems).¹⁰

Although the clear language of the Code specifically requires that an impacted authority, such as PWSA, must include a long-term infrastructure improvement plan, it does not otherwise delineate certain subject matters as being solely within the confines of the compliance plan. Accordingly, there is no statutory requirement the topics of (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 are confined to PWSA's pending compliance plan. Nor is there any edict that these topics cannot be addressed in both PWSA's tariff filing and compliance plan.

Additionally, PWSA's attempt to impose artificial limitations on the scope of this proceeding directly conflicts with the Commission's Final Implementation Order. In its Final Implementation Order, the Commission acknowledged that prior I&E Comments raised specific issues regarding PWSA including payments to the City of Pittsburgh, the PWSA subsidy of PAWC customers within city limits, the subsidized service to the City of Pittsburgh, and unaccounted for water.¹¹ In evaluating I&E's and other parties comments, the Commission concluded that these issues may be considered in PWSA's rate case whereby a full review of PWSA operations would subject to review:

All the issues raised in the comments are valid for consideration in a base rate proceeding, and as the OCA

¹⁰

66 Pa. C.S. § 3204(b).

¹¹

Final Implementation Order at 25-26.

notes, some will be addressed in the September 2018 compliance plans as well. OCA at 9. The Commission will not dictate which issues parties to these proceedings may raise or litigate. Indeed, like all such proceedings, the full gamut of PWSA operations will be subject to review.

The express intention of 66 Pa. C.S. § 3204(a) is that the Commission conduct a rate proceeding in accordance with the Commission's procedures for a tariff filing. Here, stakeholders have conveniently provided PWSA with a partial preview of issues it is expected to address in the materials it submits to the Commission in its July 2018 filings. What PWSA makes of this remains the prerogative of PWSA. Likewise, the Commission will consider all issues raised by parties to those proceedings and will subject those issues to the same standards and scrutiny as in any other ratemaking proceeding.¹²

Accordingly, there is no merit to PWSA's claim that I&E's identified interrogatories exceed the scope of this case simply because they delve into the areas of numerous subsidies and unbilled water, as the Commission has already expressly indicated that these matters are properly addressed in PWSA's rate case.

2. The Identified Interrogatories Seek Information that is at the Heart of PWSA's Burden of Proof in this Rate Case

PWSA admits that the purpose of this proceeding is to set rate levels for PWSA and to approve its initial Tariff.¹³ As a jurisdictional public utility requesting a rate increase, PWSA has the burden of showing that the rate requested is just and reasonable.¹⁴ Importantly, the Commission has broad discretion in determining whether rates are reasonable.¹⁵ As demonstrated below, each of the identified interrogatories

¹² Final Implementation Order, pp. 25-26.

¹³ PWSA Objections, 3.

¹⁴ 66 Pa. C.S. §315(a); *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1153 (Pa.Cmwlth. 1996).

¹⁵ *City of Pittsburgh v. Pa. PUC*, 42, Pa.Cmwlth. 242, 400 A.2d 672 (1979).

seeks information that is relevant because it is directly tied to PWSA's request for rate relief in the instant proceeding.

a. I&E-RS-12

I&E-RS-12, propounded upon PWSA on August 23, 2018 requests the following information:

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.

I&E submits that the information requested above is directly related to PWSA's rate filing. Specifically, PWSA's proposed tariff, water, PA P.U.C. No. 1 Original Page No. 11 indicates a \$0 charge for public fire protection per hydrant per year. The tariff indicates that this provision may be subject to change, consistent with 66 Pa. C.S. §1328. In its Objections, PWSA argues that this inquiry is not relevant because PWSA has not made a charge to the City for various reasons, including the timing of this rate filing and its "evolving relationship" with the City.¹⁶ I&E submits that this inquiry is completely relevant because the monies not currently charged to the City may be subsumed by PWSA's ratepayers as a direct result of this proceeding. Therefore, an estimate of these costs is an appropriate inquiry that has direct relevance to this proceeding.

¹⁶ PWSA Objections, p. 2.

b. I&E-RE-40

I&E-RE-40, propounded upon PWSA on August 23, 2018 requests the following information:

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's request for the information above was triggered by the testimony of PWSA witness, Deborah Lestitian. More specifically, Ms. Lestitian makes the following

statement: “the Authority carries bad debt expense for collections related to pass through charges by ALCOSAN, the region's wastewater treatment provider. The pass through charges that are assessed to the Authority are based on billed volume, not collected revenue, and thus costs Authority customers approximately \$3-5 million per year.”¹⁷

With this information in mind, I&E-RE-40 seeks information necessary to determine the underlying bases for these costs so that an evaluation of whether they are reasonably and prudently incurred is possible. Additionally, I&E submits that this inquiry is relevant because these costs may be borne by PWSA’s ratepayers as a direct result of this proceeding. Therefore, the information sought in I&E-RE-40 has direct relevance to this proceeding.

c. I&E-RE-41

I&E-RE-41, propounded upon PWSA on August 23, 2018 requests the following information:

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

¹⁷ PWSA St. No. 2, p. 9.

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's request for the information above was triggered by the testimony of PWSA witness, Deborah Lestitian. More specifically, Ms. Lestitian makes the following statement:

"Another cost presently passed onto Authority customers is a rate subsidy paid directly to Pennsylvania American Water Company ("PAWC"). This subsidy offsets PAWC's water rates to the Authority's sewer only customers. This subsidy is projected to be \$4.8 million in the FPFTY."¹⁸

With this information in mind, I&E-RE-41 seeks information necessary to determine the underlying bases and calculation for this subsidy so that an evaluation of whether they are reasonably and prudently incurred is possible. Additionally, I&E submits that this inquiry is completely relevant because the subsidy may be borne by PWSA's ratepayers as a direct result of this proceeding. Therefore, the information sought in I&E-RE-41 has direct relevance to this proceeding.

d. I&E-RE-42

I&E-RE-42, propounded upon PWSA on August 23, 2018 requests the following information:

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

¹⁸

PWSA St. No. 2, p. 9.

(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's request for the above information was made for several reasons. First, on page 21 of PWSA St. No. 1, under the heading, "scope of this rate filing," PWSA witness Robert Weimar identifies the need to establish and meet performance metrics and goals. It is in the purview of this case to find out what metrics and goals are being considered and measured, and whether the recommendations of the PWSA Performance Audit Report of the Auditor General are incorporated into the goals and metrics that PWSA plans to adopt. Additionally, this question seeks to determine whether there are any updates regarding negotiation of the subsidies and other payments that PWSA is seeking to recover through rates as part of this proceeding. For these reasons, the information sought in I&E-RE-42 has direct relevance to this proceeding.

Finally, in the interest of the challenges that PWSA may be facing in its first rate case filing before the Commission, I&E adapted this question to entertain the possibility that updates may not be available, and in this case, I&E simply requested that PWSA explain why the updates were not available. Instead of availing itself of the opportunity to explain why the requested information could not be provided, PWSA simply objected.

e. I&E-RE-43

I&E-RE-43, propounded upon PWSA on August 23, 2018 requests the following information:

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

I&E's request for the information above was triggered by PWSA's testimony indicating as follows:

"PWSA and the City provide various services to and undertake various responsibilities for one another. These 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. Discussions are currently being conducted between the City and the Authority to renegotiate the Agreement to insure equity and fairness for both parties."¹⁹

The passage above clearly indicates that PWSA ratepayers are expected to bear the burden of the \$7.15 million for services rendered by the City. PWSA has an obligation to support this claim as part of its burden of proof in this case. Therefore, the request for any invoices received for the alleged City-provided services that encompass this expense is directly relevant to PWSA's rate request that is the subject of this case.

¹⁹ PWSA St. No. 1, p. 4.

f. I&E-RE-44

I&E-RE-44, propounded upon PWSA on August 23, 2018 requests the following information:

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).

Similar to that of I&E-RE-42, I&E's request for the above information was made for several reasons. First, on page 21 of PWSA St. No. 1, under the heading, "scope of this rate filing," PWSA witness Robert Weimar identifies the need to establish and meet performance metrics and goals. It is in the purview of this case to find out what metrics and goals are being considered and measured, and whether the recommendations of the Mayor's Blue Ribbon Panel are incorporated into the goals and metrics that PWSA plans to adopt. Notably, because PWSA has relied, at least, in part, upon the Mayor's Blue Ribbon Panel's recommendation to adopt a strategic plan,²⁰ the question of whether PWSA has reviewed and adopted the same Panel's recommendations in other areas is

²⁰ PWSA Ex. No. RAW-1, p. 6.

appropriate. Additionally, this question seeks to determine whether there are any updates regarding negotiation of the subsidies that PWSA is seeking to recover through rates as part of this proceeding. For these reasons, the information sought in I&E-RE-44 has direct relevance to this proceeding.

Finally, in the interest of the challenges that PWSA may be facing in its first rate case filing before the Commission, I&E adapted this question to entertain the possibility that updates may not be available, and in this case, I&E simply requested that PWSA explain why the updates were not available. Instead of availing itself of the opportunity to explain why the requested information could not be provided, PWSA simply objected.

B. PWSA's General Objection that the Identified interrogatories are Unreasonably Burdensome and Would Require a Special Investigation is Unsupported and Fails to Identify a Specific and Viable Basis for Objection

Under Commission regulations, a valid objection to interrogatories must, inter alia, (1) restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection, and (2) include a description of the facts and circumstances purporting to justify the objection.²¹ In this case, PWSA's general objection alleging that each of the identified interrogatories is overbroad and burdensome fails to comply with each of these requirements.

First, PWSA fails to identify the portions of the identified interrogatories that it alleges are objectionable. Instead, the general objections appear to rely upon a "catch-all" methodology. Compounding upon PWSA's lack of clarity, PWSA also fails to include a description of any facts and circumstances that purport to justify its blanket

²¹ 52 Pa. Code §§ 5.342(c)(2)-(c)(3).

objections. This is true because PWSA fails to connect any of those objections to specific interrogatories posed by I&E.

Instead, PWSA simply indicates that the questions are unreasonably burdensome because they seek detailed information and status updates “regarding matters directed to be addressed in the Compliance Plan.” As demonstrated above, no such direction has come from any source other than PWSA. Additionally, PWSA generally claims that its initial review indicates that “some of the material demanded appears to be available in PWSA’s records,” the nature of the requests would require a time-consuming and difficult effort to produce. I&E submits that PWSA’s claim raises more questions than it answers, and that while it serves to indicate that some unidentified material may, in fact, be available, PWSA’s failure to provide any supporting basis for its objections makes it impossible for I&E to formulate a response. Accordingly, PWSA’s general objection alleging an unreasonable burden lacks in specificity to the degree that no response can be provided and it should be dismissed.

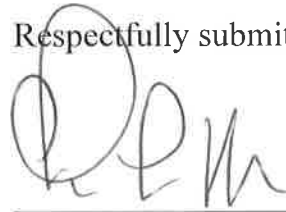
Finally, because of the lack of merit and specificity in PWSA’s Objections, PWSA’s vague and conditional commitment to “attempt” to answer I&E-RE-40 through I&E-RE-44 and I&E-RS-12, to “the extent that they can reasonably be responded to”²² should not be deemed to render this Motion moot. On the contrary, the facts presented in this Motion illustrate that there is no metric to gauge PWSA’s compliance with its own subjectively-imposed standard. For this reason, and the others cited above, I&E respectfully requests that the ALJs issue an Order that dismisses PWSA’s Objections to

²² Id. at 5.

I&E-RS-12 and I&E RE-40 through I&E-44 and that compels PWSA to fully respond to these identified interrogatories on or by September 7, 2018.

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Conrad A. Johnson dismiss Pittsburgh Water and Sewer Authority's objections and compel responses to Interrogatories labeled as I&E-RS-12 and I&E RE-40 through I&E-44 on or by September 7, 2018. Additionally, I&E respectfully requests that the Office of Administrative Law Judge rule on this Motion in an expedited manner so that a full and complete record can be presented to the Commission in the limited timeframe available in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gina L. Miller', written over a horizontal line.

Gina L. Miller
Prosecutor
PA Attorney ID # 313863

John M. Coogan
Prosecutor
PA Attorney ID #313920

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, PA 17105-3265
(717) 783-6156

Dated: August 31, 2018

EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 23, 2018

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

Re: Pennsylvania Public Utility Commission v.
Pittsburgh Water and Sewer Authority
Docket Nos. R-2018-3002645 (water), R-2018-3002647 (wastewater)

Dear Mr. Clearfield:

Enclosed please find two (2) copies of the Bureau of Investigation and Enforcement's (I&E) Interrogatories, **I&E-RS-11 through I&E-RS-12** and **I&E-RE-40 through I&E-RE-45**. Please restate the Interrogatories before responding. The response should identify the responding person(s).

The response to these Interrogatories are due within fifteen (15) calendar days pursuant to 52 Pa. Code Section 5.342(d). Please provide two (2) copies of your responses and forward them to me at Post Office Box 3265, Harrisburg, PA 17105-3265.

If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

John M. Coogan
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313920

GLM/JMC/smw
Enclosure

cc: Certificate of Service
Secretary Chiavetta (Cover Letter and COS only)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Pittsburgh Water and Sewer Authority

Docket Nos. R-2018-3002645
R-2018-3002647

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Interrogatories** dated August 23, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

Daniel Clearfield, Esquire
Carl Shultz, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

Elizabeth Triscari, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 202
Commerce Building
Harrisburg, PA 17101


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

Michael A. Gruin, Esquire
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Christine Maloni Hoover, Esquire
Erin L. Gannon, Esquire
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Office of Consumer Advocate
555 Walnut Street
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Harrisburg, PA 17101-1923

Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Patrick M. Cicero, Esquire
Kadeem G. Morris, Esquire
Pennsylvania Utility Law Project
118 Locust St.
Harrisburg, PA 17101

Susan Simms Marsh, Esquire
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033


Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

John M. Coogan
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313920

Instructions For Answers To Bureau of Investigation and Enforcement
Interrogatories

1. These Bureau of Investigation and Enforcement (I&E) Interrogatories shall be deemed to be continuing. The Respondent is obliged to change, supplement and correct all answers to these interrogatories to conform to reasonably available information, including such information as becomes available to the Respondent after answers are filed.
2. Each answer should first restate the question asked and should also identify the person(s) supplying the information that constitutes any and all portions of the subject answer. If more than one person is listed, the primary sponsoring witness, for purposes of potential cross-examination at hearing, should be specifically identified.
3. All requested information within the knowledge, possession, control or custody of Respondent or that which may be reasonably ascertained by Respondent is to be provided. Specific references to the company or corporate name(s) or "the Company," or "you," as used herein includes agents, employees or other representatives.
4. As used herein, the word "document" or "workpaper" includes, but is not limited to, the original and/or all copies of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, e-mail messages, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys, worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form, stored or contained in or on whatever medium including electronic hard disks, floppy disks, CD, internet resources and/or magnetic media.

BUREAU OF INVESTIGATION & ENFORCEMENT INTERROGATORIES

PITTSBURGH WATER AND SEWER AUTHORITY

**Docket Nos. R-2018-3002645 (Water) and
R-2018-3002647 (Wastewater)**

Analyst: D. C. Patel

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-RE-45 Reference PWSA's response to OCA-IV-13 concerning the increases in salaries and wages of and benefits expenses in the FPFTY that is attributed to an additional pay period in 2019, provide the following:

- A. Dollar amount of FPFTY projected salary and wages, OT premium pay, and other pay solely attributed to 27th pay period of 2019; and
- B. Dollar amount of FPFTY projected employee benefits cost solely attributed to 27th pay period of 2019 broken down into FICA tax, medicare tax, state unemployment tax, workers compensation, medical health insurance, and other benefits (providing specific descriptions and a breakdown for all other benefits).

BUREAU OF INVESTIGATION AND ENFORCEMENT INTERROGATORIES

**PITTSBURGH WATER AND SEWER AUTHORITY
WATER DIVISION**

Docket Nos. R-2018-3002645 and R-2018-3002647

Engineer: Ethan Cline

I&E-RS-11 Regarding Public Fire Protection, reference the Pittsburgh Water and Sewer Authority Tariff Water – Pa. P.U.C. No. 1, Original Page 11, which states:

Note that the use of public fire hydrants and abatement equipment for other purposes will be billed at the consumption charge for private fire protection. Water used from public fire hydrants for these purposes will be based on meter readings where possible. If a meter is not used, the Authority will estimate the usage.

Please provide the following:

- A. An explanation of the “other purposes” that the public fire hydrants and abatement equipment are used for;
- B. An estimate of the historic monthly usage for the years 2015 to the most recent month available for other purposes referred to in this tariff provision;
- C. Where the revenues from the “other purposes” are reflected in the filing; and
- D. If a meter is not used, identify the method the Company will use to estimate usage.

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.

EXHIBIT B



Eckert Seamans Cherin & Mellott, LLC
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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 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/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

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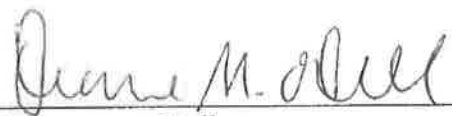
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mag@stevenslee.com


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).

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.

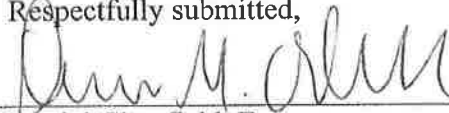
(b) I&E-RE-40 through I&E-RE-44 and I&E-RS-12 are unreasonably burdensome and would require an expensive special investigation. 52 Pa. Code § 5.361(a)(2), (4).

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)

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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.