



November 1, 2018

VIA E-FILE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: PA Public Utility Commission v. Pittsburgh Water and Sewer Authority
Docket Nos. M-2018-2640802, -2640803

Dear Secretary Chiavetta,

Enclosed for filing, please find the **Petition to Intervene of Pittsburgh UNITED** in the above noted proceeding. Copies have been served in accordance with the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Elizabeth R. Marx".

Elizabeth R. Marx
Counsel for Pittsburgh UNITED

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Chapter 32 of the	:	Docket No.	M-2018-2640802
Public Utility Code Re Pittsburgh	:		M-2018-2640803
Water and Sewer Authority	:		

PETITION TO INTERVENE OF

PITTSBURGH UNITED

PENNSYLVANIA UTILITY LAW PROJECT

Counsel for Pittsburgh UNITED

Elizabeth R. Marx, Esq.

John W. Sweet, Esq.

Patrick M. Cicero, Esq.

Kadeem G. Morris, Esq.

118 Locust Street

Harrisburg, PA 17101

Tel.: 717-236-9486

Fax: 717-233-4088

Email: pulp@palegalaid.net

November 1, 2018

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.71-.75, and the notice published in the Pennsylvania Bulletin on Saturday, October 13, 2018 (48 Pa.B. 6635), Pittsburgh UNITED, through its legal counsel at the Pennsylvania Utility Law Project (PULP), hereby petitions the Pennsylvania Public Utility Commission (Commission) to intervene in the above-captioned proceeding, and files the following response to the Petition of Pittsburgh Water and Sewer Authority (PWSA) for approval of its Compliance Plan. In support thereof, Pittsburgh UNITED states as follows:

1. On September 28, 2018, PWSA filed a Petition with the Pennsylvania Public Utility Commission (Commission or PUC) for approval of its Compliance Plan, which it filed pursuant to section 3204(b)-(c) of the Public Utility Code. (66 Pa. C.S. § 3204(b)-(c)).

2. In relevant part, PWSA’s Compliance Plan “identifies areas of Commission regulation with which PWSA is compliant; identifies areas in which PWSA is currently not in compliance; and proposes plans to move the Authority towards full regulatory compliance in each area where more needs to be done (or, where appropriate, requests waivers from the Commission’s requirements).” (PWSA Pet. at ¶ 8).

3. PWSA’s Compliance Plan reviews a number of the Commission’s standards and regulations which it avers are applicable, and discusses whether PWSA believes it is compliant with those standards and regulations. (See PWSA Pet. at ¶ 10).

4. PWSA’s Compliance Plan also “summarizes PWSA’s plan to address lead service lines.” (PWSA Pet. at ¶ 10). With respect to lead service lines, “PWSA is proposing to implement an expedited lead service line replacement (LSLR) program and small diameter water main replacement (SDWMR) program with the goal of effectively eliminating all lead service lines from

the system by 2026, assuming current funding availability and continued DEP programmatic support.” (Id.). Additional information about PWSA’s lead remediation programs is provided in PWSA’s Long Term Infrastructure Investment Plan (LTIIP), which was filed for approval at a separate docket and on the same date as PWSA’s Compliance Plan. (Id.) A copy of PWSA’s proposed LTIIP was submitted as an appendix to PWSA’s Compliance Plan. (Id. at Attach. 1, Appendix C).

5. Two days prior to PWSA’s filing, on September 26, 2018, the Commission issued a Secretarial Letter setting forth the process for review of PWSA’s Compliance Plan. In relevant part, the Secretarial Letter explained that the Commission would publish notice of PWSA’s Compliance Plan and the procedures related thereto in the Pennsylvania Bulletin on October 13, 2018. (Sept. 26 Sec. Ltr. at 2; 48 Pa.B. 6635). The Commission further provided for a comment period of 20 days from the date of publication in the Pennsylvania Bulletin. (Id.) Moreover, the Commission provided that within 45 days from the date of publication in the Pennsylvania Bulletin, it would refer PWSA’s Compliance Plan to the Office of Administrative Law Judge “for the resolution of any factual matters that PWSA or interested parties may seek to develop.” (Id. at 3). The Secretarial Letter also noted that the Commission would “consider consolidating the Compliance Plan and LTIIP proceedings upon request by petition.” (Id. at 2).

6. Pittsburgh UNITED filed Comments in response to PWSA’s LTIIP on October 29, 2018, pursuant to 52 Pa. Code § 121.4(c), which identified a number of issues of material fact regarding the adequacy and effectiveness of PWSA’s plans to mitigate high lead levels in drinking water through service line replacement, and requested that the Commission consider consolidating PWSA’s LTIIP with PWSA’s Compliance Plan and referring the consolidated Plans to the Office of Administrative Law Judge for further proceedings. Petition of PWSA for Approval of Its Long-

Term Infrastructure Improvement Plan, Comments of Pittsburgh UNITED, Docket Nos. P-2018-3005037, -3005039 (filed Oct. 29, 2018).

7. On November 1, 2018, the same day as this Petition is being filed with the Commission, Pittsburgh UNITED separately filed Comments in response to PWSA's Compliance Plan, pursuant to the Commission's September 26 Secretarial Letter. These comments identify various issues in PWSA's Compliance Plan with respect to its compliance with statutory and regulatory provisions and prevailing public policy governing customer billing, collections, and terminations; tenant protections; universal service programs; and service quality issues related to the presence of lead service lines in PWSA's system. The Comments also make procedural recommendations, and again recommend consolidation of PWSA's LTIP and Compliance Plan. (See Comments of Pittsburgh UNITED, filed Nov. 1, 2018; see also 52 Pa. Code § 5.81).

8. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that "[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought." 52 Pa. Code § 5.72(a).

9. Section 5.72 further provides that the right or interest may be one "which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." 52 Pa. Code. § 5.72(a)(2).

10. Even though Section 5.72 speaks of the rights of a "person" to intervene, the Commonwealth Court has consistently stated that "an association may have standing as a representative of its members ...as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged

action, [i.e., is aggrieved, the organization] has standing.” Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School Dist. of Phila., 646 A.2d 689 (Pa. Commw. Ct. 1994)).

11. Pittsburgh UNITED is a coalition of community, labor, faith, and environmental organizations committed to advancing the vision of a Pittsburgh community and economy that works for all people.

12. Pittsburgh UNITED members work collectively to build a community whereby all workers are able to care for themselves and raise their families, sharing in the prosperity generated by economic growth and development.

13. Pittsburgh UNITED is located at 841 California Ave., Pittsburgh, PA 15212.

14. Pittsburgh UNITED and its members have a critical interest in ensuring, on behalf of its members, that PWSA’s transition to Commission oversight is conducted in a timely and organized manner to protect the interests of Pittsburgh’s residents, particularly low income Pittsburgh families who struggle most to connect and maintain water service.

15. Pittsburgh UNITED, its member organizations, and the individuals and families those organizations serve are located within PWSA’s service territory and will be directly affected by the outcome of this proceeding. Particularly, PWSA’s Compliance Plan will affect the terms and conditions and the safety and quality of water and wastewater service to the homes and businesses of Pittsburgh UNITED’s members. In turn, PWSA’s Compliance Plans, and associated costs of achieving full compliance, will also impact the need for future rate increases.

16. Pittsburgh UNITED has standing to intervene because several of its members have or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476.

17. Pittsburgh UNITED is represented in this proceeding by the Pennsylvania Utility Law Project:

Pennsylvania Utility Law Project
Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Patrick M. Cicero, Esquire
Kadeem G. Morris, Esquire
118 Locust Street
Harrisburg, PA 17101
Telephone: 717-236-9486
Facsimile: 717-233-4088
E-mail: pulp@palegalaid.net

18. The Pennsylvania Utility Law Project consents to the service of documents by electronic mail, as provided in 52 Pa. Code § 1.54(b)(3).

19. Pittsburgh UNITED is supportive of PWSA and its efforts to bring its policies and procedures into full compliance with the laws, regulations, policies, and practices of regulated public utilities, pursuant to Chapter 32 of the Public Utility Code. Pittsburgh UNITED recognizes that PWSA has made improvements to its operations, and believes that PWSA's current leadership has the capacity to undertake the far-ranging reforms which are still necessary to ensure that the residents of Pittsburgh can access safe and affordable water and wastewater service in accordance with all applicable laws, regulations, and prevailing public policy.

20. Pittsburgh UNITED has preliminarily reviewed PWSA's Compliance Plan, and has significant concerns about the lack of detail and information contained therein regarding PWSA's compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's

regulations regarding the billing, collections, and termination standards for residential consumers. See 66 Pa. C.S. Ch. 14; 52 Pa. Code Ch. 56. While PWSA asserts in its Compliance Plan that it is largely in compliance with Chapters 14 and 56, it provides no details, information, or supportive documentation with which to assess PWSA's current and/or planned policies and procedures to determine whether it is, indeed, compliant. Pittsburgh UNITED is an active participant in PWSA's ongoing water and wastewater tariff rate proceeding, at dockets R-2018-3002645 and R-2018-3002647. In the context of those proceedings, Pittsburgh UNITED has identified a number of issues with PWSA's proposed terms and conditions of service with regard to Chapters 14 and 56. At this time, the extent to which Chapter 56 and 14 issues will be resolved in those proceedings is unclear.

21. PWSA's Compliance Plan also appears to lack any reference to its adherence to critical tenant protections contained in the Discontinuance of Service to Leased Premises Act, 66 Pa. C.S. Ch. 15, Subchapter B, and the Utility Service Tenant's Rights Act, 68 P.S. §§ 399.1-399.18. These are important laws which provide tenants with the right to continued service if their landlord stops paying, resulting in the termination of service, or requests a voluntary discontinuance of service to a tenant-occupied residence. While tenant-related issues with respect to PWSA's terms and conditions of service are likewise pending resolution in the tariff and rate proceedings, it is unclear at this time whether and to what extent those issues will be resolved.

22. Pittsburgh UNITED is also concerned about the adequacy of PWSA's universal service programming in light of PWSA's substantial increase in rates over a brief period of time. PWSA's Compliance Plan only provides a brief, high-level summary of PWSA's low income assistance programs, and does not explain the policies or practices PWSA uses to implement its programming, educate consumers, or provide outreach in the communities it serves. Again, while

some of these affordability issues are addressed in the ongoing tariff and rate proceeding, where the justness and reasonableness of rates will be determined, the extent to which universal service issues will be fully resolved in that proceeding is unclear.

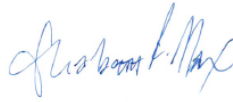
23. Finally, Pittsburgh UNITED is concerned about the lack of detail with regard to PWSA's lead service line replacement programming, and notes that the fact that its lead remediation plans are only summarized in the Compliance Plan, and are more fully described in a separate LTIP proceeding, complicates review of PWSA's lead service line programming. In turn, PWSA's lead service line remediation plan contained in its proposed LTIP, and summarized and appended to PWSA's Compliance Plan, is missing critical details about its plans to remove lead pipes from its system. Again, Pittsburgh UNITED is an active participant in PWSA's ongoing water and wastewater tariff rate proceedings, and has identified a number of health, safety, and cost-effectiveness issues with PWSA's lead remediation programming – specifically for its 2018 and 2019 programs, which will be nearly complete before the Commission issues a final decision regarding PWSA's Compliance Plan. At this time, the extent to which those issues will be fully resolved in the context of that proceeding is uncertain.

24. Pittsburgh UNITED asserts that, consistent with the foregoing issues identified above, the details of PWSA's Compliance Plan must be thoroughly reviewed and subject to extensive investigation to ensure that all customers are able to access safe, affordable utility services within the PWSA service territory.

WHEREFORE, Pittsburgh UNITED respectfully requests that the Commission enter an order granting Pittsburgh UNITED full status as an intervener in this proceeding with active party status.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
On Behalf of Pittsburgh UNITED



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

Date: November 1, 2018

Verification

I, Alyson Shaw, on behalf of Pittsburgh UNITED, hereby state that the facts contained in the foregoing *Petition to Intervene of Pittsburgh UNITED* are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

On behalf of Pittsburgh UNITED

A handwritten signature in black ink, appearing to read 'Alyson Shaw', written over a horizontal line.

Alyson Shaw
Environmental Justice Organizer
Pittsburgh UNITED
aly@pittsburghunited.org
724-809-9014

Date: November 1, 2018

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Certificate of Service

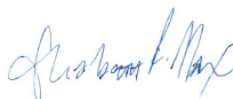
I hereby certify that I have this day served copies of the **Petition to Intervene of Pittsburgh UNITED** upon the parties and interested stakeholders in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

VIA FIRST CLASS MAIL AND EMAIL

Daniel Clearfield, Esq. Deanne M. O'Dell, Esq. Karen O. Moury, Esq. Carl R. Schultz, Esq. Kristine Marsilio, Esq. Sarah Stoner, Esq. 213 Market Street, 8 th Floor Harrisburg, PA 17101 dclearfield@eckertseamans.com dodell@eckertseamans.com kmoury@eckertseamans.com cshultz@eckertseamans.com kmarsilio@eckertseamans.com sstoner@eckertseamans.com	Debbie Marie Lestitian, Esq. Pittsburgh Water and Sewer Authority Penn Liberty Plaza 1 1200 Penn Avenue Pittsburgh, PA 15222 dlestitian@pgh2o.com
Gina L. Miller, Esq. John M. Coogan, Esq. Bureau of Investigation and Enforcement 400 North Street 2nd Floor West Harrisburg, PA 17120 ginmiller@pa.gov jcoogan@pa.gov	Christine M. Hoover, Esq. Erin L. Gannon, Esq. Lauren M. Burge, Esq. Office of Consumer Advocate 555 Walnut Street 5th Floor, Forum Place Harrisburg, PA 17101 OCAPWSA2018@paoca.org
Susan Simms Marsh, Esquire Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033 susan.marsh@amwater.com	Michael A. Gruin, Esquire Stevens & Lee 17 North Second Street, 16th Floor Harrisburg, PA 17101 mag@stevenslee.com

Elizabeth Rose Triscari, Esq. Sharon Webb, Esq. Office of Small Business Advocate 300 North Second Street, Suite 202 Harrisburg, PA 17101 etriscari@pa.gov swebb@pa.gov	Sen. James Ferlo 1118 N. St. Clair St. Pittsburgh, PA 15206 senatorferlo@gmail.com
David P. Zambito, Esq. Jonathan P. Nase, Esq. Cozen O'Conner 17 North Second Street Suite 1410 Harrisburg, PA 17101 dzambito@cozen.com jnase@cozen.com	William H. Roberts II, Esq. PNG Companies LLC 375 North Shore Drive Pittsburgh, PA 15212 William.h.robertsii@peoples-gas.com
Tishekia Williams, Esq. Michael Zimmerman, Esq. Emily M. Farah, Esq. Duquesne Light Company 411 Seventh Ave., 15 th Floor Pittsburgh, PA 15219 Twilliams@duqlight.com mzimmerman@duqlight.com efarah@duqlight.com	Pamela C. Polacek, Esq. Adeolu A. Bakare, Esq. Alessandra L. Hylander, Esq. McNees, Wallace & Nurick, LLC 100 Pine Street PO Box 116 Harrisburg, PA 17108 ppolacek@mcneeslaw.com abakare@mcneeslaw.com ahylander@mcneeslaw.com
EMAIL ONLY: Brian Kalcic, excel.consulting@sbcglobal.net	

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for Pittsburgh UNITED



Elizabeth R. Marx, PA ID 309014
118 Locust Street
Harrisburg, PA 17101
717-236-9486
pulp@palegalaid.net

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