

Deanne M. O'Dell  
717.255.3744  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

March 26, 2021

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Implementation of Chapter 32 of the Public Utility Code RE: Pittsburgh Water  
and Sewer Authority; Docket Nos. M-2018-2640802 and M-2018-2640803

Petition of Pittsburgh Water and Sewer Authority for Approval of Its Long-Term  
Infrastructure Improvement Plan, Docket Nos. P-2018-3005037 and P-2018-3005039

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pittsburgh Water and Sewer Authority's ("PWSA") Supplemental Compliance Plan Regarding Line Extensions with regard to the above-referenced matters. **This is being filed in compliance with the March 26, 2021 Opinion and Order entered at the above-captioned dockets.** Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww

Enclosure

cc: Hon. Conrad Johnson w/enc.  
Hon. Mark Hoyer w/enc.  
Hon. Emily DeVoe w/enc.  
Hon. Mary Long w/enc.  
Cert. of Service w/enc.

## **CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the PWSA's Supplemental Compliance Plan Regarding Line Extensions upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

### **Via Email Only**

Sharon Webb, Esq.  
Erin K. Fure, Esq.  
Forum Place Building  
555 Walnut Street, 1st Floor  
Harrisburg, PA 17101  
[swebb@pa.gov](mailto:swebb@pa.gov)  
[efure@pa.gov](mailto:efure@pa.gov)

Christine Maloni Hoover, Esq.  
Erin L. Gannon, Esq.  
Lauren E. Guerra, Esq.  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Fl., Forum Place  
Harrisburg, PA 17101-1923  
[choover@paoca.org](mailto:choover@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)  
[lguerra@paoca.org](mailto:lguerra@paoca.org)

Gina L. Miller, Esq.  
John M. Coogan, Esq.  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North St., 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120  
[ginmiller@pa.gov](mailto:ginmiller@pa.gov)  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)

Elizabeth R. Marx, Esq.  
John W. Sweet, Esq.  
The Pennsylvania Utility Law Project  
118 Locust St.  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Susan Simms Marsh, Esq.  
Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
[Susan.marsh@amwater.com](mailto:Susan.marsh@amwater.com)

Michael A. Gruin, Esq.  
Stevens & Lee  
17 North Second St., 16<sup>th</sup> Fl.  
Harrisburg, PA 17101  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

Brian Kalcic  
Excel Consulting  
225 S. Meramec Ave., Suite 720T  
St. Louis, MO 63105  
[Excel.consulting@sbcglobal.net](mailto:Excel.consulting@sbcglobal.net)

Peter J. DeMarco, Esquire  
Cecilia Segal, Esquire  
Natural Resources Defense Council  
1152 15th Street, NW, Ste. 300  
Washington, DC 20005  
[pdemarco@nrdc.org](mailto:pdemarco@nrdc.org)  
[csegal@nrdc.org](mailto:csegal@nrdc.org)

Michelle Nacarati Chapkis  
Mayor's Blue Ribbon Panel on Restructuring  
the PWSA Care of Women for a Healthy  
Environment  
5877 Commerce St.  
Pittsburgh, PA 15206  
[michelle@womenforahealthyenvironment.org](mailto:michelle@womenforahealthyenvironment.org)



---

Deanne M. O'Dell, Esq.

March 26, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |                           |
|---|---|---------------------------|
| Implementation of Chapter 32 of the     | : |                           |
| Public Utility Code Re Pittsburgh Water | : | Docket No. M-2018-2640802 |
| And Sewer Authority                     | : | M-2018-2640803            |
|   | : |                           |
| Petition of Pittsburgh Water and Sewer  | : |                           |
| Authority for Approval of Its Long-Term | : | P-2018-3005037            |
| Infrastructure Improvement Plan         | : | P-2018-3005039            |
|   | : |                           |

---

**THE PITTSBURGH WATER AND SEWER AUTHORITY  
SUPPLEMENTAL COMPLIANCE PLAN REGARDING LINE EXTENSIONS**

---

Pursuant to Section 3204(b) and (c) of the Public Utility Code, 66 Pa.C.S. § 3204(b), (c), and the Opinion and Order of the Pennsylvania Public Utility Commission (“Commission”) dated March 26, 2020 in the above-captioned proceedings,<sup>1</sup> The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) respectfully submits this Supplemental Compliance Plan Regarding Line Extensions, in which PWSA outlines its plan to come into compliance with the Commission’s line extension regulations, 52 Pa. Code §§ 65.21-65.23.

As part of its base rate filing to be made on or before April 13, 2021 at Docket Number R-2021-3024773, PWSA plans to include Water Tariff revisions: (1) to create a distinction between a Bona Fide Service Applicant and a Non Bona Fide Service Applicant; (2) to set forth the Commission requirements for Bona Fide Service Applicants; and, (3) to address the applicable fees. In this Supplemental Compliance Plan, PWSA describes the revisions it will be proposing as part of the rate case to come into compliance with the Commission’s line extension regulations. PWSA has elected to include this as part of its rate case given the rate impacts of

---

<sup>1</sup> *Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1*, Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Opinion and Order entered March 26, 2020. (“March 2020 Stage 1 Order”).

the transition and the interplay with other rate considerations that will be addressed in the rate case. PWSA anticipates that its transition to the Commission's line extension regulations be effective upon the Commission's final approval of PWSA's Water Tariff in the rate case.

## **I. BACKGROUND**

The Authority is a body corporate and politic duly created and existing under the Pennsylvania Municipality Authorities Act, 53 Pa.C.S. § 5601, *et seq.* ("MAA"). The Authority operates certain water and sewer system facilities which are leased from the City of Pittsburgh, Pennsylvania. On April 1, 2018, the PWSA's water and wastewater operations became subject to the regulation of the Commission.<sup>2</sup> Section 3204(b) of the Public Utility Code directs PWSA to file a "Compliance Plan" with the Commission that proposes a plan to achieve full regulatory compliance with the Commission's legal and regulatory requirements.<sup>3</sup> On September 28, 2018, the PWSA filed: (a) its Compliance Plan at Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater) ("*Initial Compliance Plan*");<sup>4</sup> and (b) its Long-Term Infrastructure Improvement Plan (LTIIP) at Docket Nos. P-2018-3005037 (water) and P-2018-3005039 (wastewater). These proceedings were subsequently consolidated, upon motion by PWSA.<sup>5</sup>

At the time PWSA filed its *Initial Compliance Plan*, PWSA's line extension practices and procedures were consistent with those permitted in the MAA. In its *Initial Compliance Plan*, PWSA argued that it was necessary and appropriate for PWSA to follow the statutory

---

<sup>2</sup> 66 Pa.C.S. §§ 102, 3201, 3202(a).

<sup>3</sup> 66 Pa.C.S. § 3204(b).

<sup>4</sup> Compliance Plan for Pittsburgh Water and Sewer Authority filed September 28, 2018 at Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater) ("*Initial Compliance Plan*"). PWSA subsequently filed a Compliance Plan Supplement on February 1, 2019 and a Compliance Plan Revised as of April 27, 2021 to comply with the Commission's *March 2020 Stage 1 Order*.

<sup>5</sup> *Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1*, Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater), First Interim Order Granting Motion for Consolidation of Proceedings dated February 21, 2019.

requirements of the MAA pertaining to line extensions, rather than the line extension requirements in the Commission’s regulations at 52 Pa. Code §§ 65.1, 65.21-65.23.<sup>6</sup> Although PWSA and the parties of the Stage 1 Compliance Plan case submitted a Partial Settlement (ultimately approved by the Commission) which resolved 75% of the 185 issues in that case, PWSA’s initial proposal to continue to apply the MAA to its line extension processes could not be resolved among the parties and was submitted to the Commission as a litigated issue.<sup>7</sup>

In the *March 2020 Stage 1 Order*, the Commission concluded that its line extension regulations control as to the PWSA’s line extension processes.<sup>8</sup> The Commission also recognized that PWSA “established in the record, unrebutted, that its current line extension processes and practices are compliant with the MAA and that divergence from the PWSA’s current practices would be complex and costly and could result in litigation and potential damage awards.”<sup>9</sup> Recognizing this, the Commission concluded that “it is in the public interest to grant a temporary waiver” permitting PWSA’s current processes “to remain status quo until further Commission order.”<sup>10</sup> The Commission directed PWSA – on or before one year from the entry date of the *March 2020 Stage 1 Order* – to file with the Commission either; (1) a petition for a permanent waiver of the line extension regulations; or, (2) a supplemental compliance plan detailing how it will revise its processes to be compliant with the Commission’s line extension regulations. After careful consideration, PWSA submits this supplemental compliance plan to modify its line extension policies and Tariff provisions to be compliant with the Commission’s

---

<sup>6</sup> Initial Compliance Plan at 67-69.

<sup>7</sup> *Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1*, Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Joint Petition for Partial Settlement, filed September 13, 2019, Section III.W.1 at 33.

<sup>8</sup> *March 2020 Stage 1 Order* at 73.

<sup>9</sup> *Id.* at 74.

<sup>10</sup> *Id.*

regulations to be approved as part of PWSA's upcoming base rate case at Docket Number R-2021-3024773.

## **II. PWSA'S SUPPLEMENTAL LINE EXTENSION COMPLIANCE PLAN**

PWSA's Supplemental Compliance Plan involves revisions to its Water Tariff to make its line extension provisions come into compliance with Commission regulations. To do this, PWSA will include new tariff language regarding Bona Fide Applicants. Revisions will also be made regarding the fees currently identified in PWSA's existing line extension tariff section both to come into compliance with the Commission's line extension regulations and to incorporate the results of a more comprehensive evaluation of all PWSA's fees conducted as part of its preparation for the rate case filing. All these proposed Water Tariff modifications will be detailed in PWSA's proposed tariff supplement to be submitted at Docket Number R-2021-3024773. Below is a summary of the planned revisions.

### **A. Bona Fide Service Applicants**

PWSA intends to propose numerous modifications to the line extension provisions of its Water Tariff as applied to Bona Fide Service Applicants. These proposed modifications are designed to make PWSA's line extension provisions consistent with the Commission's regulations. Consistent with 52 Pa. Code § 65.1, PWSA intends to define a Bona Fide Service Applicant as follows:

A person or entity applying for water service to an existing or proposed structure within the Authority's certificated service territory or areas served by PWSA as of December 21, 2017 for which a valid occupancy or building permit has been issued if the structure is either a primary residence of the applicant or a place of business. An applicant shall not be deemed a bona fide service applicant if:

1. applicant is requesting water service to a building lot, subdivision or a secondary residence;

2. the request for service is part of a plan for the development of a residential dwelling or subdivision; or
3. the applicant is requesting special utility service.

PWSA also plans to fund, without customer advance, line extensions to Bona Fide Service Applicants if the annual revenue from the line extension will equal or exceed the utility's annual line extension costs.<sup>11</sup> If the annual revenue from the line extension will not equal or exceed PWSA's annual line extension costs, a Bona Fide Service Applicant may be required to provide a customer advance to PWSA for the cost of construction for the line extension. As per the regulation, the customer advance will be determined by subtracting PWSA's investment for the line extension from the total construction costs. To calculate what customer advance may be required from the customer, PWSA will calculate its investment consistent with the requirements in 52 Pa Code § 65.21 of the Commission's regulations.<sup>12</sup>

Consistent with 52 Pa. Code § 65.22, PWSA also plans to propose language in its Water Tariff providing that, if a customer advance is required and the Bona Fide Service Applicant is unable to advance the entire amount due, PWSA will do one of the following: (1) allow the applicant to pay the advance over a period of not less than 3 years; or, (2) provide information to the customer on financial institutions that may offer financing.

---

<sup>11</sup> 52 Pa. Code § 65.1 defines "annual line extension costs" as "the sum of a utility's additional annual operating and maintenance costs, debt costs and depreciation charges associated with the construction, operation and maintenance of the line extension." (emphasis added). As a cash flow regulated company that does not earn interest on its assets, depreciation does not factor into PWSA's costs or rates. Also, PWSA's calculation of debt costs includes annual payments on the debt and debt service coverage. PWSA's calculation of annual line extension costs will recognize this reality.

<sup>12</sup> The formula in the regulations requires Operating and Maintenance Expenses to be subtracted from the Average Annual Revenue and then divided by depreciation rate and weighted cost of debt. As a cash flow regulated company that does not earn interest on its assets, depreciation does not factor into PWSA's costs or rates. Also, PWSA's calculation of debt costs includes annual payments on the debt and debt service coverage. PWSA's calculations will recognize this reality.

Further, PWSA plans to propose that when a customer advance is required and additional customers attach service lines to the main extension within 10 years, PWSA will reimburse a portion of the advance to the customer, consistent with 52 Pa. Code § 65.22 of the Commission's regulations. PWSA is considering calculating the refund amount in a manner consistent with that of Pennsylvania American Water Company ("PAWC"), wherein the customer refund amount shall be the Company Contribution divided by the number of customers connected to the initial main extension.<sup>13</sup>

Consistent with 52 Pa. Code § 65.22, a Bona Fide Service Applicant will be required to pay, in advance, a reasonable charge for service lines and equipment installed on private property for the exclusive use of the customer.

#### **B. Non Bona Fide Service Applicants**

Applicants that do not meet the definition of Bona Fide Service Applicants, shall be deemed "Non Bona Fide Service Applicants." PWSA is not planning to change its line extension requirements as applied to Non Bona Fide Service Applicants, except as may be needed to address PWSA's planned fee revisions and restructuring. As such, Non Bona Fide Service Applicants will still be responsible for any charges assessed against the property in the construction of a water main for the Company.<sup>14</sup>

#### **C. Fees**

In the process of preparing for its rate case, PWSA engaged in a comprehensive examination of all of the fees currently included in its Water Tariff. In its rate case, PWSA

---

<sup>13</sup> See PAWC Tariff at 79.

<sup>14</sup> See *Shenango Township Board of Supervisors v. Pennsylvania Public Utility Commission*, 686 A.2d 910 (Pa. Cmwlth. 1996) (A utility can lawfully require the party requesting an extension of utility facilities to bear the cost thereof, if that party is not a "bona fide service applicant," if the request entails "special utility service," or if the facility extension would be "uneconomic or unreasonable absent an appropriate customer contribution."); see also 52 Pa. Code §§ 65.21-65.23.



intends to revise some of these fees and to restructure some of its current tariff provisions accordingly. The fees currently identified in PWSA's line extension tariff sections were evaluated as part of this process with consideration given to the imposition of some of these fees in light of the transition to the Commission's line extension regulations. In consideration of the anticipated fee revision proposals and their interrelation with the other rate proposals to be included with PWSA's upcoming rate case, PWSA's revised line extension tariff provisions as described herein will be included as part of its base rate filing to be made on or before April 13, 2021 at Docket Number R-2021-3024773 with the new rules to be effective upon the Commission's final approval of PWSA's Water Tariff as part of the rate case.

### **III. CONCLUSION**

WHEREFORE, PWSA submits that its line extension plans, as outlined above, will result in PWSA being in full compliance with the Commission's line extension regulations at 52 Pa. Code §§ 65.21-65.23 upon final Commission approval of its Water Tariff supplement to be filed at Docket Number R-2021-3024773.

Respectfully submitted,



---

Deanne O'Dell, Esq.  
(PA Attorney ID No. 81064)  
Kristine E. Marsilio, Esq.  
(PA Attorney ID No. 316479)  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
717.237.6000  
717.237.6019 (fax)

Dated: March 26, 2021

Counsel for  
The Pittsburgh Water and Sewer Authority