**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public : M-2018-2640802

Utility Code Regarding Pittsburgh Water and : M-2018-2640803

Sewer Authority – Stage 2 :

**PREHEARING ORDER**

On April 9, 2021, Pittsburgh Water and Sewer Authority (PWSA), pursuant to

the procedural process set forth by the Pennsylvania Public Utility Commission (Commission) in its Opinion and Order on Stage 1 of PWSA’s Compliance Plan (*Stage 1 Final Order*),[[1]](#footnote-1) filed its Stage 2 Compliance Plan: Chapters 14 & 56, the Discontinuance of Service to Leased Premises Act, and Collections (“Stage 2 Compliance Plan”).[[2]](#footnote-2)

Also on April 9, 2021, PWSA filed a petition requesting to modify the procedural

schedule for Stage 2 of PWSA’s Compliance plan. On May 20, 2021, the Commission issued an Order (*May 2021 Order*) that granted, in part, and denied, in part, PWSA’s petition. The Order amended the timeline for the assignment of the Stage 2 Compliance Plan to the Office of Administrative Law Judge (OALJ), allowing time for additional informal workshops relating to PWSA’s compliance with Chapter 14 of the Code and Chapter 56 of the Commission’s regulations and issues deferred from the final *Stage 1 Final Order.*

Consistent with *May 2021 Order*, two additional informational sessions were

held on June 17, 2021, and June 25, 2021, whereafter the Commission’s Bureau of Consumer Services (BCS) completed its review of PWSA’s Stage 2 Compliance Plan and prepared a Report and Directed Questions to be addressed during the review of PWSA’s proposed Stage 2 Compliance Plan, which is attached to this Order.

On August 5, 2021, the Commission issued a Secretarial Letter assigning this

matter to the OALJ to conduct evidentiary hearings to address, *inter alia*, the matters raised in the BCS report, and consistent with earlier Commission Orders, issue a recommended decision no later than May 25, 2022.

Subsequently, this matter was assigned to undersigned Administrative Law

Judges (ALJs). On August 25, 2021, a Notice was issued scheduling a telephonic prehearing conference for September 9, 2021.[[3]](#footnote-3) On August 27, 2021, the undersigned ALJs issued a prehearing order.

On September 8, 2021, in accordance with the prehearing order, prehearing

memoranda were filed PWSA, the Office of Consumer Advocate (OCA), the Office of Small Business Administration (OSBA), and Pittsburgh United. On September 8, 2021, the City of Pittsburgh (City) filed a Petition to Intervene and a prehearing memorandum.

The prehearing conference was held on September 9, 2021, as scheduled. The following parties were present and represented by counsel: PWSA, OCA, OSBA, the City, and Pittsburgh United.[[4]](#footnote-4) Various procedural matters were discussed including, *inter alia*, a proposed litigation schedule, the possible impact of PWSA’s water, wastewater and stormwater base rate

proceeding currently pending before the Commission,[[5]](#footnote-5) the stormwater compliance plan filing,

and consumer interest in a public input hearing. OCA indicated that at present, it does not appear that a public input hearing is necessary; however, if consumer interest arises, the OCA will promptly notify the ALJs and parties to request public input hearings. There was no opposition to the City’s petition to intervene.

As to the litigation schedule proposed by the parties at the prehearing conference, the ALJs expressed their concern, *inter alia*, as to the status of the stormwater compliance plan filing and whether the scheduled allowed for a timely issuance of a recommended decision by May 25, 2022, as so ordered by the Commission. After some discussion, the parties agreed to meet among themselves and develop a new proposed litigation schedule. On September 17, 2021, PWSA emailed the undersigned ALJs, copying all parties, indicating that the parties, by agreement, developed a new proposed schedule based on the discussion at the prehearing conference.

This order memorializes certain procedural matters addressed at the prehearing conference and the new proposed litigation schedule.

THEREFORE,

IT IS ORDERED:

1. The unopposed Petition to Intervene filed by the City of Pittsburgh on September 8, 2021, is granted.
2. The following litigation schedule is adopted:

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| --- | --- |
| **DATE** | **EVENT** |
| October 15, 2021 | PWSA Direct Testimony |
| November 16, 2021 | Pre-Identification of Issues among Parties (informal) |
| December 1, 2021 | Non-Company Direct Testimony (and List of Prior Testimony for Inclusion in Record) |
| December 10, 2021 | Preliminary List of Legal Issues among Parties (informal) |
| S e t t l e m e n t W o r k s h o p s | |
| January 21, 2022 | Rebuttal Testimony |
| January 31, 2022  (estimated) | PWSA Revised Stormwater Compliance Plan filing |
| February 7, 2022 | Surrebuttal Testimony |
| February 10, 2022 | PWSA Written Rejoinder or Rejoinder Outline and Formal  Stipulation of Legal Issues and Proposed Testimony from other cases to be included in the record |
| February 15, 2022 | Evidentiary Hearing |
| February 16, 2022 | Evidentiary Hearing |
| March 2, 2022  (estimated) | TUS Directed Questions #2 re Stormwater Compliance Plan |
| March 12, 2022  (estimated) | Prehearing Conference to address Stormwater Compliance Plan litigation |
| March 14, 2022 | Main Briefs (or Joint Petition for Settlement and Statements in Support) Due |
| March 28, 2022 | Reply Briefs Due |
| May 25, 2022 | Recommended Decision |

1. The court reporting company will be directed to provide transcripts of the

evidentiary hearings to the parties on a one-day turnaround.

1. Answers to written interrogatories are to be served in-hand within ten (10)

calendar days of service of the interrogatories.

1. Objections to interrogatories are to be communicated orally within three

(3) days of service; unresolved objections are to be served on the Administrative Law Judges in writing within five (5) days of service of the interrogatories.

1. Motions to dismiss objections and/or direct the answering of

interrogatories are to be filed within three (3) calendar days of service of written objections.

1. Answers to motions to dismiss objections and/or directing the answering

of interrogatories shall be filed within three (3) calendar days of service of such motions.

1. Responses to requests for documents production, entry for inspection, or

other purposes are to be served in-hand within ten (10) calendar days of service.

1. Requests for admission are deemed admitted unless answered within ten

(10) calendar days or objected to within five (5) calendar days of service.

10. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.

11. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.

12. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judges, although a certificate of service may be filed with the Commission’s Secretary.

13. Discovery requests, motions to compel and responses are to be served electronically and will only be served on paper upon request.

Dated: September 28, 2021

/s/

Eranda Vero

Administrative Law Judge

/s/

Gail M. Chiodo

Administrative Law Judge

**Pennsylvania Public Utility Commission**

**Report and Directed Questions**

**Stage 2**

**Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 2 – Chapter 14 of the Public Utility Code and Chapter 56 of the Commission’s Regulations**

**Docket No. M-2018-2640802 (Water)**

**Docket No. M-2018-264803 (Wastewater)**

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**August 5, 2021**

**Background**

Act 65 of 2017 (Act 65) amended the Pennsylvania Public Utility Code (Code) to add a new Chapter 32. *See* 66 Pa. C.S. §§ 3201-3209. Act 65 granted the Pennsylvania Public Utility Commission (PUC) jurisdiction over water, wastewater, and stormwater service provided by Pennsylvania cities of the second class and jurisdiction is applicable to the Pittsburgh Water and Sewer Authority (PWSA).*See Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803 (Tentative Implementation Order entered January 18, 2018). On March 15, 2018, the PUC entered a Final Implementation Order laying out the process for implementing Act 65. See Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority, Docket Nos. M-2018-2640802 and M-2018-2640803 (Final Implementation Order entered March 15, 2018).

By Secretarial Letter dated September 26, 2018, at Docket Nos. M-2018-2640802 and M-2018-2640803, the PUC established a procedure to refer the PWSA Compliance Plan to the Office of Administrative Law Judge (OALJ) for hearings. On September 28, 2018, at the aforementioned dockets, PWSA filed its Compliance Plan with the PUC. By Corrected Secretarial Letter dated November 28, 2018 (November 2018 Secretarial Letter), the PUC established a two-stage review of PWSA’s Compliance Plan, with Stage 1 prioritizing health and safety issues related to the safe, adequate, reliable, and reasonable provision of water service and the revenues necessary to support adequate water quantity and quality, and Stage 2 focusing on billing and collection issues as well as the development of a stormwater tariff. The November 2018 Secretarial Letter formally referred PWSA’s September 28, 2018, Compliance Plan filing to the OALJ.

In addition, to facilitate an in-depth review of the Compliance Plan, the November 2018 Secretarial Letter directed the PUC’s Bureau of Consumer Services (BCS) to schedule quarterly workshops to discuss PWSA’s compliance with billing and collections requirements of Chapter 14 of the Code and the PUC’s regulations at Chapter 56. The intent of these workshops was to provide PWSA with the opportunity to discuss its operations in detail and for workshop participants to identify opportunities to strengthen PWSA’s transition to PUC regulation under the Code pursuant to 66 Pa.C.S. § 2804(c). In accordance with the November 2018 Secretarial Letter, the focus of the workshops was the development of a report and directed questions regarding PWSA’s compliance with Chapter 14 of the Code and Chapter 56 of the PUC’s regulations for use in Stage 2 of the OALJ’s Compliance Plan review proceedings.

**BCS Coordination with PWSA**

In addition to the workshops directed by the November 2018 Secretarial Letter, BCS initiated several other measures to assist PWSA in the transition to PUC regulation. Early in 2018, BCS provided several on-site trainings in Pittsburgh to review PUC regulations and policies with the PWSA customer service team. BCS staff also worked closely with PWSA management to review its practices and procedures for compliance with the Code and applicable PUC regulations. BCS designated a staff lead to work with PWSA on all operational and compliance issues to ensure that PWSA received consistent and uniform guidance from the PUC as PWSA works to transition to PUC regulation.

**2019 BCS Quarterly Compliance Workshops**

Pursuant to the November 2018 Secretarial Letter, BCS scheduled quarterly stakeholder workshops in 2019 to discuss PWSA’s compliance with billing and collections requirements of Chapter 14 of the Code and the PUC’s regulations at Chapter 56. 52 Pa. Code Chapter 56. Secretarial Letters advising stakeholders of the date and time of each workshop were served on the active parties of the PWSA Compliance Plan review proceeding at Docket Nos. M-2018-2640802 and M-2018-2640803 and the 2018 PWSA Rate Tariff proceeding at Docket Nos. R-2018-3002645 and R-2018-3002647. Representatives from PWSA, the Office of Small Business Advocate (OSBA), the Office of Consumer Advocate (OCA), and Pittsburgh United, as well as staff from the PUC’s BCS, Law Bureau, and the Bureau of Investigation and Enforcement (BIE) attended and participated at the workshops.

The first workshop occurred on February 21,2019, and focused on PWSA’s compliance with Subchapters A – C of Chapter 56. Topics addressed at the workshop included a discussion of Chapter 56 definitions and PWSA’s billing and payment standards, which covered topics pertaining to billing frequency, electronic billing, bill estimates, PWSA’s itemization of non-basic charges, catch-up bills, accrual of late payment charges and allocation of partial payments. In addition, PWSA’s meter reading procedures and read rates were discussed as well as PWSA’s Non-Access program. The first workshop concluded with a discussion of PWSA’s credit and deposit policies, including policies on security deposits, on denial of credit and on application for final bill. Subsequent to the discussions at the first workshop, PWSA provided stakeholders with additional information, including a draft copy of PWSA’s redesigned bill for review and comment. In response to BCS’s request, PWSA also provided: (1) information to clarify its efforts to solicit and obtain self-reported meter readings from customers whose bills are based on consecutive estimated readings; (2) information on its procedures for gaining access to obtain an actual meter reading, including examples of notices sent to the customer to gain access to the meter; and (3) PWSA’s procedures for issuing a make-up bill for previously unbilled service; and PWSA’s payment allocation rules.

The second workshop occurred on April 23, 2019, with a discussion of PWSA’s policies for interruption of service. A thorough discussion of other agenda items planned for this workshop were postponed, due to concerns expressed by the workshop participants that these topics were closely interrelated to issues that were part of the on-going litigated Stage 1 Compliance Plan review process. To overcome barriers that prevent open and productive dialogue at future workshops, the parties made a Joint Motion to request that consumer service-related issues be moved from Stage 1 to Stage 2 of the Compliance Plan review process to allow the parties to discuss these issues in BCS-led workshops. By Secretarial Letter dated May 15, 2019, the PUC granted this request and directed that the following issues be addressed as part of the Stage 2 Compliance Plan review process:

1. The language, format and method of providing suspension and termination notice pursuant to Chapter 14 of the Code and Chapter 56 of the PUC’s regulations;
2. PWSA’s compliance with the Discontinuance of Service to Leased Premises Act (DSLPA), 66 Pa.C.S. §§ 1521 – 1533; and
3. PWSA’s plan for collection (to include strategies to reduce overall uncollectibles to ensure collections practices for residential customers are consistent with legal requirements).

The third workshop took place on July 25, 2019, and resumed the discussion planned on PWSA’s compliance with Subchapters D and E of Chapter 56, as referenced above. Specific issues addressed at the workshop included customer responsibilities for voluntary discontinuance of service, the forms PWSA requires customers to complete to request the discontinuance of service, meter access for discontinuance, final billing procedures, turn-on of services, and PWSA procedures for the termination of service. During the workshop, PWSA agreed to provide stakeholders with information about its Interim Personal Contact Procedures, including data pertaining to its telephone call completion rates and data on the number of terminations cancelled as a result of personal contact with the customer. PWSA also committed to provide information on its Collections Life Cycle and to provide a copy of its Residential Water Service Shut-Off Request form for review and comment by the stakeholders. All information was submitted by PWSA and distributed to the stakeholders.

The fourth and final workshop in 2019 took place on November 4, 2019, and focused on PWSA’s compliance with Subchapters F – H of Chapter 56, as well as Subchapters L – V. Specific topics for discussion included PWSA’s procedures for addressing customer inquiries and disputes, the restoration of service, PWSA’s public information procedures and record maintenance practices, PWSA’s procedures for customers with Protection from Abuse (PFA) Orders, PWSA’s collection practices for residential customers and PWSA’s plan to reduce uncollectible debt. At the request of BCS staff during the last workshop, PWSA provided additional materials to the PUC for review and comment. Those materials included PWSA’s Electronic Data Retention Policy, PWSA’s 2018 Annual Report to the PA PUC, Call Sequencing Model – Reference Guide, Protection from Abuse Reference Guide, Collection Lifecyle, Payments Reference Guide (arrangements vs. extensions), PWSA Inquiry and Dispute Training, Medical Certificate Reference Guide, Collections Life Cycle for Tenants and the PWSA Bill Redesign.

**2021 BCS Compliance Workshops**

On February 4, 2021, the PUC adopted an Opinion and Order (Stage 1 Order) on Stage 1 of PWSA’s Compliance Plan proceeding. *See Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1*, Docket Nos. M-2018-2640802 and M-2018-2640803 (Order entered February 4, 2021). In that Order, the PUC provided further direction regarding the commencement of the Stage 2 Compliance Plan review process.

Pursuant to that direction, on April 9, 2021, PWSA filed its Stage 2 Compliance Plan addressing Chapter 14 of the Code, Chapter 56 of the PUC’s regulations, the DSLPA, and Collections with the PUC at Docket Nos. M-2018-2640802 and M-2018-2640803. On the same date, PWSA also filed a petition for amendment of the PUC’s February 4, 2021, Final Order regarding the procedural process for customer service and collections issues.

On May 20, 2021, the PUC issued an Order that granted, in part, and denied, in part, PWSA’s petition for amendment. *See Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1*, Docket Nos. M-2018-2640802 and M-2018-2640803 (Order entered May 20, 2021). More specifically, the Order amended the timeline for the assignment of the Stage 2 Compliance Plan to the OALJ, allowing time for additional informal workshops relating to PWSA’s compliance with Chapter 14 of the Code and Chapter 56 of the PUC’s regulations and issues deferred from the final Stage 1 Compliance Plan Order, but excluding stormwater issues. The Order provided that the PUC will, via Secretarial Letter, assign Stage 2 of the Compliance Plan to the OALJ within 120 days of the filing of PWSA’s Stage 2 materials. Pursuant to the Order, the BCS report and directed questions will be attached to that Secretarial Letter.

By Secretarial Letter issued on May 28, 2021, BCS announced two additional workshops to obtain stakeholder input pertaining to PWSA compliance with the billing and collection requirements of Chapter 14 of the Code and Chapter 56 of the PUC’s regulations and issues deferred from the final Stage 1 Compliance Plan Order. The Secretarial Letter was served on the parties of the PWSA Compliance Plan review proceeding at Dockets Nos. M-2018-2640802 and M-2018-2640803. The workshops were held on June 17, 2021, and June 25, 2021, with representation and participation from PWSA, OSBA, OCA, and Pittsburgh United, as well as staff from BCS, the Law Bureau, and BIE.

Topics discussed at the first workshop on June 17, 2021, focused on PWSA procedures for pre-billing editing, lien filing, notices prior to and after termination, and application and discontinuance of service procedures. Attendees also discussed PWSA’s Non-Access Program and procedures to comply with requirements of the DSLPA.

The final billing and collections workshop was held on June 25, 2021. In this workshop, parties discussed PWSA cyber security and customer information protection measures, collection prioritization and aged debt, lead service line replacement procedures, and stormwater billing. PWSA provided the following information to participants to further clarify its policies and procedures: 2021 Collections Fact Sheet, Assumption Form, Final Bill Application, 3-day Shut Off Notice Waste of Water, Waste of Water 10-Day Notice, Shut Off Notice Waste of Water, 10-Day Notice of Intent to Lien Real Property for Water/Sewage Delinquency, 30-Day Notice of Intent to Lien Real Property for Water/Sewage Delinquency, Billing and Pre-Bill Editing Process, Non-Access Project Reference Guide, PWSA Training – Call Sequencing Model, PWSA Accounts Over $10K, and Action Required – Delinquent Water/Wastewater Charges.

**Directed Questions**

The BCS Report and Directed Questions will be attached to the Secretarial Letter assigning Stage 2 of the PWSA Compliance Plan to the OALJ pursuant to the PUC’s Stage 1 Order. The questions presented in this Report are related to customer service and billing requirements found in Chapter 14 of the Code and Chapter 56 of the PUC’s regulations, as well as issues deferred from the Stage 1 Order, excluding stormwater issues. The questions presented by BCS are based upon the comparative analysis BCS staff conducted to evaluate whether the policies and procedures reflected in PWSA’s Stage 2 Compliance Plan filed on April 9, 2021, comply with the requirements in Chapters 14 and 56, as well as the requirements in DSLPA. Information used by PUC staff to conduct this analysis was obtained from PWSA during and after the compliance workshops, as documented in this Report. BCS policy analysts also reviewed informal customer complaints filed with BCS to assess how the complaints were resolved by PWSA.[[6]](#footnote-6) Many of the directed questions posed by BCS in the following sections are based on PWSA’s status as a municipal water and wastewater authority pursuant to the Municipal Authorities Act and their ability as a municipal authority to lien properties pursuant to the Municipal Claims and Tax Liens statute.

**52 Pa. Code § 56.2 – Definitions**

1. On page 31 of its Stage 2 Compliance Plan, PWSA states that the definitions provided in its Tariff for the terms “Applicant,” “Customer,” “Occupant,” and “Person” do not conform with Chapters 14 and 56. PWSA explains that it needs to preserve its statutory authority under the Municipal Claims and Tax Liens Law to place a lien on property where water and/or wastewater charges remain unpaid. It is PWSA’s position that its operating procedures must be designed to ensure the property owner remains responsible and liable for paying for water service to reserve the right to file a lien on the property. The parties should discuss the implications of PWSA’s treatment of an “Applicant” and “Customer” as these terms relate to the rights of individuals who are not property owners to obtain utility service under Chapter 56 of the PUC’s regulations and the DSLPA. This discussion should encompass topics relevant to the application of service, the collection of debt, the transfer of accounts, and tenant rights identified in DSLPA.

2. On page 34 of its Stage 2 Compliance Plan, PWSA states that its Tariff does not include a definition for “Automatic Meter Reading” (AMR), as provided in 52 Pa. Code § 56.2. PWSA, however, describes its utilization of a fixed base Advanced Metering Infrastructure (AMI) network. PWSA proposes to include a definition for AMI in its Tariff. The parties should discuss the definitions of AMR and AMI, and the language that should be included in PWSA’s proposed Tariff to address those items.

**52 Pa. Code § 56.11 – Billing**

3. On page 31 of its Stage 2 Compliance Plan, PWSA states that the operating procedures provided in its Tariff are designed to ensure that the property owner remains liable for the ultimate payment of PWSA’s utility service through the lien process. On page 32 of the Compliance Plan, PWSA also states that it permits tenants to accept responsibility for paying for services rendered at the property where they are residing through completion of PWSA’s Owner – Tenant Addition Form. Under this scenario, PWSA sends a monthly invoice to the tenant and a copy is sent to the property owner. BCS observes that this billing practice may result in billing two separate persons for the same service, thereby allowing tenants to be primarily responsible for the payment of services without recognizing these individuals as customers, as defined in 52 Pa. Code § 56.2. BCS also observes that PWSA’s operating practices, which permit billing information to be freely shared between the property owner and tenant, may result in unintended consequences, including the possible compromise of potentially sensitive or confidential information. Accordingly, the parties should discuss the implications of PWSA’s billing practices involving property owners and tenants, including the review of PWSA’s Owner – Tenant Addition Form.

**52 Pa. Code § 56.12 – Meter reading; estimated billing; customer readings**

4. PWSA notes on page 38 of its Stage 2 Compliance Plan that it encounters challenges to obtaining actual meter readings or customer supplied readings at least every 6 months pursuant to the requirements in 52 Pa. Code Section 56.12(4)(ii). While recognizing the impact the COVID-19 pandemic has had on heightening customers’ reluctance to permit in-home appointments, the parties should nevertheless more closely explore: (1) the procedures PWSA has implemented to address this issue, including the efficacy of its Non-Access Program; (2) whether PWSA permits tenants to provide access to the property for meter readings; and (3) the customer notifications issued by PWSA to gain access to a customer’s water meter to obtain an actual reading and/or to repair or replace the meter.

**52 Pa. Code § 56.14 – Previously unbilled public utility service**

5. Pursuant to the requirements in 52 Pa. Code § 56.14 concerning the rendering of a make-up bill for previously unbilled service, the parties should discuss PWSA’s procedures to issue credit adjustments to customers, as specified on page 41 of its Stage 2 Compliance Plan. The discussion of those procedures should include the criteria PWSA uses in the pre-bill editing process to identify accounts that warrant credit adjustments, as well as the procedures to apply bill adjustments when overbilling or underbilling occurred.

**52 Pa. Code § 56.16(b) – Transfer of accounts**

6. On page 42 of its Stage 2 Compliance Plan, PWSA states that it does not transfer unpaid debt to persons who no longer own (or reside) at a property because PWSA is a municipal authority under the Pennsylvania Municipality Authorities Act and has the ability to pursue a lien under the Municipal Claims and Tax Liens Law. The PUC’s regulations at 52 Pa. Code Section 56.16(b) address utility transfers of unpaid balances to new residential service accounts of the same customer. The parties should discuss the implications of PWSA’s procedures, including the impact on PWSA’s collection of unpaid customer debt.

**52 Pa. Code § 56.32(c) – Security and cash deposits**

7. Pursuant to the authority provided to PWSA in 52 Pa. Code § 56.32(c), the parties should discuss whether PWSA requires an applicant to provide the names of each adult occupant residing at the location and whether it requests proof of identify. The parties should also discuss PWSA’s procedures and the impact of those procedures on the collection of outstanding customer debt, pursuant to 52 Pa. Code § 56.35(b)(1).

**52 Pa. Code § 56.35 – Payment of outstanding balance**

8. Pursuant to 52 Pa. Code § 56.35, a utility may require an applicant to pay an outstanding bill which accrued within the past four years for which the applicant is legally responsible and for which the applicant was properly billed. Moreover, 52 Pa. Code § 56.35(b)(1) states that a utility may require payment of a balance if the applicant resided at the property where he or she is applying for service where the prior balance accrued. On page 47 of its Stage 2 Compliance Plan, PWSA states that it does not require customers to pay debt for previous service rendered at another property in order to initiate new service at a new location. In addition, on page 27 of its Water and Wastewater Tariff, PWSA states that a prospective tenant and other Non-Owner Occupants are encouraged to contact the PWSA prior to signing a lease to determine if there is a delinquent account for a dwelling or property. Furthermore, PWSA also states on page 27 of its Water and Wastewater Tariff that it may request payment of an outstanding balance from the property owner prior to providing service to an applicant. The parties should discuss PWSA’s policies for service, the restoration of service, and the payment of outstanding balances, including how those policies may impact the collection of outstanding customer debt. The parties should also discuss PWSA’s policies relative to the requirements of 52 Pa. Code § 56.35(b).

**52 Pa. Code § 56.36 – Written procedures**

9. The PUC’s regulations at 52 Pa. Code § 56.36(a) provide that a public utility shall include in its Tariffs filed with the PUC its credit and application procedures along with a general description of its credit scoring methodology and standards. The parties should discuss credit procedures PWSA uses to evaluate an individual’s application for service, including, per 52 Pa. Code §§ 56.36(b) 56.286, the separate procedures and standards established for victims with a protection from abuse order or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence. In addition, the parties should discuss PWSA’s application requirements, as specified in its Water and Wastewater Tariff on page 26, including the requirement on page 27 of both Tariffs which states that an application for service will be approved by PWSA only after it receives satisfactory evidence from the property owner of their consent of the applicant to occupy the dwelling. The parties should address the reasons for which PWSA is requiring approval of a property owner before service will be rendered to a tenant.

10. 52 Pa. Code § 56.36(b)(3) states that requests from third parties to establish public utility service on behalf of an applicant will not be honored until the public utility has verified the legitimacy of the request. On page 47 of the Stage 2 Compliance Plan, however, PWSA states that it does not permit third parties to establish service on behalf of another person. PWSA should discuss with the parties its rationale for not accommodating service requests from third parties, in particular those third parties who are assisting applicants with limited English proficiency and/or a disability or disabilities that prevent them from independently applying for service.

**52 Pa Code § 56.72 – Discontinuance of service**

11. The PUC’s regulations at 52 Pa Code § 56.72 specify the requirements to which a public utility must adhere when a customer requests discontinuance of service.Based uponinformal complaints filed with BCS, BCS has learned about several incidences where service was unable to be discontinued by PWSA at the request of the property owner because PWSA could not locate the curb valve, or the curb valve was inoperable. Failure to properly shut off service either due to a request for discontinuance or termination leads to large, unmanageable utility bills. The parties should discuss the plans PWSA has in place to address the issue of inoperable or missing curb valves.

**52 Pa Code § 56.81 – Authorized termination of service**

12. On page 39 of its Water and Wastewater Tariff, PWSA specifies its authority to terminate service for the willful or negligent waste of water through improper or imperfect pipes or fixtures, or for failure to repair leaks in pipes or fixtures. The parties should discuss the criteria PWSA relies on to determine that a customer is willfully or negligently wasting water, including the procedures PWSA follows to provide notice to a customer of an impending termination due to the customer’s willful or negligent waste of water or failure to repair leaks.

13. On page 40 of its Water and Wastewater Tariff, PWSA specifies that it will not terminate service to the commonly supplied premises of two or more properties that are supplied from a single main connection when one or more of those customers becomes delinquent, permits water or wastewater to flow unnecessarily or leak from any pipe, fixture, or appliance. PWSA reiterates this position on pages 55-56 of its Stage 2 Compliance Plan where it states that PWSA will send a notice of termination to commonly supplied premises but will not terminate service to such premises. The parties should discuss PWSA’s obligations under 52 Pa. Code § 56.1 relative to these statements.

**52 Pa. Code § 56.91 – General notice provisions and contents of termination notice**

14. Per PWSA’s Water Tariff at page 45 and Wastewater Tariff at page 43, if a premise is vacant, the customer submitted a Vacancy Affidavit, and services were shut off at the curb, but water usage is detected and/or wastewater flows from the property into their collection main, PWSA will assess applicable charges as provided in its Tariffs. The parties should discuss whether usage at the vacant premises would meet the definition of “user without contract” under 52 Pa. Code § 56.2, and whether this situation would fall under 52 Pa. Code § 56.91(a).

15. According to page 26 of PWSA’s Water and Wastewater Tariff, a new application must be made to PWSA upon any change in ownership where the owner of the property is the customer. The parties should discuss the procedures PWSA follows when it becomes aware a property is under new ownership, including the procedures it follows when the new owner fails to apply for service from PWSA. The parties should also discuss whether the requirements of 52 Pa. Code § 56.2 and 52 Pa. Code §56.91(a) apply.

**52 Pa. Code § 56.94 – Procedures immediately prior to termination**

16. As identified on page 59 of the Stage 2 Compliance Plan, the parties should discuss whether PWSA intends to issue an RFP to hire a vendor to perform the requirements of 52 Pa. Code § 56.94, including whether the vendor will be authorized to receive payments and/or stay a termination pursuant to 52 Pa. Code § 56.94(1).

**52. Pa. Code § 56.191(d) – Payment of outstanding balance at premises as a condition to restore service**

17. As previously noted, PWSA, does not exercise its ability to transfer unpaid debt to a new account in the same customer’s name under 52 Pa. Code § 56.191(d). Rather, PWSA relies on its authority as a municipality to pursue a lien in accordance with the Municipal Claims and Tax Liens Law and file a lien on the property where unpaid debt accrued. Consistent with previous suggestions, the parties should discuss the implications of PWSA’s procedures, including the efficacy this approach renders in PWSA’s collection of unpaid customer debt.

**PWSA as a Billing Agent for Other Utilities**

18. As provided in page 2 of PWSA’s Stage 2 Compliance Plan, PWSA provides wastewater conveyance services to portions of twenty-four neighboring communities. For those “sewer only customers,” PWSA relies upon the integrity of customer water usage data from water meters serviced by neighboring municipal-owned utilities that are not under the jurisdiction of the PUC. The parties should discuss how PWSA verifies the accuracy of the meter and the usage data provided from that meter, in the event that a customer disputes the accuracy of a bill that is based on a meter reading provided by a non-jurisdictional water utility.

**Discontinuance of Service to Leased Premises and 66 Pa. C.S. Chapter 15, Subchapter B**

19. In accordance with the DSLPA, tenants facing termination of service for nonpayment by the landlord ratepayer are afforded certain rights, including the right to continue service by paying the bill for the affected account of the landlord ratepayer for the billing month preceding the termination notice. Furthermore, DSLPA affords any tenant of a residential building or mobile home park with the right to subscribe for future service individually if this can be accomplished without a major revision of distribution facilities or additional right-of-way acquisition. On pages 31-32 of its Stage 2 Compliance Plan, PWSA notes its right to pursue a lien for payment of debt that is incurred at a property, including its position that tenants cannot individually subscribe for service. The parties should discuss whether PWSA’s policies limit the ability of tenants to become a customer of the utility or limit the rights of tenants.

20. On page 12 of the PUC’s Stage 1 Order, issues related to the applicability of Title 66, Chapter 15, Subchapter B to Lead Service Line (LSL) replacements were deferred to the Stage 2 Compliance Plan proceeding (See also page 62). Accordingly, the parties should discuss whether the provisions of Title 66, Chapter 15, Subchapter B apply to the actions of PWSA before it proceeds to terminate tenant-occupied properties where the landlord ratepayer refuses to permit lead service line replacement at the property in question. This discussion should include the rights of tenants to apply for continued service and whether partial LSL replacements constitute an “emergency” or “danger to life” as defined in 66 Pa. C.S. 1503(a).

**M-2018-2640802 M-2018-2640803 Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1**

**Updated on 9-28-21**

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1. *See Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1,* Docket Nos. M‑2018-2640802, *et al*., Opinion and Order at 64-65 (Pa. PUC Feb. 4, 2021). [↑](#footnote-ref-1)
2. Act 65 of 2017 created Chapter 32 of the Public Utility Code and provided for Commission oversight of PWSA as if it were a public utility. Act of Dec. 21, 2017, 2017 Pa. Laws 1208 (Act 65 of 2017). To implement Act 65 of 2017, the Commission established a two-stage review of PWSA’s Compliance Plan, with Stage 1 prioritizing health and safety issues related to the safe, adequate, reliable, and reasonable provision of water service and the revenues necessary to support adequate water quantity and quality, and Stage 2 focusing on billing and collection issues. [↑](#footnote-ref-2)
3. On August 26, 2021, a corrected Notice was issued which inadvertently omitted some information. [↑](#footnote-ref-3)
4. The Commission’s Bureau of Investigation and Enforcement did not participate in the prehearing conference but subsequently entered a Notice of Appearance on September 13, 2021. [↑](#footnote-ref-4)
5. *Pa. Pub. Util. Comm’n v. PWSA*, Docket Nos. R-2021-3024773 (water), R-2021-3024774 (wastewater) and R-2021-3024779 (stormwater). [↑](#footnote-ref-5)
6. Pursuant to the PUC’s Final Implementation Order Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority, Docket Nos. M-2018-2640802 and M-2018-2640803 (Order Entered March 15, 2018), at Ordering Paragraph 7, page 45, PWSA was directed to comply with the following provisions effective April 1, 2018,

   * + 1. 52 Pa. Code Chapters 1, 3, and 5 setting forth the procedures used to resolve various requests for relief and formal complaints filed at the Commission.
       2. 52 Pa Code §§ 56.140 – 56.181 detailing procedures utilities are to follow in response to customer disputes and prohibiting termination based on disputed matters.
       3. 52 Pa. Code § 56.81 – 56.131 detailing procedures utilities are to follow regarding termination and staying termination while matters are under review by the Bureau of Consumer Services and while appeals are pending.

   [↑](#footnote-ref-6)