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June 9, 2022

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Joint Petition For Settlement Regarding PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) in the above-referenced matter. Please note that the Joint Petition includes the following supporting appendices:

A	Stipulated Record – Pre-Served Testimony and Exhibits
B	Pittsburgh Water and Sewer Authority Statement in Support of Settlement
C	Office of Consumer Advocate Statement in Support of Settlement
D	Pittsburgh United Statement in Support of Settlement
E	City of Pittsburgh Statement in Support of Settlement

Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Lauren M. Burge

Enclosure

cc: Hon. Eranda Vero w/enc. (via email only)
Hon. Gail M. Chiodo w/enc. (via email only)
Certificate of Service (via email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Joint Petition for Settlement Regarding PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: June 9, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public :
Utility Code Regarding Pittsburgh Water : Docket Nos. M-2018-2640802 (Water)
and Sewer Authority – Stage 2 (Stormwater) : M-2018-2640803 (Wastewater)
:

**JOINT PETITION FOR SETTLEMENT
REGARDING PWSA's JANUARY 20, 2022
STAGE 2 COMPLIANCE PLAN: STORMWATER (REVISED)**

Date: June 9, 2022

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Appendix E	City of Pittsburgh Statement in Support of Settlement

I. INTRODUCTION

The Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”), the Office of Consumer Advocate (“OCA”), Pittsburgh United, and the City of Pittsburgh (the “City”) (collectively, the “Joint Petitioners” or “Settling Parties”),¹ by their respective counsel, submit and join in this Joint Petition for Settlement Regarding PWSA’s January 20, 2022 Revised Stage 2 Compliance Plan – Stormwater (“Settlement” or “Joint Petition”) and request that Administrative Law Judges Eranda Vero and Gail M. Chiodo (“ALJs”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”): (1) enter into the record the pre-served testimony and exhibits and take the other action as described in Appendix A; (2) approve the Settlement and all of its terms and conditions as set forth in Section III below without modification; and (3) find that the terms of the Settlement are in accordance with the law and are in the public interest consistent with the reasons set forth in Section V as well as the Statements in Support from each of the Joint Petitioners included in Appendices B-E attached hereto.

In further support of this Settlement, the Joint Petitioners state as follows:

II. BACKGROUND AND PROCEDURAL HISTORY

1. PWSA, a municipal authority, is a body politic and corporate, organized and existing under the Pennsylvania Municipality Authorities Act, 53 Pa. C.S. §§ 5601, *et seq.* PWSA manages the water, wastewater conveyance and stormwater systems of the City pursuant to a 1995 Capital Lease Agreement dated July 15, 1995 which provides for PWSA’s purchase of the water supply, distribution and wastewater collection systems in 2025. PWSA’s management of the City’s assets and other details of their relationship are governed by 71 P.S. §§ 720.211 to 720.213.

¹ The Bureau of Investigation and Enforcement (“I&E”) and the Office of Small Business Advocate (“OSBA”) do not oppose the Settlement.

2. Effective April 1, 2018, PWSA became subject to the Public Utility Code with the exception of Chapters 11 (relating to certificates of public convenience) and 21 (relating to relations with affiliated interested). *See* 66 Pa.C.S. § 3201 *et seq.* (“Chapter 32”). The transition process established by Chapter 32 included a requirement that PWSA file: (1) a compliance plan to bring its existing information technology, accounting, billing, collection and other operating systems and procedures into compliance with Commission requirements; and (2) a long-term infrastructure improvement plan (“LTIIIP”) by September 28, 2018. 66 Pa.C.S. § 3204(b).

3. The Commission initiated this proceeding pursuant to Tentative Implementation Order on January 18, 2018 for the purpose of proposing methods by which the Commission and affected entities may carry out the requirements of Chapter 32.² The Final Implementation Order was entered on March 15, 2018.³ As directed by the Commission, PWSA filed its Compliance Plan and its LTIIIP on September 28, 2018.

4. Two days prior to PWSA’s filing of its Compliance Plan and LTIIIP, on September 26, 2018, the Commission issued a Secretarial Letter outlining the procedure for Commission review of PWSA’s Compliance Plan and LTIIIP which included: (1) publication of notice of PWSA’s filing; (2) invitation for interested stakeholders to file comments no later than 20 days after publication of the notice; and (3) an assignment of the matter to the Office of Administrative Law Judge (“OALJ”) within 45 days with an initial report from technical staff.⁴ The *September 26, 2018 Secretarial Letter* also provided that the OALJ was to prepare a

² *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Tentative Implementation Order entered January 18, 2018.

³ *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Final Implementation Order entered March 15, 2018.

⁴ *Procedure for Commission Review of the September 28, 2018 Compliance Plan and LTIIIP Filings of The Pittsburgh Water and Sewer Authority*, Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater), dated September 26, 2018 (“September 26, 2018 Secretarial Letter”).

recommended decision no later than eight months from the date on which the matter was assigned to the OALJ and the Commission would issue appropriate orders on the filings no later than November 30, 2019.

5. On November 28, 2018, the Commission issued a Secretarial Letter which: (1) referred PWSA's September 28, 2018 Compliance Plan filing to the OALJ; and (2) established two stages of review for PWSA's Compliance Plan.⁵ Litigation related to Stage 2 was to begin after issuance of a final Commission Order in Stage 1, though Commission staff was directed to hold workshops related to Stage 2 issues in 2019.

- The topics to be addressed in Stage 1 were "urgent infrastructure remediation and improvement and the revenue and financing requirements of maintaining service that supports public health and safety."⁶
- The issues reserved for Stage 2 were: (1) PWSA's compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations; and (2) development of a stormwater tariff.

6. On September 13, 2019, a Joint Petition for Partial Settlement regarding the Stage 1 issues was filed ("*Stage 1 Partial Settlement*") and a Recommended Decision was issued October 29, 2019 adjudicating the partial settlement as well as the contested issues.

7. On January 24, 2020, the Commission issued a Secretarial Letter ("*January 2020 Secretarial Letter*") which postponed its consideration and ruling on Stage 1 to no later than March 31, 2020. The *January 2020 Secretarial Letter* also provided future direction regarding the Stage 2 Proceeding including the direction to PWSA to file its Stage 2 Compliance Plan within 60 days after entry of a final unappealable order on Stage 1.

⁵ Assignment of the Pittsburgh Water and Sewer Authority Compliance Plan to the Office of Administrative Law Judge, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), dated November 28, 2018 Corrected ("*November 28, 2018 Secretarial Letter*").

⁶ *Id.* at 3.

8. On March 26, 2020, the Commission entered the first of three orders regarding the Compliance Plan Stage 1 proceeding which: (1) approved the *Stage 1 Partial Settlement*; (2) made two modifications related to PWSA's lead service line replacement policy related to partial lead service line replacements; and (3) adjudicated the issues that were reserved for litigation.⁷ The third Commission order regarding the Compliance Plan Stage 1 proceeding was entered on February 4, 2021 ("*Stage 1 February 4, 2021 Order*"). The *Stage 1 February 4, 2021 Order*: (1) adjudicated PWSA's Compliance Proposal regarding lead line remediation issues; and (2) reiterated the direction of the *January 2020 Secretarial Letter* regarding the initiation of the Stage 2 proceeding.⁸ PWSA subsequently received an extension from April 5, 2021 to April 9, 2021 to file its Stage 2 documents as directed by Ordering Paragraph 3 of the *Stage 1 February 4, 2021 Order*.

9. On April 9, 2021, PWSA filed two separate Stage 2 Compliance Plan documents: (1) Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections; and, (2) Stage 2 Compliance Plan: Stormwater. PWSA also filed a Petition for Amendment of the Commission's February 4, 2021 Final Order Regarding Procedural Process for Customer Service and Collections Issues.

10. A detailed procedural history of the Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections portion of this proceeding is included in the Joint Petition for Settlement

⁷ *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 ("*Stage 1 March 26, 2020 Order*").

⁸ *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 February 4, 2021 ("*Stage 1 February 4, 2021 Order*").

regarding those topics, which was filed on March 14, 2022.⁹ The procedural history on these customer service topics is incorporated herein by reference.

11. On April 13, 2021, PWSA filed a combined water, wastewater, and stormwater base rate case.¹⁰ As part of the *PWSA 2021 Rate Case*, PWSA submitted a proposed stormwater tariff and proposed to implement stormwater rates for the first time.

12. Also on April 13, 2021, PWSA filed a Motion to Hold in Abeyance the Stage 2 Stormwater Compliance Plan. Through the Motion, PWSA requested that the Stormwater Compliance Plan be held in abeyance pending resolution of the *PWSA 2021 Rate Case* in order to allow the full range of stormwater issues to be addressed part of the rate case, and then to proceed with any remaining issues regarding the Stormwater Compliance Plan after the base rate case was concluded.

13. On May 20, 2021, the Commission issued an Order suspending PWSA's stormwater tariff until January 12, 2022. The suspension order also included the Technical Staff Report and Directed Questions on Stage 2 stormwater issues as Attachment B.¹¹

14. In the separate *May 2021 CP Stage 2 Scheduling Order* entered on the same date, the Commission granted PWSA's Motion to hold the Stormwater Compliance Plan in abeyance and directed PWSA to file a revised Stormwater Compliance Plan after the entry of a final Commission Order resolving the *PWSA 2021 Rate Case*, but no later than January 31, 2022, incorporating any changes or requirements resulting from the *PWSA 2021 Rate Case*. The Commission also directed that, to the extent any issues remain pending in the Stormwater

⁹ In a Recommended Decision dated May 18, 2022, the ALJs recommended approval of the Joint Petition for Settlement in the Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections portion of this proceeding. This is currently pending before the Commission.

¹⁰ Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater) ("*PWSA 2021 Rate Case*").

¹¹ *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority – Stormwater*, Docket Nos. R-2021-3024779 Order entered May 20, 2021.

Compliance Plan, Technical Utility Services (“TUS”) staff will issue a second set of directed questions identifying the remaining issues within thirty (30) days of PWSA filing the revised Stormwater Compliance Plan.

15. A Joint Petition for Settlement of the *PWSA 2021 Rate Case* was filed on September 7, 2021. On October 6, 2021, a Recommended Decision was entered recommending approval of the Joint Petition for Settlement. A final order adopting the Recommended Decision was entered by the Commission on November 18, 2021.

16. In compliance with the *May 2021 CP Stage 2 Scheduling Order*, PWSA filed its revised Stormwater Compliance Plan on January 20, 2022. The revised Stormwater Compliance Plan reflects stormwater-related issues that were resolved through the *PWSA 2021 Rate Case* and provides updated information. The filing also includes an appendix with PWSA’s responses to each of the TUS Directed Questions that were included as Attachment B with the May 20, 2021 Order suspending PWSA’s stormwater tariff until January 12, 2022.¹²

17. On February 3, 2022, PWSA filed an Unopposed Petition to Separate Stormwater Issues from Other Stage 2 Compliance Plan Issues requesting that the Commission separate any remaining stormwater issues from the customer service and collections issues that have been separately addressed, as described in the Joint Petition for Settlement on customer service issues that was filed at this docket on March 14, 2022.

18. On February 22, 2022, a Secretarial Letter was entered assigning the Stage 2 Compliance Plan – Stormwater to the OALJ. The Secretarial Letter included a Technical Staff Report and Directed Questions, Stage 2, Set 2. The Secretarial Letter directed the OALJ to “incorporate the Stage 2, Set 2 Report into its Prehearing Order and to conduct evidentiary

¹² *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority – Stormwater*, Docket Nos. R-2021-3024779 Order entered May 20, 2021, Attachment B.

hearings to address matters raised therein.” The Secretarial Letter also stated that, as directed in the *May 2021 CP Stage 2 Scheduling Order*, the OALJ shall issue a Recommended Decision by May 25, 2022.

19. On March 7, 2022, the Commission entered an Opinion and Order granting in part and denying in part PWSA’s Unopposed Petition to Separate Stormwater Issues from Other Stage 2 Compliance Plan Issues. Through this Order, the Commission modified its *May 2021 CP Stage 2 Scheduling Order* to extend the previous deadline by 60 days and directed that the Recommended Decision on stormwater be issued no later than July 25, 2022. This modification only relates to PWSA’s Stormwater Compliance Plan and any remaining stormwater issues associated with that plan.

20. On March 16, 2022, the ALJs issued a Prehearing Order Modifying Litigation Schedule and Discovery Proceedings. This prehearing order modified the litigation schedule for review of the Revised Stormwater Compliance Plan to reflect the additional 60 days granted by the Commission’s March 7, 2022 Opinion and Order.

21. In accordance with the litigation schedule, on March 22, 2022, PWSA submitted its direct testimony which responded to the TUS Directed Questions, Set 2 that were issued on February 22, 2022. No other party submitted testimony regarding PWSA’s Revised Stormwater Compliance Plan or in response to PWSA’s testimony.

22. The Settling Parties subsequently agreed to settle the stormwater portion of this proceeding as described below.

III. TERMS AND CONDITIONS OF SETTLEMENT

The Settling Parties support approving PWSA’s January 20, 2022 Revised Stage 2 Compliance Plan – Stormwater subject to the following terms and conditions:

A. Updated Stage 2 Compliance Plan: Stormwater

1. Within 60 days after entry of a final order in this proceeding, PWSA will file an updated version of the Stage 2 Compliance Plan: Stormwater incorporating the responses to the TUS Directed Questions, Set 2 that PWSA provided through its direct testimony in this proceeding.

B. Stormwater Planning Public Engagement

1. PWSA is in the process of finalizing a Stormwater Strategic Plan in the Summer, 2022.¹³ Once a draft Plan is approved by PWSA it will circulate the Draft Plan publicly, including to the Parties to this proceeding and take comments. It will also convene a community meeting at which the draft Plan will be discussed and comments from the public taken. PWSA will respond to all material and appropriate comments and explain how and/or to what extent the comment is addressed in the final Strategic Plan.
2. Upon finalization of the Strategic Plan, PWSA will initiate a process of developing a long-term public engagement process for implementation of the Strategic Plan as well as the subsequent Wet Weather Plan, and additional strategic planning initiatives related to stormwater.
 - a. PWSA will consult with its existing Stormwater Partners Group in the development of its long-term public engagement process. The consultation shall include regular progress reports from the Authority on PWSA's stormwater infrastructure development, public engagement plans and other relevant topics. The first consultation will occur no later than three months after PWSA finalizes the Strategic Plan.

¹³ The Stormwater Strategic Plan referenced here replaces the former "Stormwater Master Plan," as explained in the Revised Stormwater Compliance Plan, Appendix 1 at 12.

- b. The Parties to this Proceeding will be invited to join the Stormwater Partners group.¹⁴

C. Compliance Tariff

1. The parties propose that the Commission grant a period of 60 days after entry of its final order for PWSA to prepare and submit its Compliance Tariff.

IV. ADDITIONAL TERMS AND CONDITIONS

23. Appendix A attached hereto includes a listing of relevant testimony submitted by the Settling Parties in the *PWSA 2021 Rate Case*. The Settling Parties hereby request that the listed testimony and exhibits be admitted to the record in this proceeding pursuant to 52 Pa. Code § 5.407. Appendix A also includes a reference to the Final Order of the PUC in the PWSA 2021 Rate Case. The Settling Parties hereby request that the ALJs and the Commission take administrative notice of the November 18, 2021 Final Order approving the rate case settlement pursuant to 52 Pa. Code § 5.406.

24. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement.

25. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

¹⁴ The existing members of the Stormwaters Partners include: the Pittsburgh Parks Conservancy, Pittsburgh United, Grounded, Penn State Master Watershed Stewards and PWSA.

26. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement represents a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

27. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, PWSA or any Joint Petitioner may withdraw from this Settlement, upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order, and, in such event, the Settlement shall be of no force and effect. In the event that the Commission disapproves the Settlement or PWSA or any other Joint Petitioner elects to withdraw from the Settlement as provided above, each of the Joint Petitioners reserves their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

28. All Joint Petitioners shall support the Settlement and will make reasonable and good faith efforts to obtain approval of the Settlement by the ALJs and the Commission without modification. The Joint Petitioners agree that such good faith efforts do not necessarily include opposing or responding to comments or oppositions to the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated the issues resolved by the Settlement and will result in

the establishment of terms and conditions that – until changed on a going-forward basis as provided in the Public Utility Code – are in accordance with the law and in the public interest.

29. If the ALJs, in their Recommended Decision, recommend that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to: (a) any modifications to the terms and conditions of this Settlement; or (b) any additional matters proposed by the ALJs in their Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

30. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

V. SETTLEMENT IS IN THE PUBLIC INTEREST

31. This Settlement was agreed to by the Joint Petitioners after review of PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised), PWSA's responses to the first set of TUS Directed Questions (attached as an appendix to the January 20, 2022 Revised Stormwater Compliance Plan), and PWSA's supporting testimony reflecting the Authority's responses to the second set of TUS Directed Questions. The Revised Stormwater Compliance Plan is also proposed to be moved into the record as a PWSA Hearing Exhibit.

32. Further, this Settlement reflects the detailed investigation into stormwater service and PWSA's stormwater tariff that was undertaken by the parties in the *PWSA 2021 Rate Case*, through which the parties engaged in extensive informal and formal discovery, detailed settlement negotiations, as well as submission of direct, supplemental direct, rebuttal, surrebuttal, and rejoinder testimony. The parties reached a full settlement of the *PWSA 2021 Rate Case* –

including all stormwater issues raised in that proceeding – and the settlement was subsequently approved by the Commission without modification. PWSA’s January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) incorporates and reflects the rate case settlement terms related to stormwater service and relevant portions of the Settling Parties’ testimony and exhibits are proposed to be included in the record of this Proceeding.

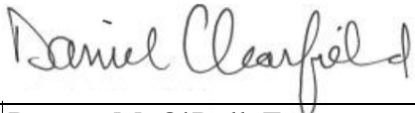
33. **The Settlement provides a reasonable resolution.** The Settlement presents a balanced resolution of topics addressed in this proceeding and reflects the fact that the issues raised regarding stormwater service were largely addressed through the *PWSA 2021 Rate Case*.

34. **Substantial litigation and associated costs will be avoided.** The Settlement amicably and expeditiously resolves the remaining issues regarding PWSA’s stormwater service and ensures that PWSA’s practices align with Commission regulations to the extent applicable.

35. **The Settlement is consistent with Commission policies promoting negotiated settlements.** The Joint Petitioners arrived at the Settlement after review of PWSA’s filings in this proceeding, as well as extensive investigation of PWSA’s stormwater program and tariff in the *PWSA 2021 Rate Case*. Thus, the Settlement is consistent with the Commission’s rules and practices encouraging settlements, 52 Pa. Code §§ 5.231, 69.391, 69.401-69.406, and is supported by the record in this proceeding, as well as the record in the *PWSA 2021 Rate Case*.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the ALJs approve the Settlement as set forth herein, including all terms and conditions, without modification.

Respectfully submitted,



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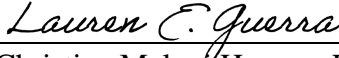
WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the ALJs approve the Settlement as set forth herein, including all terms and conditions, without modification.

Respectfully submitted,

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Respectfully submitted,

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***Counsel for
the City of Pittsburgh***

Dated: June 9, 2022

Appendix A
Stipulated Record – Pre-Served Testimony and Exhibits

Pre-Served Testimony and Exhibits – PWSA Stage 2 Stormwater Compliance Plan

PWSA Direct Testimony

Party	St. No.	Witness	Exhibits
PWSA	1	Tony Igwe	TI-1
PWSA	2	Keith Readling	None
PWSA	3	Edward Barca	None
PWSA	4	Harold J. Smith	HJS-1 and HJS-2

PWSA Hearing Exhibit

Party	Hearing Exh.	Sponsoring Witness	Description
PWSA	1	Tony Igwe	PWSA Stage 2 Compliance Plan: Stormwater (Revised) – dated January 20, 2022

Relevant Testimony – PWSA 2021 Rate Case¹⁵

The Settling Parties request that the following portions of relevant testimony and exhibits from the *PWSA 2021 Rate Case* be admitted to the record in this proceeding pursuant to 52 Pa. Code § 5.407:

PWSA Testimony

Testimony	Description	Exhibits
PWSA St. No. 4	Direct Testimony of Harold Smith, pages 1-13, 43-47 and verification	HJS-1 to HJS-3, HJS-1SW and HJS-9SW
PWSA St. No. 6	Direct Testimony of Julie A. Quigley, pages 3-5, 7, 19, 21-23, 27-33, 35 and verification	None
PWSA St. No. 7	Direct Testimony of Tony Igwe	Appendix A, TI-1 to TI-5
PWSA St. No. 8	Direct Testimony of Keith Readling	Appendix A, KR-1
PWSA St. No. 2-SD	Supplemental Direct Testimony of Edward Barca	None
PWSA St. No. 7-SD	Supplemental Direct Testimony of Tony Igwe	TI-6
PWSA St. No. 8-SD	Supplemental Direct Testimony of Keith Readling	None
PWSA St. No. 5-R	Rebuttal Testimony of Harold Smith, page 7 and verification	HJS-1-R to HJS-3-R, HJS-1SW-R to HJS-9SW-R
PWSA St. No. 6-R	Rebuttal Testimony of Julie A. Quigley, pages 21, 57-60, 84-85, 98-99 and verification	None
PWSA St. No. 7-R	Rebuttal Testimony of Tony Igwe	TI-7

¹⁵ Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater) (“PWSA 2021 Rate Case”).

Appendix A
Stipulated Record – Pre-Served Testimony and Exhibits

PWSA St. No. 8-R	Rebuttal Testimony of Keith Readling	None
PWSA St. No. 6-RJ	Rejoinder Testimony of Julie Quigley, pages 8-9 and verification	None
PWSA St. No. 8-RJ	Rejoinder Testimony of Keith Readling	None

OCA Testimony

Testimony	Description	Exhibits
OCA St. 3	Direct Testimony of Scott J. Rubin, pages 16-29 and verification	SJR-4, SJR-5 and SJR-6
OCA St. 5	Direct Testimony of Barbara R. Alexander, pages 29-34, 37-38 and verification	None
OCA St. 3R	Rebuttal Testimony of Scott J. Rubin, pages 7-13 and verification	None
OCA St. 3SR	Surrebuttal Testimony of Scott J. Rubin, pages 4-7 and verification	None
OCA St. 5SR	Surrebuttal Testimony of Barbara R. Alexander, pages 11-13 and verification	None

Pittsburgh United Testimony

Testimony	Description	Exhibits
United St. 1	Direct Testimony of Harry Geller, pages 47-48 and verification	None
United St. 2	Direct Testimony of Michele C.W. Adams and verification	Appendices A and B
United St. 2-SR	Surrebuttal Testimony of Michele C.W. Adams and verification	None

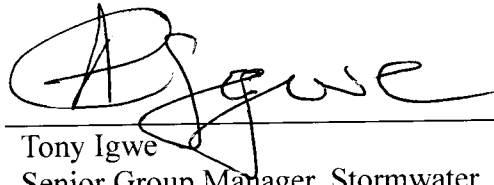
Order

The Settling Parties request that, pursuant to 52 Pa. Code § 5.406, the Commission take administrative notice of the November 18, 2021 Final Order in the *PWSA 2021 Rate Case* (Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater)) which adopted the Recommended Decision and approved the Settlement without modification.

VERIFICATION

I, Tony Igwe, hereby state that I am the Senior Group Manager, Stormwater for The Pittsburgh Water and Sewer Authority ("PWSA"), I am authorized to make this verification on its behalf, and that the facts set forth in PWSA Hearing Exhibit 1 – PWSA's Stage 2 Compliance Plan: Stormwater (Revised), dated January 20, 2022, are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: June 9, 2022

A handwritten signature in black ink, appearing to read 'Tony Igwe', is written over a horizontal line.

Tony Igwe
Senior Group Manager, Stormwater
The Pittsburgh Water and Sewer Authority

Appendix B
Pittsburgh Water and Sewer Authority Statement in Support

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public :
Utility Code Regarding Pittsburgh Water : Docket Nos. M-2018-2640802 (Water)
and Sewer Authority – Stage 2 (Stormwater) : M-2018-2640803 (Wastewater)
:

**STATEMENT OF THE PITTSBURGH WATER AND SEWER AUTHORITY
IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
REGARDING PWSA's JANUARY 20, 2022
STAGE 2 COMPLIANCE PLAN: STORMWATER (REVISED)**

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I. INTRODUCTION AND OVERALL REASONS IN SUPPORT OF SETTLEMENT

The Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”) submits this Statement in Support of the Joint Petition for Settlement regarding PWSA’s January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) (“Settlement” or “Joint Petition”) entered into by PWSA, the Office of Consumer Advocate (“OCA”), Pittsburgh United, and the City of Pittsburgh (“City”).¹ The Settlement resolves all issues involved in this Stage 2 Compliance Plan proceeding regarding stormwater service.² This Settlement, taken together with the stormwater issues resolved through settlement of PWSA’s 2021 rate case and other Compliance Plan proceedings, achieves a reasonable regulatory compliance plan for PWSA’s stormwater service going forward and is clearly in the public interest.

As discussed in the Joint Petition, this Settlement was agreed to by the Settling Parties after review of PWSA’s January 20, 2022 Stage 2, Compliance Plan: Stormwater (Revised) (“Stormwater Compliance Plan”), PWSA’s responses to the first set of TUS Directed Questions (attached as an appendix to the Stormwater Compliance Plan), and PWSA’s supporting testimony reflecting the Authority’s responses to the second set of TUS Directed Questions.³

The Stormwater Compliance Plan provides detailed information about PWSA’s stormwater operations and addresses specific compliance items that are unique to stormwater service. In general, because PWSA operates its stormwater operations as part of its “combined” water and wastewater operations, its stormwater operations are and will be consistent with the Public Utility Code and Commission regulations and orders to the same extent as they are for

¹ As stated in the Joint Petition, the Bureau of Investigation and Enforcement (“I&E”) and the Office of Small Business Advocate (“OSBA”) do not oppose the Settlement.

² As explained in the Joint Petition, the litigation of the Stage 2 stormwater issues proceeded on a separate track from the litigation of the customer service and collections issues. *See* Joint Petition at ¶ 17.

³ Joint Petition at ¶¶ 16, 31-33.

PWSA's other areas of operation.⁴ Accordingly, PWSA's prior Stage 1 Compliance Plan as previously approved by the Commission for the Authority's water and wastewater operations, as well as the Stage 2 Compliance Plan related to customer service and collections issues which is currently pending before the Commission, are also applicable to PWSA's stormwater operations. The Stormwater Compliance Plan addresses any instance in which PWSA's plan for compliance with a particular regulation needs to be modified because of the nature of stormwater service, as well as areas that are unique to stormwater operations.⁵

Additionally, this Settlement reflects the detailed investigation into stormwater service and PWSA's stormwater tariff that was undertaken in PWSA's 2021 combined water, wastewater and stormwater rate case ("*PWSA 2021 Rate Case*").⁶ Through the *PWSA 2021 Rate Case*, the parties (which are the same parties as those in this Stage 2 Compliance Plan proceeding) engaged in extensive informal and formal discovery, detailed settlement negotiations, and submitted direct, supplemental direct, rebuttal, surrebuttal, and rejoinder testimony on stormwater issues. The parties reached a full settlement of the *PWSA 2021 Rate Case* – including all stormwater issues raised in that proceeding – and the settlement was subsequently approved by the Commission without modification. PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) incorporates and reflects the rate case settlement terms related to stormwater service.⁷

As such, this Settlement is a result of the parties' review of PWSA's filings in this proceeding, and also represents the culmination of the significant efforts and investigation by

⁴ PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised), at 5. Note that the PUC has no specific regulations dealing with stormwater *per se*.

⁵ *Id.* at 5-6.

⁶ Docket Nos. R-2021-3024773 (water), R-2021-3024774 (wastewater), and R-2021-3024779 (stormwater).

⁷ Joint Petition at ¶ 32.

PWSA and the parties through the *PWSA 2021 Rate Case* and prior Compliance Plan proceedings. For these reasons and those discussed below, the Settlement is in the public interest and should be approved without modification.

II. REASONS FOR SUPPORT OF SPECIFIC ISSUES

A. Public Outreach Related to PWSA's Stormwater Strategic Plan

Although none of the other parties submitted testimony in this proceeding, Pittsburgh United requested that the Settlement include terms related to public outreach on the development of PWSA's Stormwater Strategic Plan.⁸ As a reflection of PWSA's ongoing commitment to public engagement and outreach, the Authority agreed to settlement terms that outline the public engagement process that will be followed as PWSA finalizes its Stormwater Strategic Plan, which is expected to be completed in Summer 2022, as well as a long-term public engagement process to continue after the Strategic Plan has been finalized.⁹

Under the Settlement, once PWSA has prepared a draft of the Stormwater Strategic Plan, the Authority will circulate the Draft Plan publicly, including to the parties in this proceeding, and will take public comments on the Draft Plan. PWSA will also convene a community meeting at which the Draft Plan will be discussed, and public comments will be taken. The Authority will respond to the comments received and will explain how and to what extent the comment is addressed in the final version of the Stormwater Strategic Plan.¹⁰

Once the Stormwater Strategic Plan has been finalized, the Settlement provides that PWSA will develop a long-term public engagement process for implementation of the

⁸ The Stormwater Strategic Plan referenced here and in the Settlement replaces the former "Stormwater Master Plan," as explained in the Revised Stormwater Compliance Plan, Appendix 1 at 12. *See also* Joint Petition at 8, fn. 13.

⁹ Joint Petition at 8-9, ¶ III.B.

¹⁰ Joint Petition at 8, ¶ III.B.1.

Stormwater Strategic Plan, as well as the subsequent Wet Weather Plan and other strategic planning initiatives related to stormwater.¹¹ To develop this engagement process, PWSA will work with its existing Stormwater Partners Group, which currently includes PWSA, Pittsburgh United, the Pittsburgh Parks Conservancy, Grounded, and Penn State Master Watershed Stewards as members, and the parties to this proceeding will also be invited to join.¹² The Authority will consult with the Stormwater Partners group by providing regular progress reports on stormwater infrastructure development, public engagement plans and other relevant topics. The first consultation with this group will occur within three months after PWSA finalizes the Stormwater Strategic Plan.¹³

These settlement terms provide a process through which the parties, community groups, members of the public and other stakeholders can provide input to PWSA's ongoing stormwater planning and implementation processes and help ensure that the Authority's stormwater service meets the needs of the community. For these reasons, the settlement terms are in the public interest and should be approved without modification.

B. Resolution of Remaining Stormwater Issues

The Settlement also includes language resolving any remaining issues regarding PWSA's Stormwater Compliance Plan. The Settlement broadly states that the Settling Parties support approval of PWSA's January 20, 2022 Revised Stage 2 Compliance Plan: Stormwater, subject to the terms of the Settlement.¹⁴ Additionally, the Settlement requires that PWSA will file an updated version of the Stage 2 Compliance Plan: Stormwater incorporating the responses to the TUS Directed Questions, Set 2 that PWSA provided through its direct testimony in this

¹¹ Joint Petition at 8, ¶ III.B.2.

¹² Joint Petition at 9, ¶ III.B.2.b.

¹³ Joint Petition at 8, ¶ III.B.2.a.

¹⁴ Joint Petition at 7.

proceeding. The Authority will submit this updated Compliance Plan within sixty days of the final order in this proceeding.¹⁵ This filing will provide the Commission and the parties with a single, complete Stormwater Compliance Plan that addresses all aspects of stormwater compliance and incorporates PWSA's responses to both sets of TUS Directed Questions.

Finally, PWSA will file a Compliance Tariff within sixty days after entry of the final order in this proceeding incorporating any necessary changes from the Compliance Plan into the stormwater tariff.¹⁶ For example, PWSA's Stormwater Tariff does not currently provide for line extensions for bona fide or non-bona fide service applicants. However, the Revised Stormwater Compliance Plan states that the Authority has reconsidered its position and now believes the Stormwater Tariff should include line extension provisions that follow the general rules and conditions applicable to wastewater line extensions under PWSA's PUC-approved Wastewater Tariff. The Compliance Tariff filing will incorporate language from the Wastewater Tariff to make stormwater line extensions available in instances in which PWSA currently has the necessary facilities and capacity to accommodate the extension.¹⁷ This Compliance Tariff filing will result in aspects of the Stormwater Compliance Plan, once approved, being reflected in PWSA's Stormwater Tariff.

As discussed above, the Revised Stormwater Compliance Plan and this Settlement are the result of a detailed review of PWSA's filings and testimony in this proceeding, as well as the in-depth investigation conducted in the *PWSA 2021 Rate Case* and in the related Compliance Plan proceedings. None of the parties opposed PWSA's plan for stormwater compliance, and all categories of stormwater compliance have been addressed in either the Compliance Plan

¹⁵ Joint Petition at 8, ¶ III.A.1.

¹⁶ Joint Petition at 9, ¶ III.C.1.

¹⁷ PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised), Appendix 1 at 13-15; *see also PWSA 2021 Rate Case*, PWSA St. No. 7-SD at 11-12.

proceedings or the *PWSA 2021 Rate Case*.¹⁸ Given that this investigation was conducted across these various proceedings, PWSA provides the following list identifying evidentiary support for the compliance items addressed in the Revised Stormwater Compliance Plan:

- 52 Pa. Code § 53.53: Information to be Furnished with Proposed General Rate Increase Filings in Excess of \$1 Million - Revised Stormwater Compliance Plan, App. 1 at 3-4; PWSA St. No. 2 at 12; PWSA St. No. 3 at 4-6; *see also* PWSA St. No. 4.
- 52 Pa. Code § 65.14: Measurement and 52 Pa. Code § 65.8: Meters – Revised Stormwater Compliance Plan at 18-19, App. 1 at 5-8; PWSA St. No. 2 at 4-11; *see also* *PWSA 2021 Rate Case*, PWSA St. No. 7 at 32-33 and PWSA St. No. 8 at 6-9; PWSA Tariff Storm Water – Pa. P.U.C. No. 1 at Page Nos. 7 and 8.
- 52 Pa. Code § 65.2: Accidents – Revised Stormwater Compliance Plan at 19-20, App. 1 at 4; *see also* PWSA’s Revised Stage 1 Compliance Plan (dated April 27, 2020) at 46-48.
- 52 Pa. Code § 65.4: Records – Revised Stormwater Compliance Plan at 20, App. 1 at 4-5; *see also* PWSA’s Revised Stage 1 Compliance Plan (dated April 27, 2020) at 48-49.
- 52 Pa. Code § 65.16: System of Accounts – Revised Stormwater Compliance Plan at 20-21, App. 1 at 8-11; PWSA St. No. 3 at 7-9; *see also* PWSA’s Revised Stage 1 Compliance Plan (dated April 27, 2020) at 65-66.
- 52 Pa. Code § 65.17: Standards of Design – Revised Stormwater Compliance Plan at 21, App. 1 at 11-12.
- 52 Pa. Code § 65.19: Filing of Annual Financial Reports – Revised Stormwater Compliance Plan at 21-22, App. 1 at 12-13; PWSA St. No. 3 at 9.
- 52 Pa. Code § 65.21: Duty of Public Utility to Make Line Extensions – Revised Stormwater Compliance Plan at 22, App. 1 at 13-15; *see also* *PWSA 2021 Rate Case*, PWSA St. No. 7-SD at 11-12.
- 52 Pa. Code § 65.22: Customer Advance Financing, Refunds and Facilities on Private Property – Revised Stormwater Compliance Plan, App. 1 at 15-17; PWSA St. No. 3 at 10-11.
- 52 Pa. Code § 69.87: Tariff Provisions That Limit the Liability of Utilities for Injury or Damage as a Result of Negligence or Intentional Torts – Revised Stormwater Compliance Plan, App. 1 at 17-18; PWSA Tariff Storm Water – Pa. P.U.C. No. 1 at Page

¹⁸ PWSA has submitted the January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised) as PWSA Hearing Exh. 1 in this proceeding, and as such the Stormwater Compliance Plan is in the evidentiary record.

No. 40; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 78-79.

- 52 Pa. Code § 73.3: Annual Depreciation Reports – Revised Stormwater Compliance Plan at 22-23, App. 1 at 18; PWSA St. No. 3 at 12; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 96-97.
- 52 Pa. Code § 73.4: Format for Filing the Annual Depreciation Report – Revised Stormwater Compliance Plan at 23-24; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 97-98.
- 52 Pa. Code § 73.5: Service Life Study Report – Revised Stormwater Compliance Plan at 24-25, App. 1 at 19; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 98-99.
- 52 Pa. Code § 73.6: Format for Filing Service Life Study Report – Revised Stormwater Compliance Plan at 25-26, App. 1 at 19; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 99.
- 52 Pa. Code § 73.7: Capital Investment Plan Report – Revised Stormwater Compliance Plan at 26, App. 1 at 19-20; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 100.
- 52 Pa. Code § 73.8: Formal for Filing the Capital Investment Plan Report – Revised Stormwater Compliance Plan at 27, App. 1 at 20; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 101.
- 52 Pa. Code § 101: Public Utility Preparedness through Self-Certification – Revised Stormwater Compliance Plan, App. 1 at 20-21; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 102-104.
- 52 Pa. Code § 101.3: Emergency Response Plan Requirements – Revised Stormwater Compliance Plan at 27-28; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 102-104.
- 52 Pa. Code § 101.4: Reporting Requirements – Revised Stormwater Compliance Plan at 28-29; *see also* PWSA's Revised Stage 1 Compliance Plan (dated April 27, 2020) at 104.
- Memorandum of Understanding with the City of Pittsburgh and Relationship with the City – Revised Stormwater Compliance Plan at 29, App. 1 at 1, 21-24; PWSA St. No. 1 at 3-5.
- Bulk Stormwater Agreements – Revised Stormwater Compliance Plan at 29, App. 1 at 24-25; PWSA St. No. 1 at 6-8; *see also* PWSA 2021 Rate Case, PWSA St. No. 7-SD at 9-10 and 13.

- 66 Pa. C.S. § 510: Assessment for Regulatory Expenses Upon Public Utilities and 66 Pa. C.S. § 3207: Commission Assessment – Revised Stormwater Compliance Plan at 29, App. 1 at 25-26.
- 66 Pa. C.S. § 1311: Valuation of and return on the property of a public utility – Revised Stormwater Compliance Plan, App. 1 at 26-27.
- Stormwater Credit Program - Revised Stormwater Compliance Plan at 14-15, App. 1 at 27-28; *see also PWSA 2021 Rate Case*, PWSA St. No. 4 at 44; Recommended Decision (dated Oct. 6, 2021) at 56-58 (adopted without modification in Final Order entered Nov. 18, 2021).
- Chapter 56 of the Commission’s Regulations – Revised Stormwater Compliance Plan at 16-18; *see also PWSA 2021 Rate Case*, PWSA St. No. 6 at 29-30; *Joint Petition for Settlement Regarding PWSA’s April 9, 2021 Stage 2 Compliance Plan: Chapters 14 & 56, DLSPA and Collections* (dated March 14, 2022) and Recommended Decision dated May 18, 2022.

Given the significant evidentiary support and the Settling Parties’ agreement with PWSA’s proposed approach to stormwater compliance on these remaining topics after significant investigation, the Settlement provides a reasonable resolution of the remaining stormwater compliance issues. Therefore, the Settlement is in the public interest and should be approved without modification.

III. CONCLUSION

For all the reasons set forth herein and in the Joint Petition for Settlement, PWSA respectfully requests that the ALJs recommend that the Commission adopt the Settlement as proposed without modification.

Respectfully submitted,

/s/ *Lauren M. Burge*

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Date: June 9, 2022

Appendix C
Office of Consumer Advocate Statement in Support

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Chapter 32 of the Public	:	Docket Nos. M-2018-2640802 (Water)
Utility Code Regarding Pittsburgh Water	:	M-2018-2640803 (Wastewater)
and Sewer Authority – Stage 2 (Stormwater)	:	

OFFICE OF CONSUMER ADVOCATE
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT

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Consumer Advocate

Dated: June 9, 2022

I. INTRODUCTION

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement (Settlement) regarding PWSA's January 20, 2022 Stage 2 Compliance Plan: Stormwater (Revised), finds the terms and conditions of the Settlement to be in the public interest for the reasons set forth below.

A complete background and procedural history is provided in Section II of the proposed Settlement and the Joint Petition for Settlement. For context, a brief background follows. PWSA submitted a proposed stormwater tariff and sought to implement stormwater rates for the first time in its most recent rate case at Docket Nos. R-2021-3024773 (water), R-2021-3024774 (wastewater), and R-2021-3024779 (stormwater) (2021 Rate Case). In that proceeding, the parties addressed issues related to PWSA's proposed stormwater service and rates through testimony and in the Joint Petition for Settlement that was approved by the Commission without modification on November 18, 2021.¹ In the Commission's May 2021 Compliance Plan Stage 2 Scheduling Order (May Order), the Commission granted PWSA's request to hold the Stormwater Compliance Plan in abeyance until resolution of the 2021 Rate Case, and directed PWSA to file a revised Stormwater Compliance Plan to address any remaining stormwater issues. The Commission also directed Technical Utility Services (TUS) to issue a second set of directed questions identifying remaining issues. In compliance with the May Order, PWSA filed its revised Stormwater Compliance Plan on January 20, 2022 which reflected the resolution of stormwater issues from the 2021 Rate Case and also provided updated information.

¹ *Pa. P.U.C. v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); R-2021-3024779 (stormwater), Order (November 18, 2021).

For the reasons explained below, the OCA respectfully requests that the Joint Petition for Settlement be approved without modification as it is in the public interest.

II. OVERALL REASONS IN SUPPORT OF SETTLEMENT

PWSA requested approval of a stormwater tariff and stormwater fee in its 2021 Rate Case and sought to implement the fee in early 2022. As such, in the rate case, it was necessary to address a significant number of stormwater issues that overlap with the Compliance Plan process. The OCA provided testimony in that proceeding, addressing its concerns.² Based on the Settlement reached and approved in the 2021 Rate Case and the OCA's review of PWSA's Revised Stormwater Compliance Plan filed on January 20, 2022 and PWSA's testimony submitted in this proceeding on March 22, 2022, the OCA determined that no additional testimony was necessary.

The terms and conditions of the Settlement in this proceeding address the few remaining stormwater issues that were not resolved in the 2021 Rate Case and the settlement thereof and that adoption of the proposed Joint Petition for Settlement is in the public interest. The OCA supports approval by the Commission without modification.

III. REASONS FOR SUPPORT OF SPECIFIC ISSUES

A. Updated Stage 2 Compliance Plan: Stormwater (Settlement ¶ III.A)

Pursuant to the Settlement, PWSA will file an updated version of its Stormwater Compliance Plan that incorporates its responses to the TUS Directed Questions, Set 2 that PWSA provided in its testimony in this proceeding. This term is in the public interest because it helps to ensure that the final Stormwater Compliance Plan is fully developed and complete, by addressing the remaining issues raised by the Commission and the parties following the 2021 Rate Case.

² The settling parties offered, by reference, relevant and material excerpts from OCA and PWSA testimony from the 2021 Rate Case and requested, pursuant to 52 Pa. Code § 5.407, that the excerpts be admitted into the record of the instant proceeding. *See* Settlement, Appendix A.

B. Stormwater Planning Public Engagement (Settlement ¶ III.B)

PWSA has agreed to certain public engagement processes related to development of its Stormwater Strategic Plan. Settlement ¶ B.1. Once a draft Plan is approved by PWSA, it will circulate the draft Plan publicly and to the parties of this proceeding for comments. *Id.* PWSA has also agreed to hold a community meeting to discuss the Plan where PWSA will respond to all material and appropriate comments and explain how and to what extent the comment will be addressed in the final Strategic Plan. *Id.* Going forward, PWSA will develop a long-term public engagement process for implementing its Strategic Plan, Wet Weather Plan and additional strategic planning initiatives. Settlement ¶ B.2.

The development of processes for short- and long-term public engagement related to PWSA's stormwater planning is in the public interest because it provides the opportunity for consumers and the Pittsburgh community to have an active role in developing and implementing initiatives that address their needs and ideas.

C. Compliance Tariff (Settlement ¶ III.C)

Lastly, the parties agreed that the Commission should grant sixty (60) days after entry of its final Order in this proceeding for PWSA to submit its Compliance Tariff. Settlement ¶ C.1. This time will afford PWSA a reasonable amount of time to prepare its Compliance Tariff and for the parties to review and comment, which will help to ensure that the filed tariff accurately and fully represents the final Plan approved by the Commission.

IV. CONCLUSION

The terms and conditions of the proposed Settlement, taken as a whole, represent a fair and reasonable resolution of the issues raised by the OCA in this proceeding. Therefore, the OCA requests that the Commission approve the Settlement without modification as being in the public interest.

Respectfully Submitted,

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Dated: June 9, 2022
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Appendix D
Pittsburgh United Statement in Support

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public :
Utility Code Regarding Pittsburgh Water : Docket Nos. M-2018-2640802 (Water)
and Sewer Authority – Stage 2 (Stormwater) : M-2018-2640803 (Wastewater)
:

**STATEMENT OF PITTSBURGH UNITED
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

Pittsburgh United, a signatory party to the Joint Petition for Settlement (Joint Petition or proposed Settlement), respectfully requests that the terms and conditions contained therein be approved without modification by the Honorable Eranda Vero and Gail M. Chiodo, Administrative Law Judges, and the Pennsylvania Public Utility Commission (Commission). For the reasons stated more fully below, Pittsburgh United believes that the terms and conditions of the proposed Settlement are in the public interest and should be approved, and that the requested evidence should be moved into the record in this proceeding consistent with the Parties’ request in the Joint Petition.

I. INTRODUCTION

Pittsburgh United intervened in this proceeding to ensure that the Pittsburgh Water and Sewer Authority’s (PWSA) Stormwater Compliance Plan is designed and implemented in a manner that ensures all consumers in PWSA’s service territory receive safe and affordable stormwater service, regardless of income.

The Commission’s regulations lend unambiguous support for settlements, and declare: “It is the policy of the Commission to encourage settlements.”¹ The Commission has also set explicit policy guiding settlement of a major rate case, explaining in its codified statement of

¹ 52 Pa. Code § 5.231.

policy that “the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.”² Settlements are preferred, at least in part, because they “lessen the time and expense that Parties must expend litigating a case and, at the same time, conserve resources.”³ In reviewing whether to approve a proposed settlement, the Commission must determine whether the terms and conditions are in the interest of the public based on a preponderance of the evidence “showing a likelihood or probability of public benefits that need not be quantified or guaranteed.”⁴ Historically, the Commission has defined the public interest as inclusive of ratepayers, shareholders, and the regulated community at large.⁵ Of course, proposed settlement terms must also be consistent with applicable law.⁶

As a whole, and in light of the totality of facts and circumstances presented in this case, Pittsburgh United asserts that the proposed Settlement strikes an appropriate balance of the many and varied interests of the parties to the Settlement.

II. REASONS FOR SUPPORT OF SETTLEMENT

PWSA’s Stormwater Compliance Plan describes the extent to which PWSA’s stormwater service and operations comply with the Public Utility Code and the Commission’s regulations.⁷ Pittsburgh United carefully reviewed the Compliance Plan and PWSA’s testimony, including PWSA’s responses to directed questions from the Bureau of Technical Utility Services. The Compliance Plan and PWSA’s testimony do not propose any significant stormwater measures

² Id. § 69.401.

³ See Commonwealth of Pa. et al. v. IDT Energy, Inc., Docket No. C-2014-2427657, at 35-37 (Tentative Order entered June 30, 2016).

⁴ See id. (quoting Popowsky v. Pa. PUC, 594 Pa. 583, 937 A.2d at 1040 (2007)).

⁵ See id. (citing Pa. PUC v. Bell Atlantic Pennsylvania, Inc., Docket No. R-00953409 (Order entered Sept. 29, 1995)).

⁶ See id. (citing Dauphin County Indus. Dev. Auth. v. Pa. PUC, 2015 Pa. Commw. LEXIS 381 (Sept. 9, 2015)).

⁷ PWSA January 20, 2022 Revised Stage 2 Compliance Plan - Stormwater, at 2-3.

beyond those already discussed at length, and approved by the Commission, in PWSA's 2021 Rate Case.⁸ Pittsburgh United submitted expert testimony in the 2021 Rate Case addressing (among other things) PWSA's stormwater fee, credit program, and strategic planning process.⁹ Given the overlap in issues between the rate case and this proceeding, this testimony remains relevant to PWSA's Compliance Plan and the reasonableness of the proposed Settlement. Consequently, Pittsburgh United did not submit any new testimony in this proceeding, and asks that the portions of its 2021 Rate Case designated in Appendix A of the Joint Petition be entered into the record for this proceeding. Pittsburgh United continues to support PWSA's establishment of a stormwater fee assessed according to impervious area because it is a more equitable way to fund stormwater service.¹⁰

The Compliance Plan, however, is limited in scope; it does not explain how PWSA will confront key stormwater challenges facing PWSA and its customers, including surface flooding, basement backups, and water pollution.¹¹ Instead, PWSA is grappling with those issues through its ongoing development of a separate Stormwater Strategic Plan.¹² As required by the settlement of the 2021 Rate Case, the Stormwater Strategic Plan "will comprehensively state PWSA's criteria for selecting and prioritizing stormwater projects."¹³ That settlement also requires the Strategic Plan to "provide for consideration of services and projects in low income communities

⁸ Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater).

⁹ Pittsburgh United St. 1, at 47-48; Pittsburgh United St. 2; Pittsburgh United St. 2-SR. What PWSA now refers to as its Stormwater Strategic Plan, PWSA formerly referred to as a Master Plan. Joint Petition at 8 n.13.

¹⁰ Pittsburgh United St. 2, at 14-15, 18; see also Pa. PUC v. PWSA, Recommended Decision, Docket No. R-2021-3024773, -74, -79, at 64 ("PWSA's stormwater fee will create a more equitable way to charge for stormwater management services . . .") (order entered Oct. 6, 2021).

¹¹ See PWSA's January 20, 2022 Revised Stage 2 Compliance Plan - Stormwater, at 8.

¹² Pittsburgh United St. 2, at 6-7.

¹³ Pa. PUC v. PWSA, Recommended Decision, Docket No. R-2021-3024773, -74, -79, at 20 (Joint Settlement ¶ III.C.2.b) (order entered Oct. 6, 2021).

and other communities disproportionately impacted by localized flooding, basement backups, and other stormwater impacts.”¹⁴

During the rate case proceeding, Pittsburgh United witness Michele Adams explained that broad, inclusive outreach was “essential to ensuring that the [Strategic Plan] identifies and addresses the full range of stormwater-related issues in PWSA’s service area.”¹⁵ To that end, the 2021 Rate Case settlement acknowledged that “[c]ommunity outreach and engagement is a critical component” of the Strategic Plan and required PWSA to develop a public outreach plan for the Strategic Plan process.¹⁶

The proposed Settlement for this proceeding builds on the settlement of PWSA’s 2021 Rate Case. It obligates PWSA to make a draft of the Strategic Plan available for public comment, to hold a public meeting at which it accepts public comment, and to respond to public comments when it issues the Strategic Plan in final form.¹⁷ The proposed Settlement also commits PWSA to continuing to consult with stormwater stakeholders, including Pittsburgh United and other parties to this proceeding, after PWSA finalizes the Strategic Plan.¹⁸

Ultimately it is PWSA’s customers who bear the burden of flooding, basement backups, and creeks and rivers polluted by stormwater. PWSA must engage in meaningful, sustained consultation with community members if it is to craft and implement a successful Strategic Plan.¹⁹ The proposed Settlement is in the public interest because it will increase the likelihood

¹⁴ Id. at 20-21 (Joint Settlement ¶ III.C.3).

¹⁵ Pittsburgh United St. 2, at 8; see also PWSA, Stormwater Strategic Plan FAQ, <https://www.pgh2o.com/your-water/stormwater/stormwater-plans/stormwater-strategic-plan-faq> (“Deep public engagement of a diverse group of residents, ratepayers and stakeholders is key to the success of this project. . . . Special attention will be paid to engaging stakeholders and communities not typically at the table for stormwater conversations and are most impacted by stormwater issues such as flooding and basement backups.”).

¹⁶ Pa. PUC v. PWSA, Recommended Decision, Docket No. R-2021-3024773, -74, -79, at 20 (Joint Settlement at ¶ III.C.2.a) (order entered Oct. 6, 2021); see also id. at 58-60 (describing PWSA, Pittsburgh United, OCA, and I&E’s support for these terms); id. at 64-65 (finding these terms to be in the public interest).

¹⁷ Joint Pet. at ¶ III.B.1.

¹⁸ Id. ¶ III.B.2.

¹⁹ See Pittsburgh United St. 2, at 8.

that PWSA's stormwater operations are informed and improved by the perspectives of its customers – while preserving the rights of the parties to engage in a thorough review of PWSA's forthcoming Stormwater Strategic Plan and to raise any issues related thereto in an appropriate forum.²⁰

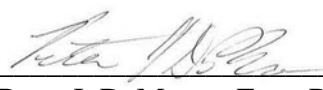
III. CONCLUSION

The proposed Settlement reflects a thorough investigation of PWSA's filing and productive negotiations among the Parties. Pittsburgh United asserts that the proposed Settlement provides a reasonable resolution to the issues presented in this proceeding, is in the public interest, and should be approved. Acceptance of the proposed Settlement would avoid the necessity of further administrative and possible appellate proceedings regarding the settled issues. Such further proceedings would be undertaken at substantial cost to the Joint Petitioners. Accordingly, Pittsburgh United respectfully requests that ALJs Vero and Chiodo and the Commission approve the proposed Settlement without modification.

Respectfully submitted,
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²⁰ Cf. Pa. PUC v. PWSA, Recommended Decision, Docket No. R-2021-3024773, -74, -79, at 65 (order entered Oct. 6, 2021) (finding rate case settlement terms regarding customer education and outreach and preserving the Commission's and the Parties' ability to review the Strategic Plan to be in the public interest). The settlement of PWSA's 2021 Rate Case indicates that it does not preclude the Parties from challenging the Strategic Plan in a future Commission proceeding. *Id.* at 20 (Joint Settlement at ¶ III.C.2.c). The proposed Settlement of this proceeding similarly does not preclude any challenges to the Strategic Plan once it is finalized. Joint Pet. at ¶¶ 24-26.

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Appendix E
City of Pittsburgh Statement in Support

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public	:	Docket Nos. M-2018-2640802 (Water)
Utility Code Regarding Pittsburgh Water and	:	M-2018-2640803 (Wastewater)
Sewer Authority – Stage 2 (Stormwater)	:	

**THE CITY OF PITTSBURGH’S
STATEMENT IN SUPPORT OF SETTLEMENT**

The City of Pittsburgh (“City”) respectfully requests that the Honorable Administrative Law Judges Eranda Vero and Gail M. Chiodo (“ALJs”) and the Pennsylvania Public Utility Commission (“Commission”) approve, without modification, the terms and conditions contained in the Joint Petition for Settlement Regarding Pittsburgh Water and Sewer Authority’s (“PWSA”) April 9, 2021 Stage 2 Compliance Plan: Stormwater (Revised) (“Settlement”). The City hereby submits its Statement in Support of the Settlement in the above-captioned proceedings.

I. INTRODUCTION

As part of its involvement in this proceeding, the City reviewed PWSA’s revised Stormwater Compliance Plan filed on January 20, 2022, including PWSA’s responses to directed questions issued by the Commission’s Bureau of Technical Utility Services. While the City determined not to file any responsive testimony in this matter, it participated in settlement discussions with the other parties. As a result of these settlement discussions, the parties reached a reasonably crafted and comprehensive agreement resolving the issues presently before the Commission.

The City supports the Settlement and submits that its terms and conditions are reasonable and in the public interest. In addition, the City believes that the Settlement provides the best outcome for the City, PWSA, and residents of the City, who themselves are customers of PWSA.

Accordingly, the City submits that the overall Settlement achieves an equitable balancing of the interests of the respective parties and their constituencies in light of the facts and circumstances of this proceeding. The City requests that the ALJs and the Commission approve the Settlement, without modification.

II. STATEMENT IN SUPPORT

PWSA filed its revised Stormwater Compliance Plan on January 20, 2022. The revised Stormwater Compliance Plan reflects stormwater-related issues that were resolved through the *PWSA 2021 Rate Case*¹ and provides updated information, as well as PWSA responses to each of the TUS Directed Questions that were included as Attachment B with the May 20, 2021 Order suspending PWSA's stormwater tariff until January 12, 2022.² In response to this filing, the intervening parties, including the City, reviewed the revised Stormwater Compliance Plan and PWSA's Direct Testimony. No parties to the proceeding filed responsive testimony.

The Settlement now seeks to resolve this matter before the Commission and modifies the revised Stormwater Compliance Plan in several ways. Notably, PWSA commits to file an updated Stormwater Compliance Plan incorporating its responses to the TUS Directed Questions, Set 2, that PWSA provided through its direct testimony in this proceeding. Settlement, Section III.A.1. Regarding public engagement, PWSA also commits that:

...Once a draft [Stormwater Strategic] Plan is approved by PWSA it will circulate the Draft Plan publicly, including to the Parties to this Proceeding and take comments. It will also convene a community meeting at which the draft Plan will be discussed and comments from the public taken. PWSA will respond to all material and appropriate comments and explain how and/or to what extent the comment is addressed in the final Strategic Plan.

¹ Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater) ("*PWSA 2021 Rate Case*").

² A complete description of the procedural history of this proceeding can be found in paragraphs 1 – 21 of the Settlement.

Upon finalization of the Strategic Plan, PWSA will initiate a process of developing a long-term public engagement process for implementation of the Strategic Plan as well as the subsequent Wet Weather Plan, and additional strategic planning initiatives related to stormwater.

a. PWSA will consult with its existing Stormwater Partners Group in the development of its long long-term public engagement process. The consultation shall include regular progress reports from the Authority on PWSA's stormwater infrastructure development, public engagement plans and other relevant topics. The first consultation will occur no later than three months after PWSA finalizes the Strategic Plan.

b. The Parties to this Proceeding will be invited to join the Stormwater Partners group.

Settlement, Section III.B. In particular, the collaborative nature of PWSA's proposed public engagement process is in the public interest. As proposed, this will allow PWSA to develop an engagement plan that meets important objectives and incorporates helpful feedback to effectively reach PWSA customers.

Lastly, the settlement provides that the Commission grant a period of 60 days after entry of its final order for PWSA to prepare and submit its Compliance Tariff. Settlement, Section III.C. This request is reasonable in light of the above terms. Accordingly, the City submits that PWSA's revised Stormwater Compliance Plan, as modified by the terms and conditions of the Settlement, adequately resolves the issues currently before the Commission. Altogether, these provisions comply with the relevant statutory and regulatory provisions of the Commission and reasonably address the parties' concerns.

Moreover, it is the Commission's policy to encourage settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §

69.401. The Commission has also held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861, *slip op.* at 8 (Opinion and Order entered Dec. 5, 2013). PWSA's revised Stormwater Compliance Plan, as modified by the terms and conditions of the Settlement, is in the public interest for the reasons stated above and should be approved by the ALJs and the Commission.

III. CONCLUSION

The City submits that PWSA's revised Stormwater Compliance Plan, as modified by the terms and conditions set forth in the Settlement, amicably resolves the issues before the Commission. Accordingly, the Settlement is reasonable, in the public interest, and should be approved by the ALJs and the Commission, without modification.

Respectfully Submitted,



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