

Buchanan

Ingersoll · Rooney

Alan M. Seltzer
717 237 4862
alan.seltzer@bipc.com

409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
T 717 237 4800
F 717 233 0852

June 26, 2023

VIA E-FILING

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

Re: Pennsylvania Public Utility Commission v. The Pittsburgh Water and Sewer Authority; Docket Nos. R-2023-3039919 (Stormwater); R-2023-3039920 (Water); R-2023-3039921 (Wastewater)

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceedings is the Petition to Intervene of the School District of Pittsburgh.

Copies of this filing will be served on all known parties as indicated on the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,



Alan M. Seltzer, Esquire

AMS/kas
Enclosure
cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	Docket Nos. R-2023 -3039920 (Water)
	:	R-2023-3039921 (Wastewater)
	:	R-2023-3039919 (Stormwater)
V.	:	
	:	
PITTSBURGH WATER AND SEWER AUTHORITY	:	

PETITION TO INTERVENE OF THE SCHOOL DISTRICT OF PITTSBURGH

Pursuant to Sections 5.71-5.74 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") regulations, 52 Pa. Code § 5.71-5.74, the School District of Pittsburgh hereby files this Petition to Intervene in the above matters relating to the Pittsburgh Water and Sewer Authority's ("PWSA") recent base rate filings. In support thereof, the School District represents as follows:

I. Petition to Intervene and School District Interest

1. The proposed Intervenor is the School District of Pittsburgh ("School District"), with the following address:

341 South Bellefield Avenue, Pittsburgh, PA 15213

2. The School District's attorneys who are designated to receive service on behalf of the School District are:

Alan Michael Seltzer
John F. Povilaitis
Buchanan Ingersoll & Rooney PC
409 N. Second Street, Suite 500
Harrisburg, PA 17101-1357
Phone: 717-237-4862 (Seltzer)
Phone: 717-237-4825 (Povilaitis)
alan.seltzer@bipc.com

john.povilaitis@bipc.com

3. The School District is a public school district of the First Class A comprising the City of Pittsburgh and the Borough of Mount Oliver, both in Allegheny County.¹ It owns real property comprising more than sixty-five buildings in the City of Pittsburgh.

4. The School District is a water, wastewater and storm water customer of the PWSA at many of its properties.

5. Since 2022, the School District has received invoices from PWSA for a stormwater fee cumulatively totaling approximately Four Hundred Thousand Dollars (\$400,000.00)—an amount that continues to grow.

6. As a customer of PWSA, the School District has a direct, immediate and substantial interest in the lawfulness and reasonableness of all charges imposed on it by PWSA and seeks to protect that interest by intervening and actively participating in this proceeding.

II. Background

7. On May 9, 2023, the PWSA made rate filings with the Commission including, among other things, three proposed tariffs, Tariff Water- PA. P.U.C. No.1, Supp. No. 12; Tariff Wastewater- PA. P.U.C. No.1, Supp. No. 11; and Tariff Stormwater - PA. P.U.C. No. 3. PWSA is requesting a multi-year total overall rate revenue increase of \$146.1 million. This includes a \$46.8 million or 22.5% increase in the Fully Projected Future Test Year (“FPFTY”) (FY 2024),

¹The statute creating the School District constitutes it a body corporate whose legal status has been defined as that of a quasi-municipal corporation or a political subdivision of the state for the purpose of administering the state’s public school system within the district. Act of Pennsylvania Legislature of May 18, 1911, P.L. 309, 24 P.S. § 30 (the “School Code”). Under the School Code, the School District of Philadelphia and School District of Pittsburgh comprise the first class school districts of the Commonwealth of Pennsylvania and both operate under the same statutory authority. *See* Act of May 18, 1911, P.L. 309, 24 P.S. p. 3 *et seq.*, § 1 *et seq.*

\$45.4 million or 17.8% in FY 2025, and \$53.9 million or 17.9% in FY 2026. (Volume I, Statement of Reasons).

8. The PWSA is a municipal water and wastewater authority serving customers in the City of Pittsburgh and surrounding communities. The PWSA provides water service to approximately 80,000 residential, commercial and industrial customers in: portions of the City of Pittsburgh; the Borough of Millvale; and portions of Reserve, O’Hara, and Blawnox Townships, Allegheny County. The PWSA also provides wastewater conveyance service to customers located in the City of Pittsburgh, Allegheny County, and also conveys wastewater for portions of 24 neighboring communities. The PWSA provides stormwater service to the City of Pittsburgh. The PWSA became subject to regulation by the Commission on April 1, 2018, pursuant to Act 65 of 2017, 66 Pa. C.S. § 3201 *et seq.*

9. On May 9, 2023, the PWSA filed a Petition for Consolidation of Water, Wastewater and Stormwater Rate Proceedings and For Authorization to Use Combined Water, Wastewater and Stormwater Revenue Requirements (“Petition”). To the School District’s knowledge, the Petition has not yet been decided.

10. In three orders entered on June 15, 2023, the Commission initiated an investigation into the lawfulness, justness and reasonableness of the PWSA’s proposed water, wastewater and stormwater rates, rules, regulations and related tariffs, and suspended the proposed PWSA tariffs by operation of law until February 8, 2024.

11. In an order date June 16, 2023, the appointed Administrative Law Judge, Gail M. Chiodo, issued a Prehearing Conference Order which, among other things, established a prehearing conference in this proceeding for Thursday, June 29, 2023 at 10 AM.

III. Standards for Intervention

12. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a). Section 5.72 further provides that the right or interest may be one “which may be directly affected, and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

IV. Reasons for Intervention

13. Of particular relevance to the School District in connection with the PWSA’s current filing is PWSA’s proposed treatment of and changes to its charges for stormwater to customers like the School District. For example, Under Section 1311(c) of the Public Utility Code, PWSA is seeking to shift \$9.5 million of its stormwater cost of service to wastewater customers in FY 2024 and \$8.5 million for both FY 2025 and FY 2026. Further, the PWSA is proposing substantial increases in its non-residential stormwater fee, which was first established in 2022, for years 2024-2026. For those years, the PWSA is proposing increased charges for years 2024-2026 per Equivalent Residential Unit of impervious surface as follows: 204 (\$10.26/ERU); 2025 (\$12.14/ERU); and 2026 (\$14.20/ERU). These are substantial and material increases that will have an adverse impact on the School District and its ability to manage operating expenses in fulfilling its mission to provide high quality educational services to students attending its schools.

14. As a governmental entity, the stormwater charges sought to be imposed and increased by the PWSA impact the public as a whole, which is a direct, significant and unique impact as the School District is funded with local taxes, state subsidy payments and federal funds.

15. As a customer of the PWSA, the School District has a substantial, immediate and direct interest in the rates charged or proposed to be charged to it the PWSA and it will be directly affected by the outcome of this proceeding. Further, the School District's interest is not adequately protected by other participants in this proceeding.

16. Based on preliminary review, the School District believes that:

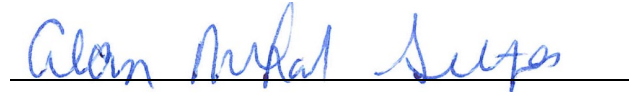
- The PWSA's proposed rates are or may be excessive, unjust, unreasonable and/or discriminatory and in violation of the Public Utility Code and the United States and Pennsylvania's constitutions;
- The PWSA has failed to prove and satisfy its legal burden that its proposed rates are just, reasonable and nondiscriminatory and not in violation of the Public Utility Code and the United States and Pennsylvania's constitutions;
- The PWSA's proposed stormwater charge may be an unlawfully imposed tax that the PWSA lacks the authority to establish, and the PWSA may be prohibited from charging it to any customers under applicable federal and state law;
- If the PWSA's stormwater charge constitutes a valid tax, the School District is tax-exempt and, as such, is not required to pay such tax; and
- If not considered to be an unlawful tax, the PWSA's stormwater charges have not been appropriately designed to recover appropriate stormwater costs from impacted and applicable customers.

17. The School District reserves its right to raise additional issues not identified herein as the case proceeds and further information about the PWSA's proposed rates become known.

WHEREFORE, the School District of Pittsburgh hereby respectfully requests that the Commission and/or the presiding Administrative Law Judge grant this Petition to Intervene and any other relief that is deemed to be just, reasonable and appropriate under the circumstances.

Respectfully submitted,

Date: June 26, 2023



Alan M. Seltzer (ID# 27890)
John F. Povilaitis (ID# 28944)
Buchanan Ingersoll & Rooney PC
409 N. Second Street, Suite 500
Harrisburg, PA 17101
Phone: 717-237-4862
Fax: 717-233-0852
E-mail: alan.seltzer@bipc.com
E-mail: john.povilaitis@bipc.com

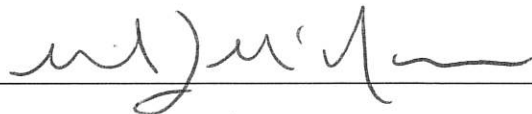
Ira Weiss (ID# 17408)
Weiss Burkardt Kramer LLC
445 Fort Pitt Boulevard, Suite 503
Pittsburgh, PA 15219
Phone: 412-391-9890
Email: iweiss@wbklegal.com

Counsel for the School District of Pittsburgh

VERIFICATION

I, Michael McNamara, Chief Operations Officer, School District of Pittsburgh, have read the foregoing document and verify that the facts set forth therein are true and correct to the best of my knowledge, information and belief. To the extent that the foregoing document and/or its language is that of counsel, I have relied upon counsel in making this Verification.

I understand that any false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

By: 

Name: Michael McNamara

DATE: 6/26/2023

**BEFORE THE
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V.	:	
	:	
PITTSBURGH WATER AND SEWER AUTHORITY	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

VIA E-MAIL

Hon. Gail M. Chiodo
Administrative Law Judge
Commonwealth of Pennsylvania
Pennsylvania Public utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120
gchiodo@pa.gov

Jared Thompson, Esquire
Peter J. DeMarco, Esquire
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, DC 20005
Jared.thompson@nrdc.org
pdemarco@nrdc.org

Lauren N. Berman, Esquire
Ria M. Pereira, Esquire
Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for Pittsburgh United's Our Water Table

Scott B. Granger, Esquire
Michael A. Podskoch, Jr., Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility
Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
sgranger@pa.gov
mpodskoch@pa.gov
Counsel for I&E

Deanne O'Dell, Esquire
Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com
dclearfield@eckertseamans.com
Counsel for PWSA

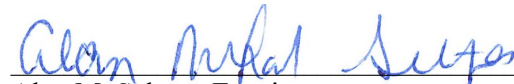
Sharon Webb, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
swebb@pa.gov
Counsel for OSBA

Christy Appleby, Esquire
Andrew J. Zerby, Esquire
Gina L. Miller, Esquire
Patrick Cicero, Esquire
Christopher M. Andreoli, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
Ocapwsa2023brc@paoca.org
Counsel for OCA

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Kevin J. McKeon, Esquire
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
kjmckeon@hmslegal.com

John F. Doherty, Esquire
Yvonne Hilton, Esquire
Lawrence H. Baumiller, Esquire
City of Pittsburgh Department of Law
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219
John.doherty@pittsburghpa.gov
Yvonne.hilton@pittsburghpa.gov
Lawrence.baumiller@pittsburghpa.gov

Dated this 26th day of June 2023


Alan M. Seltzer, Esquire