

June 22, 2023

**Via Electronic Filing**

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

RE: The Pittsburgh Water and Sewer Authority – Water – R-2023-3039920;  
The Pittsburgh Water and Sewer Authority – Wastewater – R-2023-3039921;  
The Pittsburgh Water and Sewer Authority – Stormwater – R-2023-3039919

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pittsburgh Water and Sewer Authority's ("PWSA") Prehearing Memorandum with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww

Enclosure

cc: Hon. Gail M. Chiodo w/enc.  
Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of PWSA's Prehearing Memorandum 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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Deanne M. O'Dell, Esq.

Dated: June 27, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**PREHEARING MEMORANDUM OF  
THE PITTSBURGH WATER AND SEWER AUTHORITY**

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Pursuant to 52 Pa. Code §§ 5.221-5.224 and the Prehearing Conference Order issued on June 16, 2023 by Administrative Law Judge Gail M. Chiodo (“ALJ Chiodo”), the Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”) submits this Prehearing Memorandum.

**I. PROCEDURAL HISTORY**

**A. PWSA Rate Filing and Related Petitions**

On May 9, 2023, PWSA filed a base rate case pursuant to 66 Pa. C.S. § 1308(d), docketed at Docket Nos. R-2023-3039920 (water), R-2023-3039921 (wastewater), and R-2023-3039919 (stormwater) (“Rate Filing”). Pursuant to the Rate Filing, PWSA is asking the Commission for approval of a multi-year total overall rate revenue increase of \$146.1 million, which is inclusive of the proposed 7.5% DSIC increase. The Rate Filing includes a \$46.8 million or 22.5% increase in the FPPTY (FY 2024), \$45.4 million or 17.8% in FY 2025, and \$53.9 million or 17.9% in FY 2026. This total amount of rate increases includes assessment of a 7.5% DSIC in 2024 and the implementation of the Customer Assistance Charge (“CAC”) in 2025 to coincide with PWSA’s proposal to remove the minimum allowance included within its current rate structure. Relatedly and included with the Rate Filing is PWSA’s proposal to implement an Infrastructure Improvement Charge (“IIC”), in 2025, to recover PENNVEST and Federal (WIFIA) loan expenses between rate cases. Taken together, all of these proposals are intended to balance the revenue needs of PWSA to appropriately invest in infrastructure, which

has suffered from years of deferred maintenance, to maintain and improve its safety, reliability and customer service levels with prior directives to remove the minimum allowance from its rate structure taking into appropriate consideration the impact of the requests on its ratepayers.

In conjunction with the Rate Filing, PWSA filed the below Petitions:

- Petition for Consolidation of Water, Wastewater, and Stormwater Rate Proceedings and for Authorization to Use Combined Water, Wastewater and Stormwater Revenue Requirements (“Revenue Consolidation Petition”);
- Petition for Waiver of Statutory Definition of Fully Projected Future Test Year (“FPFTY Petition”);
- Petition for Authorization to Increase Water and Wastewater Distribution System Improvement Charge Cap to 7.5% (“DSIC Petition”) at Docket Nos. P-2023-3040734 (Water) and P-2023-3040735 (Wastewater). Pursuant to the DSIC Petition, PWSA asks that the Commission: (1) authorize a Water DSIC Cap of 7.5% of intrastate revenue permitted by Section 1358(b) of the public utility code; and (2) waive the provisions of Section 1358(a) of the Public Utility Code and authorize PWSA to implement a 7.5% cap for its Wastewater DSIC; and,
- Petition for Authorization to Implement a Customer Assistance Charge (“CAC Petition”) at Docket No. P-2023-3040578 (Water, Wastewater, Stormwater). Pursuant to the CAC Petition, PWSA asks that the Commission authorize PWSA to implement a proposed Customer Assistance Charge pursuant to 66 Pa. C.S. § 1307 under the circumstances of PWSA’s cash-flow utility ratemaking and the legislature’s express authority for the Commission to waive or suspend any portion of Title 66 found at 66 Pa. C.S. §3202.

On May 23, 2023, PWSA filed a Petition to Consolidate its DSIC Petition and CAC Petition with the Rate Filing (“DSIC and CAC Consolidation Petition”).

On June 20, 2023, PWSA filed the Verified Statement of Julie Mechling and attachments confirming compliance with the customer notice requirements of the Commission’s regulations at 52 Pa. Code § 53.45(b)(1).

**B. Other party filings and matters**

On May 12, 2023, the Pennsylvania Public Utility Commission (“Commission”) issued a Secretarial Letter seeking PWSA’s responses to data requests from the Bureau of Technical Utility Services (“TUS”).

On May 18, 2023, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance in the proceeding.

On May 19, 2023, the Office of Small Business Advocate (“OSBA”) filed Complaints docketed as follows: C-2023-3040785 (water); C-2023-3040780 (wastewater); and, C-2023-3040789 (stormwater).

On May 23, 2023, the Office of Consumer Advocate (“OCA”) filed Complaints docketed as follows: C-2023-3040845 (Owater); C-2023-3040846 (wastewater); C-2023-3040847 (stormwater).

On May 30, 2023, the OCA filed: 1) a Letter indicating non-opposition to PWSA’s Revenue Consolidation Petition; 2) a Letter indicating non-opposition to PWSA’s FPPTY Petition; 3) an Answer to PWSA’s DSIC Petition; 4) an Answer to PWSA’s CAC Petition; and 5) a Letter indicating non-opposition to PWSA’s DSIC and CAC Consolidation Petition.

Also on May 30, 2023, I&E filed: 1) an Answer to PWSA’s Revenue Consolidation Petition; 2) an Answer to PWSA’s FPPTY Petition; 3) an Answer to PWSA’s DSIC Petition; and 4) an Answer to PWSA’s CAC Petition.

On June 12, 2023, Pittsburgh UNITED filed a Petition to Intervene.

On June 12, 2023, PWSA filed a letter indicating that is electing not to file a formal answer to the complaints filed by the OSBA and the OCA, nor to any subsequently filed complaints.

On June 15, 2023, the Commission entered three orders – one at each of the above referenced Rate Filing docket numbers – suspending PWSA’s proposed tariff supplement for investigation and referring the cases to the OALJ.

On June 16, 2023, a Telephonic Prehearing Conference Notice was issued scheduling a Telephonic Prehearing Conference for June 29, 2023. ALJ Chiodo also issued a Prehearing Conference Order with further direction regarding the Telephone Prehearing Conference including the directive that all parties must file a Prehearing Conference Memorandum by 4:00 PM on Tuesday, June 27, 2023.

## **II. REPRESENTATION**

PWSA’s attorneys in this matter are:

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Deanne O’Dell is the designated primary speaker for purposes of the prehearing conference. PWSA prefers that documents be served electronically to the above email addresses and agrees to receive service of documents electronically in this proceeding. To the extent that materials are not available electronically, PWSA requests that only one hard copy of documents, if any, be served upon Deanne O’Dell at the above mailing address.

### **III. ISSUES**

#### **A. Consolidation and Pending PWSA Petitions**

PWSA respectfully requests consolidation of the following:

- all three separately docketed rate cases for PWSA's water, wastewater and stormwater operations;
- all pending rate case complaints filed by OCA and OSBA as well as any future consumer complaints that may be filed;
- the DSIC Petitions (water and wastewater); and,
- the CAC Petition.

As explained more fully in PWSA's Revenue Consolidation Petition and DSIC and CAC Consolidation Petition, consolidation is warranted and in the public interest, the interest of the parties and the interest of the Commission. The proceedings are inter-related and involve common issues of law and fact. Further, each needs to be fully considered and analyzed in the overall context of PWSA's revenue requirements and operations to determine the most appropriate outcome in the interest of PWSA's ratepayers. Consolidation promotes the efficient use of time and resources and will present the most efficient path toward resolution of each proceeding. Neither OCA nor I&E, the only parties filing answers to PWSA's petitions, oppose consolidation of the proceedings.

#### **B. Use of Combined Revenue and FPFTY Petition**

PWSA respectfully requests that its Revenue Consolidation Petition and FPFTY Petition also be granted. While OCA supports the granting of both petitions, I&E recommends that the issues of (1) consolidating stormwater revenue and (2) using February 2024 instead of January 2024 for the FPFTY be denied, or, alternatively, consolidated with the rate cases.

PWSA does not support either denial or the alternate resolution of these two issues offered by I&E. Regarding revenue requirements, PWSA operates as a single entity and considerable efficiencies are derived through its structure. As a result, PWSA has consistently

determined water, wastewater, and stormwater revenue requirement and rates starting with combined information. PWSA then uses accepted revenue and cost allocation methods to separate the revenue requirement between water, wastewater and stormwater. This approach has been approved by the Commission in PWSA's prior three rate cases and was most recently affirmed for use with stormwater revenue requirements by Secretarial Letter dated January 20, 2023 approving PWSA's Second Revised Stage 2 Compliance Plan: Stormwater.<sup>1</sup> As explained therein, "if PWSA were required to use separate revenue requirements for each of its utilities, the timing and costs associated with submitting entirely separate base rate filings for the water, wastewater and/or stormwater utilities would be extremely burdensome to the point of being nearly impossible."<sup>2</sup> Also worth noting is that stormwater and wastewater operations are recognized as being intertwined in the Public Utility Code<sup>3</sup> and there is no specific regulation that requires stormwater data to be presented in any particular manner. As such, PWSA's Petition to use combined water, wastewater and stormwater revenue should be granted.

If, despite clear Commission precedent to the contrary, this issue were to remain unresolved in favor of consolidating it with the case, as recommended by I&E, then significant uncertainty would be injected into the proceeding. If PWSA were directed to design a new methodology for determining its stormwater revenue requirements separate and apart from water and wastewater revenue requirements, then it would need to reconfigure its books of accounts and its cost of service model which form the basis for its entire base rate case. This would be a significant and costly undertaking. Moreover, PWSA's bonds and other financial instruments

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<sup>1</sup> *Re: Implementation of Chapter 32 of the Public Utility Code Pittsburgh Water and Sewer Authority; Stage 2 Compliance Plan, Docket Nos. M-2018-2640802 and M-2018-2640803, Second Revised Stage 2 Stormwater Compliance Plan dated October 24, 2022 and approved by Secretarial Letter dated January 20, 2023.*

<sup>2</sup> Second Revised Stormwater Compliance Plan at 27.

<sup>3</sup> The Public Utility Code defines wastewater as including stormwater that flows into the wastewater system, such as a combined sewer system. 66 Pa. Code § 102. The majority of the PWSA wastewater/stormwater system is a combined system.



apply to the combined water/wastewater/stormwater conveyance system and are evaluated by bond rating agencies on a consolidated company basis. There is no practical way in which to fully separate PWSA's bonds or its revenue requirement between water, wastewater conveyance and stormwater without creating risks of violating PWSA's bond covenants which require that PWSA attain certain financial metrics on an integrated system basis. If direction to proceed in a different manner were delayed until the end of the proceeding, considerable time and resources will have been wasted and PWSA's ability to implement the needed rate requests will be seriously compromised.

Relatedly, reserving the issue of whether PWSA may utilize a FPFTY that begins in January 2024 rather than the requested February 2024 also creates unreasonable practical difficulties. PWSA budgets on a calendar year and, since its first base rate filing, has aligned its FPFTY in a similar manner. If, at the end of this proceeding, a determination were made that PWSA should use a FPFTY starting a month later than what has already been developed and presented with the filing, then all of the underlying assumptions relied upon by the parties and the Commission would need to be redeveloped accordingly which would put into jeopardy PWSA's ability to implement the needed rate requests.

**C. Protective Order**

In the course of discovery, PWSA has produced responses marked as CONFIDENTIAL which parties have informally agreed to treat as confidential pending the entry of a Protective Order. Draft language for a Protective Order has been circulated by PWSA to the parties and PWSA expects to file a Motion for Protective Order on or before June 30, 2023.

**D. Statutory Rate Effective Suspension Period and PWSA Voluntary Extension**

PWSA filed its rate case on May 9, 2023. The application of the full suspension period (60 days plus 7 months) will end on February 8, 2024. 66 Pa.C.S. § 1308(d). Pursuant to the Commission's public meeting schedule, the last public meeting before February 8, 2024 is

February 1, 2024. In recognition of the Commission’s view that the last reasonable public meeting prior to a rate case tariff’s suspension period is 10-15 days before the end of the suspension period, ALJ Chiodo requested that the parties propose a schedule targeting the January 18, 2024 public meeting to meet the Commission’s timing requirements. After internal discussions, it was determined that a voluntary suspension of the rate effective date from February 8, 2024 until February 15, 2024 would permit a schedule targeting Commission action at its February 1, 2024 public meeting. If PWSA were willing to agree to a voluntary extension of the suspension period, then ALJ Chiodo requested that the parties propose a litigation schedule requiring the filing of reply briefs by October 30, 2024.

After careful consideration of the impact of a delay in the ability of PWSA to collect Commission approved rates balanced with the issues and rate request proposals in this proceeding, PWSA has elected to voluntarily agree to a one-week (7-day) suspension of the current statutory rate effective period from February 8, 2024 to February 15, 2024 to align with the Commission’s February 1, 2024 public meeting consistent with the schedule proposed below. PWSA will file tariff supplements voluntarily extending the suspension period to February 15, 2024.

**E. Substantive Issues from the Rate Case Filing**

The primary issue in this proceeding is what level of base rate increase is just and reasonable for PWSA pursuant to the “Cash Flow” method of ratemaking. As explained in detail in PWSA’s filings and the supporting materials, the requested increase in revenues is necessary, reasonable, and in the public interest. The proposed increase in revenues is the minimum necessary to enable PWSA to cover operating and capital costs to permit it to continue invest in the infrastructure needed to maintain and improve its safety, reliability and customer service levels. The drivers for this rate filing are as follows: 1) capital costs; 2) inflationary operating

budget costs, specifically for essential items such as energy, employee benefits, and chemical costs; 3) costs related to the Wet Weather Consent Decree with the United States Environmental Protection Agency (“US EPA”); 4) environmental compliance; 5) decreased consumption; and 6) funds to meet new financial obligations and improve financial metrics that impact PWSA’s bond rating. Additional issues in this proceeding include the appropriate allocation of the rate increase among the customer classes and the reasonableness of the rules set forth in PWSA’s Tariffs relating to the provision of water, wastewater, and stormwater services.

Also, as part of the Rate Filing and as presented in the DSIC Petition, PWSA is proposing that its DSIC cap – currently at 5% – be increased to 7.5%. This will give the Authority additional internally generated funds, or “Pay-go” to pay for capital projects without having to resort to long term borrowing.

The Rate Filing also proposes two new adjustment charges: the Infrastructure Improvement Charge (“IIC”) and the Customer Assistance Charge (“CAC”). The IIC would permit PWSA to recover debt service on PENNVEST loans and loans authorized by Water Infrastructure Finance and Innovation Act (“WIFIA”). WIFIA is the Federal government equivalent of PENNVEST. The IIC will expedite PWSA’s ability to obtain additional low-cost funding through PENNVEST and WIFIA by having a stable revenue source to ensure the required debt covenants and additional bonds tests can be met, in addition to having funds available to pay annual debt service.

The CAC is being proposed because, while PWSA values the benefits that its customer service assistance program provides to vulnerable ratepayers, the administration of customer assistance program has become increasingly expensive. As discussed more thoroughly in the rate filing and the CAC Petition, the CAC would recover: 1) the discounts provided to customers pursuant to the Bill Discount Program, 2) the operating costs for the PGH2O Cares team, 3) the

costs of PWSA’s Hardship Funding, and 4) past due arrearages forgiven pursuant to PWSA’s Arrearage Forgiveness Program. The CAC will ensure that PWSA collects the funds it needs to provide these programs.

Lastly, PWSA is further proposing to begin phasing out the minimum water and wastewater charges starting in 2024 and to be completely removed in 2025. This proposal includes additional features intended to mitigate the rate impact for our customers. PWSA is also proposing to allocate \$432,640 to its Hardship Grant program, to increase the eligibility for its customer assistance programs, to expand availability of its Hardship Grant for wastewater conveyance customers and, in 2025, to offer a fixed bill discount for qualifying low income customers in the customer assistance program and additional discounts to various charges.

**IV. WITNESSES**

PWSA served the following testimonies with its rate case filings:

Witness	St No.	Topics
William J. Pickering	1	Overview of Filing; Description of PWSA and Process of Transition; Organizational Structure, Management Quality Updates; and Accomplishments Since Last Rate Case
Edward Barca	2	Support for Proposed Rate Increase, Support for DSIC Cap Increase, <i>Pro Forma</i> Financial Results, Rate Structure Changes & New Charges, Calculation of Revenue Requirements, Development of Operating Budget & Capital Needs
William J. McFaddin	3	Valve Maintenance, Meter Replacement, Flushing Distribution System
Barry King	4	Capital Projects, Wastewater Laterals, Minimum Warranty
Tony Igwe	5	Stormwater
Julie A. Mechling	6	Customer Service and Collections Updates, Rate Mitigation Efforts, Prior Settlement Commitments, Water, Wastewater and Storm Water Tariffs
Harold J. Smith	7	Allocation of Total System Revenue Requirements, Water Cost Allocation and Rate Design, Wastewater Cost Allocation and Rate Design, Stormwater Cost Allocation and Rate Design, Gradualism Adjustment
Keith Readling	8	Stormwater Program Revenue Requirements, Identifying Impervious Area, Stormwater Fee Structure, Stormwater Fee Billing, Stormwater Credit Program
Christine Fay	9	Support for Proposed Rate Increase, Financial Policies and Goals, Capital Markets Consideration, Peer Review of Financial Metrics

These testimonies and accompanying exhibits fully support PWSA’s proposed rate increase, allocation of its rate increase among customer classes, and the Authority’s proposed rate design.

PWSA reserves its right to add additional witnesses as may be necessary to respond to the testimony of the other parties or change the identity of its witnesses at any time upon appropriate notice to the Presiding Officer and the parties.

**V. PROCEDURAL SCHEDULE**

PWSA proposes the following litigation schedule based on a February 15, 2024 end of suspension which, as discussed above, includes a voluntary seven day extension of the current statutory period:

<b>Event</b>	<b>Proposal</b>
Rate Case Filed	Tuesday, May 9, 2023
Prehearing Conference	Thursday, June 29, 2023 at 10:00 a.m.
Public Input Hearings	Tuesday, July 25, 2023 Wednesday, July 26, 2023 Thursday, July 27, 2023
Service of written direct testimony of all other parties	Wednesday, August 9, 2023
Service of written rebuttal testimony	Friday, September 8, 2023
Service of written surrebuttal testimony	Friday, September 22, 2023
Rejoinder Outline or Testimony	Friday, September 29, 2023
Technical evidentiary hearings	Wednesday, October 4, 2023 Thursday, October 5, 2023 Friday, October 6, 2023
Filing and service of main briefs	Thursday, October 19, 2023
Filing and service of reply briefs or submission of joint settlement petition executed by representatives of parties thereto, together with all parties’ statements in support of joint petition/settlement	Monday, October 30, 2023
ALJ RD (ETA)	Tuesday, November 28, 2023
Exceptions (ETA)	Monday, December 18, 2023
Reply Exceptions (ETA)	Thursday, December 28, 2023
Public Meeting Target Date	Thursday, February 15, 2024
(Voluntary) End of Suspension Period	Thursday, February 15, 2024

Under the proposed schedule, all dates are in-hand delivery, and electronic mail for receipt and distribution will satisfy in-hand service dates.

## **VI. DISCOVERY**

As of June 27, 2023, PWSA has received approximately 20 sets of discovery and has either responded to, or is in the process of responding to, several hundred interrogatories/data requests. PWSA has established a cloud-based, secure site for the assistance of the parties in handling discovery. Discovery responses, including attachments, are available to the parties at ESCM iManage site. For a party to receive access, please contact Deanne O'Dell (dodell@eckertseamans.com) or 717-255-3744 and provide the name and email address of the person seeking access. PWSA also encourages the use of informal discovery to expedite the discovery process and has already conducted one informal workshop.

While PWSA is willing to consider any proposed discovery modifications. PWSA, recommends that that the response time for initial discovery (until the filing of other parties' direct testimony) remain at 15 days though PWSA will commit to using best efforts to respond to discovery within 10 days. PWSA also requests that upon filing of the other parties' direct testimony, the response time be shorten to five calendar days to enable sufficient time for the discovery process to assist in preparing written rebuttal.

**VII. SETTLEMENT**

PWSA is willing to discuss the settlement of its claims and is looking forward to productive discussions with the parties consistent with the experience of prior cases.

Respectfully submitted,



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Dated: June 27, 2023

Counsel for  
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