

COMMONWEALTH OF PENNSYLVANIA



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June 27, 2023

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

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

Dear Secretary Chiavetta,

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceedings.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Gina L. Miller  
Gina L. Miller  
Assistant Consumer Advocate  
PA Attorney I.D. # 313863  
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Enclosures:

cc: The Honorable Gail M. Chiodo (**email only**)  
Certificate of Service

\*348273

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission : Docket Nos. R-2023-3039919 (SW)  
v. : R-2023-3039920 (W)  
Pittsburgh Water and Sewer Authority : R-2023-3039921 (WW)

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27<sup>th</sup> day of June 2023.

**SERVICE BY E-MAIL ONLY**

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Dated: June 27, 2023  
\*347595

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2023-3039920 (Water)
	:		R-2023-3039921 (Wastewater)
v.	:		R-2023-3039919 (Stormwater)
	:		C-2023-3040845 (Water)
	:		C-2023-3040846(Wastewater)
Pittsburgh Water and Sewer Authority	:		C-2023-3040847 (Stormwater)

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**1. INTRODUCTION**

On May 9, 2023, the Pittsburgh Water and Sewer Authority (PWSA or the Authority) filed a multi-year base rate increase request for water, wastewater conveyance, and stormwater service over three years. Through its filing, PWSA requests that the Commission approve its new tariffs pursuant to 52 Pa. Code § 53.52. PWSA is requesting a total increase of \$46.8 million or 22.5% to be recovered in 2024; \$45.4 million or 17.8% to be recovered in 2025; and \$53.9 million or 17.9% to be recovered in 2026. PWSA is also requesting, *inter alia*, approval of claimed enhancements to its low income customer assistance programs, and a phase-out of the minimum water and wastewater charges. Under the Authority’s proposal, a typical bill of a residential water, wastewater conveyance, and stormwater service customer using 3,000 gallons per month will

increase from \$86.43 to \$103.41 per month or by 19.6% in 2024, increase from \$103.41 to \$123.55 or by 19.5% in 2025, and increase from \$123.55 to \$146.11 or by 18.3% in 2026.

Pursuant to Section 1311(c) of the Public Utility Code, PWSA seeks 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 2026. This represents a significant amount of the Authority's wastewater revenue requirement. Additionally, PWSA is seeking approval to implement two new surcharges to be effective on January 1, 2025, a Customer Assistance Charge (CAC) and an Infrastructure Improvement Charge (IIC). PWSA's proposals to implement the CAC and IIC are in addition to its simultaneous proposal to increase its Distribution System Improvement Charge cap from 5% to 7.5% of amounts billed to water and wastewater customers.

In summary, the impact upon rates for each utility service if PWSA's revenue requested were granted in full appears below:

**For water**, PWSA is requesting a \$96.8 million total increase to base rates for the three-year period. The Authority is proposing to phase-in the overall increase over a three-year period with \$31.5 million to be recovered in 2024, \$29.7 million to be recovered in 2025, and \$35.6 million to be recovered in 2026. In addition to these base rate increases, PWSA proposes increases to the water Distribution System Improvement Charge (DSIC). For 2024, PWSA proposes a DSIC increase for water of \$5.3 million. For 2025, PWSA proposes a DSIC increase for water of \$2.2 million. For 2026, PWSA proposes a DSIC increase for water of \$2.5 million.

**For wastewater conveyance**, PWSA is requesting a \$17.3 million total increase to base rates for the three-year period. The Authority is proposing to phase-in the overall increase over a three-year period with \$2.1 million to be recovered in 2024, \$6.4 million to be recovered in 2025, and \$8.8 million to be recovered in 2026. These amounts do not include the proposed DSIC increases for wastewater. For 2024, PWSA proposes a DSIC increase for wastewater conveyance of \$1.4 million. For 2025, PWSA proposes a DSIC increase for wastewater conveyance of \$400,000. For 2026, PWSA proposes a DSIC increase for wastewater conveyance of \$700,000.

**For stormwater**, PWSA is requesting a \$19.2 million total increase to base rates for the three-year period. The Authority is proposing to phase-in the overall

increase over a three-year period with \$6.5 million to be recovered in 2024, \$6.5 million to be recovered in 2025, and \$6.2 million to be recovered in 2026.

PWSA is a municipal water and wastewater authority serving customers in the City of Pittsburgh and surrounding communities. 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. PWSA also provides wastewater conveyance service to customers located in the City of Pittsburgh, Allegheny County, and conveys sewage for portions of 24 neighboring communities. PWSA's water and wastewater operations became subject to regulation by the Pennsylvania Public Utility Commission on April 1, 2018, pursuant to Act 65 of 2017, 66 Pa. C.S. § 3201 *et seq.*

## **II. PWSA'S PETITIONS**

In conjunction with its base rate filing, PWSA filed five petitions, as follows:

1. A Petition for Consolidation of Water, Wastewater and Stormwater Rate Proceedings and for Authorization to Use Combined Water, Wastewater and Stormwater Revenue Requirements filed on May 9, 2023 in the instant dockets (Consolidation Petition).
2. A Petition for Waiver of Fully Projected Future Test Year filed on May 9, 2023 in the instant dockets (FPFTY Petition).
3. A Petition for Authorization to Implement a Customer Assistance Charge filed on May 9, 2023 at Docket No. P-2023-3040578 (CAC Petition).
4. A Petition for Authorization to Increase Water and Wastewater DSIC Charge Caps to 7.5% filed on May 9, 2023 at Docket Nos. P-2023-3040734 and P-2023-3040735 (DSIC Petition).
5. A Petition to Consolidate the DSIC Increase Petition and Customer Assistance Charge Petition with Base Rate Filings for Water, Wastewater, and Stormwater filed at Docket Nos. P-2023-3040734, P-2023-3040735, P-2023-3040578, and the instant dockets on May 23, 2023 (DSIC and CAC Consolidation Petition).

By way of letters filed to the instant dockets on May 30, 2023, the OCA indicated that it does not oppose PWSA's Consolidation Petition, FPPTY Petition, and the DSIC and CAC Consolidation Petition. However, on the same date, the OCA served Answers in Opposition to the CAC Petition and the DSIC Petition. The OCA incorporates its Answers here.

Specifically, as discussed in more detail in the OCA's Answer, the OCA avers that PWSA's requested relief in the CAC Petition may be contrary to Pennsylvania case law and well-established principles of sound ratemaking and regulatory policy. Therefore, with respect to the CAC Petition, the OCA requests that it not be approved, but that it be consolidated with the instant docket for investigation and development of an evidentiary record. With respect to PWSA's DSIC Petition, as discussed in more detail in the OCA's Answer, the OCA requests that it be denied as filed because, *inter alia*, it did not contain the required information necessary to support its request (i.e., testimony, an amended Long-Term Infrastructure Improvement Plan). In the alternative, the OCA recommends that PWSA's DSIC Petition should be consolidated with the Authority's Pending Rate Filings for a full hearing and development of an evidentiary record or, in the further alternative, separately referred to the Office of Administrative Law Judge for the development of a record and hearings.

### **III. ISSUES**

The OCA is currently conducting discovery in this proceeding. As soon as the OCA has received all the discovery responses and has had the opportunity to review it, the OCA anticipates that additional discovery and/or informal discovery meetings can be scheduled. At those meetings and discussions, the OCA will narrow the scope of additional information requests. Once the discovery process is complete, the OCA will serve direct testimony which will set forth the specific

issues it will address in this proceeding. At that time, the OCA will also make and quantify its specific recommendations.

The issues and sub-issues set forth below, and others that may develop during discovery, will be analyzed and presented as appropriate by the OCA with the assistance of its expert witnesses:

A. Accounting and Finance

1. The OCA will examine the Authority's claimed revenues and any adjustments to the level of revenues. The OCA will seek to ascertain whether PWSA's claimed revenues are supported, reasonable, and appropriate.

2. The OCA will examine and evaluate the Authority's claimed direct operating expenses in the HTY, the FTY the FPFTY period, as well as for the forecasted FY 2025 and FY 2026.

3. The OCA will examine the Authority's debt service coverage ratios and will examine the Authority's cash on hand.

4. The OCA will examine PWSA's leverage.

5. The OCA will examine the Authority's claimed inflationary adjustments, including the calculation and the propriety of such adjustments and the assumptions that underlie them.

6. The OCA will examine the justness and reasonableness of PWSA's PAYGO funding request.

7. The OCA will examine the justness and reasonableness of PWSA's Rate Stabilization Fund request.

8. The OCA will examine the elements of PWSA's Financial Management Policy.

9. The OCA will examine the role played by PWSA's payments to the City of Pittsburgh pursuant to the Cooperation Agreement in establishing PWSA's debt service coverage ratios.

10. The OCA will investigate the criteria used in the selection of the peer group for PWSA and the basis for excluding certain utilities from that group.

11. The OCA will examine PWSA's current credit ratings, the history of PWSA's credit ratings, and the relationship of PWSA's credit ratings with other PWSA financial metrics.

12. The OCA will examine PWSA's history of access to capital markets.

B. Rate Design and Cost Allocation

13. The OCA will examine PWSA's cost of service studies, including the methodology used and the reasonableness of the allocations.

14. The OCA will examine the reasonableness of PWSA's proposed distribution of the revenue changes among customer classes.

15. The OCA will examine the reasonableness of PWSA's proposed distribution of the revenue changes among water, wastewater, and stormwater service.

16. The OCA will examine PWSA's proposed rate design, including its proposed effects on residential customers and its ability to reflect the cost to serve different classes of customers.

17. The OCA will examine PWSA's proposal to phase out its minimum water and wastewater charges by 2025 to determine whether the proposal and the timeline are reasonable and appropriate.

C. Low-Income Programs

18. The OCA will analyze current and proposed PWSA operations, practices and procedures related to serving low-income customers.

19. The OCA will examine how PWSA's proposed rate changes and rate structure will affect low-income and/or low-usage customers.

20. The OCA will review the Authority's current Customer Assistance Program (CAP) and any proposed changes to the program.

D. Quality of Service

21. The OCA will review the Authority's quality of service to ensure that it is providing safe, adequate, and reliable service, and water that is useful for all household purposes, and that its wastewater collection and conveyance system and stormwater system are operating as required.

22. The OCA will examine PWSA's level of unaccounted for water.

23. The OCA will examine curb to curb surface restoration of PWSA projects.



24. The OCA will review the Authority's program and practices for replacing lead service lines.
25. The OCA will examine PWSA's minimum fire hydrant flows.
26. The OCA will investigate party-line water service lines in PWSA's service territory.
27. The OCA will examine PWSA's protocol and timing for the flushing of its distribution system.
28. The OCA will examine whether PWSA met its valve maintenance, repair, and replacement commitments from its 2021 rate case settlement.
29. The OCA will investigate whether PWSA met its meter replacement commitments from its 2021 rate case settlement.
30. The OCA will review formal and informal customer complaints related to water, wastewater, and stormwater matters.

E. Tariffs

31. The OCA will examine the reasonableness and appropriateness of the Authority's proposed tariffs, including the stormwater tariff, and review for formatting and compliance with all applicable laws, regulations, and Commission order.

F. Customer Service and Consumer Protection

32. The OCA will review the Authority's consumer protection policies and programs to ensure compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

33. The OCA will examine the Authority's customer service, including internal training and management oversight policies and programs.

34. The OCA will examine the Authority's consumer education programs, particularly regarding changes in billing and collection rights and remedies, and complaint processes.

35. The OCA will examine whether PWSA's plan to hire a collection agency will be consistent with ensuring that customers are afforded all applicable protections existing under Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

36. The OCA will examine PWSA's proposal to reinstitute fees for credit card payments which it has previously agreed to eliminate.

37. The OCA will examine PWSA's adherence to customer service and compliance commitments made in prior proceedings.

G. Capital Improvement Plan

38. The OCA will examine the Authority's Capital Improvement Plan (CIP), including its alleged total capital requirement of over \$1.8 billion from 2023-2027.

39. The OCA will examine whether PWSA has the workforce necessary to complete its Capital Improvement Plan on the timeline alleged.

40. The OCA will examine the extent to which PWSA's Capital Improvement Plan includes projects that will not be completed outside of the applicable test year period(s).

H. Multi-Year Rate Plan (MYRP).

41. The OCA will examine the Authority's proposed three-year rate MYRP to determine the justness and reasonableness of the proposal, and whether it is consistent with Section 1330 of the Public Utility Code and all applicable regulations.

42. The OCA will examine whether sufficient customer protections and Commission oversight exist to ensure that PWSA's customers do not pay unsupported, overinflated rates under the proposed MYRP

43. The OCA will examine the Authority's MYRP to examine the support for PWSA's claims that it will save rate litigation costs and conserve resources.

44. The OCA will examine the Authority's MYRP in light of the just and reasonable factors set forth in 52 Pa. Code § 69.3302.

45. The OCA will evaluate the possible effect of the multi-year rate plan on PWSA's risk and credit ratings.

I. Infrastructure Improvement Charge (IIC)

46. The OCA will examine whether PWSA's IIC proposal complies with the Commission's regulations regarding reflection of PENNVEST funding on customers' bills.

47. The OCA will examine whether PWSA's IIC proposal to recover WIFIA debt service costs via surcharge is lawful, just, and reasonable.

48. The OCA will investigate whether PWSA's IIC is just and reasonable in light of PWSA's distribution funding mechanisms proposed here (i.e., increase in DSIC funding, rate stabilization funding, and PAYGO funding).

49. The OCA will examine the reasonableness of and the basis for PWSA's proposal to charge vulnerable customers 50% of the IIC beginning in Future Year 2025 is just and reasonable.

50. The OCA will examine whether the IIC will expedite PWSA's ability to get low-cost funding through Pennvest and WIFIA as PWSA claims.

J. Customer Assistance Charge (CAC)

51. The OCA will examine whether PWSA's proposed CAC is consistent with just and reasonable rates.

52. The OCA will examine whether PWSA's proposal to recover customer assistance program costs via surcharge is lawful, just, and reasonable.

53. The OCA will examine whether PWSA's proposed recovery and reconciliation of the CAC is just, reasonable, and will provide sufficient oversight by the Commission.

54. The OCA will examine whether PWSA's Customer Assistance Surcharge is lawful, just and reasonable. PWSA proposes to not charge Bill Discount Program participants any portion of the Customer Assistance Surcharge.

K. Proposal to Increase the Distribution System Improvement Charge (DSIC)<sup>1</sup>

55. The OCA will examine whether PWSA has demonstrated that an increase of its DSIC from 5% to 7.5% is warranted and necessary for PWSA to ensure and maintain adequate, efficient, safe, reliable, and reasonable service.

56. The OCA will examine whether PWSA has demonstrated that an increase of its DSIC from 5% to 7.5% is just and reasonable.

57. The OCA will investigate the cost-impact of PWSA's proposal to increase its DSIC to 7.5% as PWSA has not substantiated that cost, nor indicated how it would impact average water and wastewater bills if approved.

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<sup>1</sup> The OCA includes this issue for purposes of completeness only. Inclusion of this issue does not waive the OCA's position that PWSA has failed to support its DSIC Petition and that there is therefore no evidentiary basis upon which to grant PWSA's DSIC Petition. *See* OCA's Answer to PWSA's Petition to Increase the DSIC Cap, filed at Docket No. P-2023-304073 on May 30, 2023.

#### IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and may also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. The OCA requests testimony, interrogatories, and interrogatory responses be served on the OCA's consultants, in addition to the OCA, at the below listed email addresses:

Accounting:	Dante Mugrace PCMG & Associates 22 Brookes Ave Gaithersburg, MD 20877 <a href="mailto:OCAPWSA2023BRC@paoca.org">OCAPWSA2023BRC@paoca.org</a>
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The OCA specifically reserves the right to call additional witnesses, and to transfer issues between witnesses, as necessary. All parties of record will be notified as soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case.

## **V. EVIDENCE**

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of other parties to the proceeding. The OCA will also present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Authority through discovery and cross-examination.

## **VI. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Christy Appleby and Assistant Consumer Advocates Christopher Andreoli, Gina Miller, and Andrew Zerby. The OCA has created a group e-mail address provided below. This is the only e-mail address that is required for service on the OCA; it will provide the e-mailed materials to all members of the OCA team including the consultants listed above. A copy of all documents should be served on the OCA by e-mail as follows:

Christy M. Appleby, Senior Assistant Consumer Advocate  
Christopher M. Andreoli, Assistant Consumer Advocate

Gina L. Miller, Assistant Consumer Advocate  
Andrew J. Zerby, Assistant Consumer Advocate  
OCAPWSA2023BRC@paoca.org

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## **VII. PUBLIC INPUT HEARINGS**

As part of its proposed schedule outlined in Appendix A of this Memorandum, the OCA is proposing that PWSA hold a total of six public input hearings over a period of three days within PWSA's service territory. The three days proposed at this time are July 24, 25, and 26, 2023 at 1 p.m. and 6 p.m. each day. The OCA believes that at least two days of the public input hearings should be in-person. The OCA reserves the right to alter this proposal at the Prehearing Conference should further customer input dictate alteration of this proposal. The OCA will be prepared to discuss the proposed public input hearings at the Prehearing Conference, and to assist with proposed locations for in-person hearings pending further review of consumer complaints.

The OCA also requests that the Authority be directed to extensively advertise these public input hearings. Newspaper notice must be advertised in the general readership sections of local newspapers, not in the legal section. Other methods of informing its customers of the public input hearings, including social media and the Authority's website, should be utilized as well. In addition, the OCA requests the other parties involved in the proceeding be permitted to review these public input hearing announcements prior to their publication and distribution and have input into which publications the announcements are placed.

## **VIII. PROPOSED SCHEDULE**

The OCA has attached the proposed schedule as Appendix A. It is the OCA's understanding that this schedule is agreed to by PWSA, but as it is not finalized, the OCA proposes it here for Your Honor's consideration as well as all parties' consideration.

## **IX. DISCOVERY**

To date, the OCA has served thirteen (13) sets of interrogatories on the Authority. Going forward, the OCA proposes the following modifications to the Commission's discovery regulations. The OCA notes, however, that it anticipates using informal discovery in this case and will work with PWSA to ensure that discovery is completed efficiently and effectively.

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within ten (10) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service; unresolved objections shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

E. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

G. Answers to on-the Record Data requests will be served within five (5) calendar days.

## **X. SETTLEMENT**

The OCA is willing to participate in settlement discussions.

Respectfully Submitted,

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Dated: June 27, 2023  
348302

Counsel for:  
Patrick M. Cicero  
Consumer Advocate



BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2023-3039920 (Water)
	:		R-2023-3039921 (Wastewater)
v.	:		R-2023-3039919 (Stormwater)
	:		C-2023-3040845 (Water)
	:		C-2023-3040846(Wastewater)
Pittsburgh Water and Sewer Authority	:		C-2023-3040847 (Stormwater)

**APPENDIX A**

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PROPOSED PROCEDURAL SCHEDULE  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Prehearing Conference	June 29, 2023
Public Input Hearings	July 25-27, 2023
Other Party Direct Testimony	August 9, 2023
Rebuttal Testimony	September 8, 2023
Surrebuttal Testimony	September 22, 2023
Written Rejoinder	September 29, 2023
Evidentiary Hearings	October 4-6, 2023 <sup>2</sup>
Main Briefs	October 19, 2023
Reply Briefs	October 30, 2023

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<sup>2</sup> The OCA will request flexibility in ordering witness testimony to account for any availability issues that may arise closer in time to the hearing dates.