

COMMONWEALTH OF PENNSYLVANIA



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July 23, 2014

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of Pennsylvania-American Water
Company Wastewater Operations for Approval of
Long Term Infrastructure Improvement Plan and
Approval to Establish and Implement a Distribution
System Improvement Charge
Docket No. P-2014-2431005

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in
the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christine Maloni Hoover".

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
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Attachment

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

187203.doc

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania-American Water :
Company Wastewater Operations For :
Approval of Long Term Infrastructure : Docket No. P-2014-2431005
Improvement Plan and Approval to Establish :
And Implement a Distribution System :
Improvement Charge :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: July 23, 2014

I. INTRODUCTION

On February 14, 2012, Governor Corbett signed Act 11 of 2012 (Act 11 or Act) into law. Act 11 amends, *inter alia*, Chapter 13 of the Public Utility Code to permit water and wastewater utilities, electric distribution companies, natural gas distribution companies and city natural gas distribution operations to petition for implementation of a Distribution System Improvement Charge (DSIC). See 66 Pa. C.S. §§ 1350-1360 (Act 11). In order to qualify for DSIC recovery, a utility must submit a Long-Term Infrastructure Improvement Plan (LTIIP) for Public Utility Commission (Commission) approval. See 66 Pa. C.S. § 1352. See also In re: Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Final Implementation Order at 21 (Aug. 2, 2012) (Final Implementation Order).

The following seven elements must be included in a utility's LTIIP: (1) types and age of eligible property; (2) schedule for its planned repair and replacement; (3) location of the eligible property; (4) reasonable estimate of the quantity of property to be improved; (5) projected annual expenditures and measures to ensure the plan is cost effective; (6) manner in which replacement of aging infrastructure will be accelerated and how repair, improvement or replacement will maintain safe and reliable service; and (7) a workforce management training plan designed to ensure that the utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner. See 66 Pa. C.S. § 1352(a). See also Final Implementation Order at 17-19. It is the utility's burden to demonstrate that its proposed LTIIP and associated expenditures are reasonable, cost-effective and designed to maintain safe, adequate and reliable service to customers. Final Implementation Order at 20. The OCA submits that when a utility seeks recovery of costs expended pursuant to its LTIIP in a future proceeding, the utility must demonstrate, *inter alia*, that the costs were reasonably and prudently incurred. Further, the utility

will have to demonstrate that there is no overlap of costs already reflected in base rates with costs expended pursuant to an LTIP. 66 Pa. C.S. § 1357(a)(1)(i).

A utility must file its proposed LTIP with the Public Utility Commission (Commission) and serve copies on statutory advocates and all active parties in the utility's last base rate case. See Final Implementation Order at 20. Once filed, a utility's proposed LTIP will be assigned to the Commission's Bureau of Technical Utility Services (TUS) for analysis. TUS is to make a recommendation to the Commission, and other parties may file comments to a proposed LTIP within 20 days of the date it was filed. Id. If any party's comments raise issues of material fact, the proposed LTIP will be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision, which litigation must be completed within 120 days. Id.

On July 3, 2014, Pennsylvania-American Water Company Wastewater Operations (PAWC Wastewater or Company) filed its proposed LTIP with the Commission. The OCA submits these Comments on PAWC Wastewater's proposed LTIP for the Commission's consideration. In the OCA's view, the Company's Plan reflects a thorough effort to address the legislative and Commission elements required for the LTIP. Some additional information may be necessary, however, for the Commission to determine that the proposed improvements are prudent and cost-effective and will maintain safe, reliable and reasonable service as required by 66 Pa. C.S. §§ 1352(a)(5), (a)(6) and 1353.

II. COMMENTS

A. Introduction

On July 3, 2014, PAWC Wastewater filed a Petition for Approval of Long Term Infrastructure Improvement Plan and Approval to Establish and Implement a Distribution System Improvement Charge (Petition) with the Commission. The Company's proposed Long-

Term Infrastructure Improvement Plan is attached as Appendix B to the Petition. PAWC Wastewater states that its plan is designed to rehabilitate, improve and replace aging infrastructure at an accelerated pace at a cost of approximately \$5.14 million per year (ranging from \$5.6 to \$4.3 million per year during 2015-2019). Appendix B at 23, 24. According to the Company, its 2015-2019 plan will enable it to refurbish 1 lift station, repair 58,300 linear feet of gravity mains, 34,700 linear feet of low pressure mains, and 403 manholes. Appendix B at 22.

The Company notes that inflow and infiltration (I&I) from rainwater and groundwater has been a problem for several of PAWC's collection systems. The Company addresses the impact of the increased flow on the wastewater treatment plants and the potential for sanitary sewer overflow (SSO). Appendix B at 3. PAWC Wastewater also notes that many of its systems were acquired from prior ownership in various states of disrepair. Id. PAWC Wastewater states that an inventory of all eligible property as defined in Section 1351(4) is provided in its LTIIIP. In addition, PAWC Wastewater is applying a Geographic Information System (GIS) as the spatial component of its Enterprise Asset Management (EAM) Program. Appendix B at 5. GIS data will be updated continually to include system changes. Missing GIS data will be supplemented with paper maps, studies and other applicable data. Id.

PAWC Wastewater's LTIIIP provides an overview of each of its 9 wastewater systems. For each system, the Company provides summary assessment information regarding the wastewater treatment plant and the collection system. Appendix B at 13-22.

Implementing the mandates of recent legislation requires great effort and care by all involved to ensure that the spirit and letter of the law is upheld. The OCA appreciates the Company's discussion of its LTIIIP objectives and processes. The OCA submits, however, that certain additional information may be needed for Technical Utility Services and the Commission

to properly evaluate whether PAWC Wastewater's LTIIIP meets all the requirements of Act 11 and the Final Implementation Order.

B. OCA Recommendations

In this proceeding, the Commission must determine if PAWC Wastewater's LTIIIP will accelerate infrastructure repair and replacement in a cost effective manner. See 66 Pa. C.S. § 1352(a)(5), (6). The OCA submits that additional background information may assist the Commission in this determination because the Company's filing has not fully described how it will implement its LTIIIP.

1. Historic Spending and Rate of Replacement

PAWC Wastewater's filing does not provide a breakdown of its historic annual replacement and retirement by categories of eligible plant to demonstrate how the DSIC will accelerate infrastructure repair and replacement.¹ In addition, the filing does not provide a breakdown of historic annual replacement and retirement by individual system.

2. Projected Spending

PAWC Wastewater provides its projected annual expenditures for each of the five years of the LTIIIP. Appendix B at 23, 25. The filing does not tie the projected annual expenditures to individual systems or to the priorities identified in the overview of each system. A table showing the projected annual expenditures by eligible plant categories and by system would provide necessary information.

¹ Columbia DSIC Order at 20-21; Petition of Columbia Gas of Pa., Inc., Docket No. P-2012-2338282, Petition for Approval of Long Term Infrastructure Improvement Plan at 19-20 (Dec. 7, 2012) (Columbia LTIIIP); Petition of Peoples Natural Gas Co. LLC for Approval of a Long Term Infrastructure Improvement Plan, Docket No. P-2013-2344596, (Jan. 23, 2013) (Peoples LTIIIP).

With regard to the cost-effective requirement of Section 1352(a)(5), the OCA suggests that additional information is needed to assist the Commission in assessing the Company's prioritization of replacement as discussed below.

Finally, it will be important to ensure that the eligible plant that goes into service in January and February 2015, and forms the basis for the calculation of the DSIC to be effective on April 1, 2015 (Petition at 6), does not include any plant that was included in the fully projected future test year utilized by PAWC Wastewater in its rate case at Docket No. R-2013-2355276. In that case, the fully projected future test year ended on December 31, 2014. Although the plant is projected to go into service through December 31, 2014, it is possible that some projects may be delayed and go into service in early 2015. If that happens, then those projects that might otherwise be eligible for inclusion in the DSIC should not be included in the DSIC calculation. In addition, the Commission Order in the rate case at Docket No. R-2013-2355276 adopted a provision of the Settlement Petition which stated as follows:

In any event, the Company will not begin to impose a DSIC until the balances of DSIC-eligible accounts, net of plant funded with customer advances and customer contributions, exceed the December 31, 2014 levels of investment in plant additions projected by PAWC in this case.

Slip op. at 14. It will be necessary for PAWC Wastewater to establish the point at which the balances of DSIC-eligible accounts net of plant funded with customer advances and customer contributions exceed the December 31, 2014 levels of investment in plant additions it projected in the rate case.

3. Prioritization

The OCA also submits that it may be helpful for TUS and the Commission to have the same type of information that municipally-owned systems are required to provide to the

Pennsylvania Department of Environmental Protection (DEP) pursuant to Chapter 94. 25 Pa. Code §§ 94.1, *et seq.* The purpose of Chapter 94 is to prevent pollution by requiring owners to “project, plan and manage” future hydraulic and organic loading to their facilities. 25 Pa. Code § 94.2. As discussed in PAWC Wastewater’s LTIIP, I&I is generally what causes overloads. Appendix B at 3-4. Chapter 94 reports require that hydraulic and organic loadings be projected 5 years in advance so that repairs can be made prior to the treatment plant or pumping stations being either hydraulic or organic overloaded. 25 Pa. Code § 94.12.

The OCA submits that the information required by Section 94.12 could provide relevant and important information to assist TUS and the Commission in determining if PAWC Wastewater’s proposed prioritization of DSIC projects is consistent with its planned management of systems with projected overloads and effectively targeting its worst-performing systems.² It must also be considered that I&I reduction may add capacity and allow PAWC Wastewater to serve new customers. As those costs are not recoverable through the DSIC, it is particularly important that the Commission have all information relevant to conclude that PAWC Wastewater prioritizes I&I reduction projects that are necessary to maintain safe, adequate and reliable service to existing customers.

For these reasons, the Commission may wish to have PAWC Wastewater supplement its filing with this information before it makes a final determination. Further, the OCA recommends that the Commission direct PAWC Wastewater to provide this information annually with its asset optimization plan to assist in the ongoing review of the Company’s prioritization of DSIC-eligible projects.

² PAWC Wastewater may compile or report this information already.

4. Rate Case Certification

In its Petition, Appendix C and in PAWC Statement 1, page 5, Mr. Cox indicates that PAWC Wastewater's most recent rate filing was in 2013, as part of a combined water and wastewater base rate case. Rates were effective on January 1, 2014. However, Mr. Cox also states that the base rate case did not include the Franklin and Koppel wastewater operations, which were acquired after the filing of the base rate case. Appendix C. Based on a review of the respective applications filed by PAWC, Docket Nos. A-2013-2344624 and A-2012-2307203, neither Franklin Township Municipal Sewer Authority (FTMSA) nor Koppel Borough were PUC regulated. There is no information in the applications about when FTMSA or Koppel last increased rates.³ This is a matter that needs additional information. However, as noted below, the first issue that needs to be addressed is whether the DSIC can be applied to the Franklin and Koppel systems at this time.

5. Applicability of DSIC to Franklin and Koppel

PAWC Wastewater witness Cox certified that PAWC Wastewater's last rate case was in 2013. Appendix C. He also indicates that the Franklin and Koppel systems were acquired after PAWC's last rate case. Id. In the Final Implementation Order, the Commission addressed the applicability of the DSIC to customers of companies acquired between rate cases as follows:

Comments: PAWC argues that projected revenue from customers who are acquired when utilities take over troubled companies should not be included in projected quarterly revenue (PQR) in the DSIC formula. PAWC also argues that the customers from the acquired company should not be surcharged for a DSIC until their rates have been established by a base rate case by the acquiring utility. PAWC at 17.

Resolution: We agree. It is the normal course of business for utilities to plan for the normal dynamics of customers entering and leaving their systems. It is appropriate for such customers' revenue stream to be factored into the DSIC calculation via the PQR and for such customers to be surcharged. However, revenue from customers acquired from troubled companies or by the acquisition

³ PAWC adopted the then-effective rates of each system at acquisition.

of such companies should not be factored into PQR and those customers should not be surcharged until their rates have been established by a base rate case of the acquiring utility. The projects affecting service to such customers are not eligible for DSIC treatment until it has been rolled into the acquiring utility's base rates. To the extent that extraordinary relief is required by the acquiring utility to accommodate the customers from the acquired utility, the acquiring utility and Commission should address that need in the proceeding relative to the acquisition.

Final Implementation Order at 52-54. The Commission then modified the model tariff to include a note after the end of the Formula section. Id. Thus, it appears that the DSIC should not be applied to Franklin and Koppel customers. The proposed tariff does not distinguish those two systems in Rate Zones 4 and 5 from the other rate zones or exclude Rate Zones 4 and 5 from the applicability of the proposed DSIC. This issue does not appear to have been addressed in the Petition or in the testimony. However, in the LTIIP (Appendix B at page 7, Table 2), Franklin and Koppel property is included as eligible property for the DSIC. Applying the PUC's determination in the Final Implementation Order, the DSIC should not be applied to Franklin and Koppel until they are included in a base rate case for PAWC Wastewater.

C. Summary of OCA Recommendations

In summary, the OCA submits that supplemental information may be needed by the Commission and its staff in their review of PAWC Wastewater's LTIIP for compliance with the requirements of Act 11 and the Commission's Final Implementation Order. The OCA recommends that the Company provide the following information:

1. a breakdown of historic annual replacement and retirement for categories of plant;
2. a breakdown of historic annual replacement and retirement by individual system.
3. a table showing the projected annual expenditures by eligible plant categories and by system and an explanation of the basis for the proposed expenditures
4. an explanation of how DSIC-eligible projects will be prioritized

5. confirmation that the eligible plant that goes into service in January and February 2015, and forms the basis for the calculation of the DSIC to be effective on April 1, 2015 does not include any plant that was included in the fully projected future test year utilized by PAWC Wastewater in its rate case and confirmation that the balances of DSIC-eligible accounts net of plant funded with customer advances and customer contributions exceed the December 31, 2014 levels of investment in plant additions projected in the rate case.
6. a report containing the information required by 25 Pa. Code § 94.12 regarding 5-year hydraulic and organic loading projection, planning and management; and
7. clarification of the applicability of the DSIC to the Franklin and Koppel systems

In addition, the OCA recommends that the report recommended in no. 6, immediately above, be filed each year with PAWC Wastewater's annual asset optimization plan.

III. CONCLUSION

The OCA submits that, while it is not requesting a hearing in this proceeding at this time, the Company should provide additional information with its filing to allow the Commission to determine if PAWC Wastewater's LTIP accelerates infrastructure repair and replacement in a cost effective manner as required by Act 11.

Respectfully submitted,



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Dated: July 23, 2014
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CERTIFICATE OF SERVICE

Re: Petition of Pennsylvania-American Water Company Wastewater Operations
For Approval of Long Term Infrastructure Improvement Plan and Approval to
Establish and Implement a Distribution System Improvement Charge
Docket No. P-2014-2431005

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Office of Consumer Advocate, 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 23rd day of July, 2014.

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