



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 19, 2016

Via E-Filing

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

Re: Petition of the York Water Company for an Expedited Order Authorizing
Limited Waivers of Certain Tariff Provisions and Granting Accounting
Approval to Record Cost of Certain Customer-Owned Service Line
Replacements to the Company's Services Account
Docket No. P-2016-2577404

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
**Answer to the Petition of the York Water Company for an Expedited Order
Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting
Approval to Record Cost of Certain Customer-Owned Service Line Replacements to
the Company's Services Account** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of
service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Phillip C. Kirchner
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313870

Enclosure
PCK/sea

cc: Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of the York Water Company for	:	
an Expedited Order Authorizing Limited	:	
Waivers of Certain Tariff Provisions and	:	
Granting Accounting Approval to Record	:	Docket No. P-2016-2577404
Cost of Certain Customer-Owned Service	:	
Line Replacements to the Company's	:	
Services Account	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer** dated December 19, 2016, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Michael W. Hassell, Esquire
Devin T. Ryan, Esquire
Post & Schell, PC
17 North Second Street
12th Floor
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Phillip C. Kirchner
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313870

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of the York Water Company	:	
for an Expedited Order Authorizing	:	
Limited Waivers of Certain Tariff	:	
Provisions and Granting Accounting	:	Docket No. P-2016-2577404
Approval to Record Cost of Certain	:	
Customer-Owned Service Line	:	
Replacements to the Company's	:	
Services Account	:	

**ANSWER OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT TO
THE PETITION OF THE YORK WATER COMPANY FOR AN EXPEDITED
ORDER AUTHORIZING LIMITED WAIVERS OF CERTAIN TARIFF
PROVISIONS AND GRANTING ACCOUNTING APPROVAL TO RECORD
COST OF CERTAIN CUSTOMER-OWNED SERVICE LINE REPLACEMENTS
TO THE COMPANY'S SERVICES ACCOUNT**

On November 28, 2016, the York Water Company ("York" or "Company") filed a document entitled *Petition of the York Water Company for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Cost of Certain Customer-Owned Service Line Replacements to the Company's Services Account* ("Petition"). The Petition would permit the Company to replace customer-owned service lines made of lead and to record the costs of these replacements in the Company's Services Account, which would allow for the capitalization and subsequent recovery of the cost of these assets from its ratepayers. As proposed, York would not retain ownership of the assets. The Bureau of Investigation and Enforcement ("I&E") now timely files this Answer pursuant to 52 Pa. Code § 5.61.

I. Introduction

Although York stopped installing lead service lines in the mid-1930's, some lead pipe remains in service.¹ Service lines components are owned separately by York and by consumers. The former extending from the water main to a curb stop or valve and the latter extending from the curb stop or valve to the premises.² These components are maintained by their respective owners. Approximately 1,660 customers are served by lead Company-owned service lines; however, York does not know how many customer-owned service lines are lead pipe.³

After conducting Environmental Protection Agency mandated water testing in September of 2016, York Water determined that six out of fifty (50) buildings tested had more than fifteen (15) parts per billion of lead.⁴ These water test samples were taken from customers' taps and faucets.⁵ Following this determination, the Department of Environmental Protection has required York to optimize its corrosion control program, fulfill a series of public education requirements, increase its water testing, and replace at least seven percent of its total lead service lines per year. The total number of lead service lines amounts to approximately 1,660.

York is proposing a commendably aggressive replacement plan that would achieve full removal of 1,660 Company-owned lead service lines in four years.⁶ In conjunction with this plan, York is now seeking Commission approval to replace the customer-owned

¹ Petition ¶ 4.

² Petition ¶ 5.

³ Petition ¶¶ 6-7.

⁴ Petition ¶ 3.

⁵ Petition Footnote 2.

⁶ Petition ¶ 6.

portions of service lines made of lead at the Company's initial cost, which would be subsequently capitalized and recovered from its ratepayers. These lines would then go back to the ownership of the customers. This proposal to replace customer-owned service lines at York's expense is in contravention of York's tariff, which requires that service lines owned by customers be installed at their expense.⁷ Accordingly, York now seeks a waiver of such provisions by and through this Petition.

I&E, while fully understanding the safety concern posed by lead service lines, requests that this Petition be referred to the Office of Administrative Law Judge ("OALJ") in order to obtain more information regarding the source of the lead, the replacement plan proposed by York Water, and the potential ratemaking impact of socializing the costs of replacing customer-owned service lines that the utility will not retain ownership of to all of York's customers.

In support of this Answer, I&E offers the following enumerated responses:

1. Admitted.
2. Admitted.
3. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 3.
4. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 4.
5. Admitted.

⁷ Rule 3.4, Supp. No. 68 to Water Pa.P.U.C. No. 14, Fourth Revised, Pg. 10.

6. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 6.
7. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 7. By way of further of answer, York indicates that it does not know the composition of all customer-owned service lines but believes that some are comprised of lead pipe. As such, the Company does not provide an estimate of how many customer-owned services are lead pipe or an estimate of the cost to replace customer-owned services. Accordingly, while the Company is seeking Commission approval to capitalize these costs, York's Petition fails to provide any information about the impact its proposal will have on rates.
8. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 8. By way of further answer, there is insufficient information in the Petition concerning whether York's proposal to capitalize and earn a return on assets that it would not own is in the public interest.
9. Admitted.
10. Admitted.
11. Admitted.
12. This averment represents a Prayer for Relief to which no response is required.

13. This averment represents a Prayer for Relief to which no response is required.
14. This averment represents a Prayer for Relief to which no response is required.
15. Denied. This proposal has significant and far-reaching implications given that this is the first request from a water utility to replace customer-owned service lines. Referring this matter to OALJ for further fact-finding and consideration is warranted so that I&E and other interested parties can determine whether, and to what extent, York's proposal is in the public interest.
16. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 16.
17. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 17.
18. I&E is without knowledge or information sufficient to form a belief as to the truth of the averment contained in Paragraph 18.
19. Admitted.
20. Admitted in part, denied in part. While this proposal is one way to move towards the American Water Works Association and the National Drinking Water Advisory Council's policy statement recommendation, there are alternative methods to address this issue.

Referring this matter to OALJ will provide the Company and parties the ability to explore other options and appropriately develop a record.

21. Admitted.

22. Admitted in part, denied in part. York is correct that customer-owned service lines have been replaced at the utility's initial expense for Peoples Natural Gas Company ("Peoples") and Columbia Gas of Pennsylvania ("Columbia"). Unlike the water industry where customers own the service lines from the curb box to the premises, gas utilities traditionally own and maintain service lines to the home. In limited portions of the Commonwealth, customers own their gas service line, which is why both Peoples and Columbia sought Commission waiver to replace those service lines for its customers. While there are limited circumstances in the gas industry where customers own their own service lines, in the water industry service lines are traditionally owned and maintained by the customer at their expense. Therefore, York's Petition is a departure from traditional water regulation. Additionally, there are different state and federal regulations applicable to water and gas utilities, so actions that have been taken in the gas industry may not be the optimal strategy for water utilities. Accordingly, while I&E recognizes that two regulated gas utilities have been permitted to replace customer-owned gas service lines, I&E maintains that it is appropriate to refer this matter to

OALJ for discovery, testimony and evidentiary hearings before permitting a regulated water utility to replace an unknown number of customer-owned service lines at an unknown cost and recover those costs through rates.

23. Admitted in part, denied in part. I&E agrees that there are safety concerns with lead service lines. I&E does not agree that the proposal put forth by York is “consistent with Commission precedent.”
24. Admitted in part, denied in part. I&E opines that there is insufficient information in the Petition to support York’s assertion that the capitalization of the pertinent costs is appropriate or that it is eligible property for Distribution System Improvement Charge purposes.
25. Admitted.

II. CONCLUSION

I&E does not dispute the health concerns that lead water mains and service lines pose. However, I&E is without knowledge or information sufficient to form a belief as to the execution of the Petition presented by York, including the capitalization of assets that York will not own, the potential widespread precedential impact such a decision will have in the water industry, and the unknown expense that may be eventually socialized to York’s customers through this proposal. I&E respectfully requests that this matter be referred to the Office of Administrative Law Judge for discovery and to schedule such

evidentiary hearings as are necessary to determine whether the relief requested in the Petition is in the public interest.

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that this Petition be referred to the Office of Administrative Law Judge for further discovery and hearings.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "PCK", is written over a horizontal line.

Phillip C. Kirchner
Prosecutor
PA Attorney ID No. 313870

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
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Dated: December 19, 2016