

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

August 4, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17101

Re: Petition of Pennsylvania-American Water
Company for Approval of Tariff Changes and
Accounting and Rate Treatment Related
to Replacement of Lead Customer-Owned
Service Pipes
Docket No. P-2017-2606100

Dear Secretary Chiavetta:

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

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

Respectfully Submitted,

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: choover@paoca.org

Enclosure

cc: Honorable Elizabeth H. Barnes
Certificate of Service

238137

CERTIFICATE OF SERVICE

Petition of Pennsylvania-American Water :
Company for Approval of Tariff Changes :
And Accounting and Rate Treatment Related : Docket No. P-2017-2606100
To Replacement of Lead Customer-Owned :
Service Pipes :

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 4th day of August 2017.

SERVICE BY E-MAIL & INTEROFFICE MAIL

Carrie B. Wright, Esquire
Bureau of Investigations and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Susan Simms Marsh, Esquire
Pennsylvania-American Water Company
800 Hershey Park Drive
Hershey, PA 17033

Anthony C. DeCusatis, Esquire
Brooke E. McGlinn, Esquire
Morgan, Lewis & Bockius
1701 Market Street
Philadelphia, PA 19103-2921

Elizabeth Rose Triscari, Esquire
Deputy Small Business Advocate
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 202
Harrisburg, PA 17101

/s/ Christine Maloni Hoover

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. #83487
Email: EGannon@paoca.org
*238142

Counsel for Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pennsylvania-American Water	:	
Company for Approval of Tariff Changes and	:	
Accounting and Rate Treatment Related	:	Docket No. P-2017-2606100
To Replacement of Lead Customer - Owned	:	
Service Pipes	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333 and the Prehearing Conference Order issued by Administrative Law Judge Elizabeth H. Barnes on June 19, 2017, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On May 22, 2017, PAWC filed with the Commission a Petition seeking tariff revisions which will allow it to replace lead service pipes¹ subject to the accounting and rate recovery proposals contained in its Petition, authorization to capitalize the costs incurred and to record those costs in Account No. 333 and affirmation that the costs are “eligible property” for water

¹ Rule 2.12 of PAWC’s water tariff defines a service pipe as the part of the water line not owned by the Company and that “begins at the Company-owned street service connection and continues into the structure on the premise[s] to be supplied.” Petition at 1.

utilities under Section 1351 which means that the Company can recover a return on and a return of the costs through its Distribution System Improvement Charge (DSIC). Petition at 1-2.

II. ISSUES

There are two parts to the service lines: the first part is the service line which runs from the water main to street service connection (Service Line). Petition at 1. That portion is owned by PAWC and maintained by PAWC. Petition at 5. The other part, called the Service Pipe, is the portion that begins at the Company-owned street service connection and continues into the structure on the premise[s] to be supplied. Petition at 5. The Service Pipe portion is owned and maintained by the customer. Id.

PAWC's plan to replace lead Service Pipes has two parts: first, it will remove and replace lead Service Pipes, with the customer's agreement, that it encounters when it is replacing mains and service lines (Replacement Plan – Part 1). Petition at 2. Second, PAWC will remove and replace lead Service Pipes if a customer requests replacement and subject to verifying that the customer's Service Pipe is made of lead (Replacement Plan – Part 2). Id.

PAWC estimates that it has approximately 18,000 company-owned lead service lines. Petition at 8. PAWC has not provided estimates regarding the number of lead service pipes in its service territories.

PAWC indicates that it has tried to do its main and Service Line replacements “to **avoid** portions of its distribution system where lead Service Pipes are likely to remain in service.” Petition at 7(emphasis added). PAWC states that “infrastructure rehabilitation in those areas is necessary and must be undertaken” and that will include replacing lead Service Lines. Id. PAWC does not indicate whether it will prioritize areas with higher numbers of lead Service

Lines, rather than avoiding those areas as it states it has done to date. PAWC also does not indicate a time frame for infrastructure rehabilitation, including replacing lead service lines, or the areas it is referring to in its service territory.

Under its Replacement Plan – Part 1, PAWC indicates that it will replace lead Service Pipes that it encounters during main and/or Service Line replacements whether or not the associated Service line is made of lead or some other materials. Petition at 8. Information regarding the estimated cost of the Part 1 replacements is necessary.

Part 2 of the Replacement Plan addresses replacement of the lead Service Pipes, which are the portion of the service line owned by the customer. PAWC will offer to replace a Service Pipe at a customer's request if the customer and the Company verify that the Service Pipe is made of lead. Petition at 9. However, PAWC indicates that it will not replace the lead Service Pipes on a customer-by-customer basis. Id. Instead, it will keep a log of the requests grouped by "relevant geographic areas." Id. PAWC states, "When a reasonable number of requests have been received in a given area, the Company . . . will undertake all of the replacements in an area as part of a single project." Id. PAWC does not provide any information regarding how it will make a determination that it has received a "reasonable number" of verified requests in a certain area. PAWC states that it will undertake "appropriate customer education in areas that align with the scope of its Replacement Plan – Part 2 to inform customers in those areas that the Company is offering to replace their lead Service Pipes under the terms and on the timeline explained above." Petition at 10. It is not clear what PAWC means by "those areas" because there is nothing in the Petition that indicates that Part 2 of the Replacement Plan is limited to certain areas of the service territory. Moreover, more information is needed to understand what PAWC means by "the terms and on the timeline explained above." Nor does PAWC indicate that it will

provide any customer education to those customers with verified lead service pipes who are listed in the log but waiting for a “reasonable number” of requests to be received.

PAWC states that it estimates that the average cost to replace a lead Service Pipe will be \$3,500. Petition at 10. The Company has proposed a budget cap of \$6 million per year to replace lead Service Pipes. Id. At the average replacement cost, it appears that PAWC is estimating approximately 1,714 lead Service Pipes per year. Part 1 of the Replacement Plan will have the first priority. Id. at 11. Any funds not used in Part 1 will be applied to Part 2 in that year. Id. If the funds are not used in any year, it will be carried forward and added to the next year. Id. It is unclear whether the \$6 million per year will apply to the costs of replacing the lead Service lines (Company-owned portion) or whether the \$6 million is applicable to Service pipes only. In addition, further information is needed to determine whether the proposed \$6 million cap is reasonable.

PAWC requests approval to reflect the replacement costs of lead Service Pipes in its DSIC. Petition at 15-16. By this request, PAWC seeks a return on and a return of the costs of replacing customer-owned lead service pipes. PAWC states that one of the reasons it should be permitted to capitalize the costs of replacement of the lead Service Pipes is because the investment “provides a multi-year assurance that it can continue to comply with the LCR....” Petition at 15. However, PAWC also states that its corrosion control program and prudent management of its distribution system have been sufficient to ensure its compliance with the LCR. Petition at 6-7. Seeking a return on and a return of the costs of lead Service Pipes may lead to higher costs to all customers as a result of the replacement program. PAWC has not provided any evidence that the higher costs due to the proposed recovery of a return on and the return of the replacement costs is reasonable.

The OCA submits that it is necessary to determine whether PAWC's proposed expansion of the DSIC eligible property is reasonable in this situation given that there are other ways to address recovery of costs related to replacement of lead Service Pipes. One way is to create a regulatory asset which would permit the parties and the Commission to more readily follow the year to year costs related specifically to replacement as well as to reflect any state or federal funding that is received. Other options might include allowing the Company to recover its incremental cost of borrowing -- especially if it can obtain Pennvest funding. The OCA also will explore other options that have been used in other jurisdictions.² The OCA will explore what other methods PAWC has considered in arriving at its proposal for which it seeks Commission approval.

III. WITNESSES

The OCA intends to present the Direct, Rebuttal and Surrebuttal testimony, as may be necessary, of Scott J. Rubin regarding the accounting and policy issues identified above. Mr. Rubin will present testimony in written form and will also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case.

His contact information is as follows:

Scott J. Rubin
333 Oak Lane
Bloomsburg, PA 17815
570-387-1893
Scott.J.Rubin@gmail.com

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

² See e.g., *Proceeding on Motion of the Commission as to the Rates, Charge, Rules and Regulations of New York American Water Co. for Water Service*, 2017 N.Y. PUC LEXIS 250.

IV. DISCOVERY

In order to effectively investigate and adequately develop a record in this proceeding, the OCA requests a modification to the Commission's procedural rules, 52 Pa. Code §5.321, *et seq.*, on a going-forward basis, as set forth below:

1. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories;
2. Objections to interrogatories will be communicated orally within three (3) calendar days of service; unresolved objections shall be served on the parties in writing within five (5) calendar days of service of the interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) calendar days of service of written objections;
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) calendar days of service of such motions;
5. Any discovery or discovery related pleadings such as objections, motions, or answers to motions served after noon (12 p.m.) on a Friday or on any business day preceding a state holiday shall be deemed to have been served on the following business day for purposes of tracking responsive due dates;
6. Due dates will be "in-hand" with electronic service on the due date satisfying the "in-hand" requirement and where such service is immediately followed by a hard copy sent by first-class mail;
7. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within five (5) calendar days;

8. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service; and

7. Rulings over motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

V. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Christine Maloni Hoover and Erin L. Gannon. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover
Senior Assistant Consumer Advocate
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, Pa. 17101-1923
Telephone: 717-783-5048
Fax: 717-783-7152
E-mail: choover@paoca.org
egannon@paoca.org

VI. PROPOSED SCHEDULE

The OCA will work with the parties to develop a litigation schedule that is acceptable to the Presiding Officers and the parties.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

DATE: August 4, 2017
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