



COMMONWEALTH OF PENNSYLVANIA

March 1, 2018

**E-FILED**

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

**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:

I am delivering for filing today my Main Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Elizabeth Rose Triscari  
Deputy Small Business Advocate  
Attorney ID No. 306921

*Enclosures*

cc: The Honorable Elizabeth H. Barnes  
Mr. Brian Kalcic  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**MAIN BRIEF  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

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**Elizabeth Rose Triscari  
Deputy Small Business Advocate  
Attorney ID 306921**

**For: John R. Evans  
Small Business Advocate**

**Office of Small Business Advocate  
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**Date: March 1, 2018**

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**I. INTRODUCTION AND PROCEDURAL HISTORY**

On May 22, 2017, the Pennsylvania-American Water Company (“PAWC” or the “Company”) filed a petition to approve tariff changes that will allow PAWC to replace customer-owned lead “Service Pipes” (as defined in Rule 2.12 of PAWC Tariff-Water Pa. P.U.C. No.4) and recover associated costs (“Petition”).

Answers to the Petition were filed by the Office of Consumer Advocate (“OCA”) and the Commission’s Bureau of Investigation and Enforcement (“I&E”) on June 12, 2017.

On June 15, 2017, the OSBA filed a Notice of Intervention and Public Statement.

A telephonic Prehearing Conference on this case was held on June 19, 2017, before presiding officer Administrative Law Judge (“ALJ”) Elizabeth H. Barnes, at which time a procedural schedule and discovery modifications were established.

The OSBA submitted the Direct and Surrebuttal Testimony of Brian Kalcic on October 23, 2017 and November 30, 2017, respectively.

Despite good faith settlement discussions throughout this proceeding, the parties were unable to resolve this matter. However, the parties agreed that the evidentiary hearings scheduled for January 17 and 18, 2018, were not necessary and waived cross-examination of witnesses. On January 16, 2018, ALJ Barnes canceled the scheduled hearings and instructed the parties to submit testimony to be entered into the record by motion and stipulation. Such motion was granted by order dated January 25, 2018.

The OSBA is filing this Main Brief, pursuant to the procedural schedule, on the limited issue of cost recovery for the Company’s proposed Replacement Plan-Part 2.

## **II. ARGUMENT**

### **A. Part 2 Cost Recovery Should be Capped at Average Replacement Cost**

The OSBA generally supports PAWC's Replacement Plan-Part 1, whereby PAWC plans to replace customer-owned lead service lines encountered in connection with scheduled main replacement projects ("Part 1"). The OSBA agrees that Part 1 projects should have priority due to the relatively greater risk of raising lead levels for affected customers when replacing mains.

OSBA's concerns are with the Company's proposal to recover potentially excessive costs from ratepayers in connection with Replacement Plan-Part 2 ("Part 2").<sup>1</sup> PAWC's Petition proposes that Part 2 replacements will be completed upon request by a customer, after coordinating and grouping similar requests by geographic location. None of the costs of Part 1 or Part 2 projects will be recovered from customers having their service lines replaced. Rather, all costs, budgeted at \$6 million, annually, with any unused budget allotment rolling over to the next year, will be recovered in PAWC's distribution system improvement charge ("DSIC") and/or in base rates, as applicable.<sup>2</sup>

PAWC intends to go forward with Part 2 service line projects even where the associated average cost to replace such lines exceeds the average replacement cost associated with Part 1 projects in the same geographic area. The OSBA asked PAWC if it intended to proceed with service line replacements under such circumstances in OSBA-I-1(b), and the Company responded as follows:

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<sup>1</sup> OSBA Statement No. 1 at 1-4.

<sup>2</sup> For the purposes of evaluating PAWC's next base rate case, the OSBA recommends that the Commission require that the Company provide an annual report setting forth data to show the numbers and costs of replacements under Replacement Plan – Part 2 completed during each preceding year, broken down by customer rate class (*i.e.* residential, commercial, industrial).

Yes. The average cost is a composite number considering differing diameters and lengths of service piping. There will be instances when the replacement costs are greater than the average replacement cost, as well as instances wherein it will be less. The Company's goal is to eliminate the remaining lead service pipes.<sup>3</sup>

PAWC estimates that replacing a customer-owned lead service line will have an average expected cost per unit of \$3,500.<sup>4</sup> The OSBA does not oppose replacing Part 2 service lines in cases where the average replacement cost would exceed \$3,500 per unit, but ratepayers should not be responsible for the "excess" replacement costs.<sup>5</sup> While the Company hopes to achieve the economies of scale necessary to make Part 2 projects cost effective, the Company's response to OSBA-I-1(b) would appear to suggest that its ultimate concern is to eliminate all remaining lead service pipes in its service territory – perhaps *regardless of cost*.<sup>6</sup> Since the Company's Replacement Plan does not require affected customers to contribute toward the cost of their lead service pipe replacements, the Company should bear the risk associated with any Part 2 cost overruns, not general ratepayers. Thus, the Commission should deny PAWC cost recovery for Part 2 expenditures that exceed \$3,500 per unit, or the average replacement cost associated with Part 1 projects conducted through the completion date of a given Part 2 project, whichever is greater.

In Rebuttal Testimony, PAWC witness David R. Kaufman, disagreed with the OSBA's recommendations, arguing that it "is unnecessary in light of the \$6.0 million budgetary allotment

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<sup>3</sup> OSBA Statement No. 1 at 3, quoting PAWC response to OSBA-I-1(b).

<sup>4</sup> PAWC Statement No. 1-R at 13.

<sup>5</sup> OSBA Statement No. 1 at 3.

<sup>6</sup> *Id.* at 3-4.

under which Part 1 replacements will have first priority of expenditures.”<sup>7</sup> As OSBA witness Mr. Kalcic explains in his Surrebuttal testimony, Mr. Kaufman appears to suggest that general ratepayers should not be concerned about the *ultimate* cost of Part 2 projects since the Company’s proposed annual budgetary allotment of \$6.0 million, coupled with the prioritizing of Part 1 replacements, will act to mitigate the impact on customer rates. However, as Mr. Kaufman clearly states, “PAWC’s overall goal is to eventually replace all customer-owned LSPs based on customer requests in each geographic location across the state and does not envision a scenario wherein a verified customer request would be ineligible for an LSP replacement under Replacement Plan – Part 2.”<sup>8</sup> As such, whatever impact the Company’s proposed budget and prioritization of Part 1 service line replacements may have on mitigating the Part 2 costs borne by general ratepayers *in a given year*, it is equally clear that such “safeguards” fail to limit ratepayers’ ultimate cost exposure in connect with Part 2 projects.<sup>9</sup>

Mr. Kaufman further argued that the OSBA cap on cost recovery for Part 2 replacements was inappropriate in that it would create a disincentive for the Company “to proactively remove any possible risk of lead exposure” from customer-owned lead service pipes located in service areas where PAWC is not intending to replace water mains.<sup>10</sup> In Mr. Kaufman’s view, the OSBA proposal to cap Part 2 cost recovery could cause the Company to forego replacing certain “high cost” customer-owned lead service lines. However, implicit in Mr. Kaufman’s argument against imposing a cost recovery cap is the premise that *all* customer requests for lead service line replacements should be honored, regardless of cost to general ratepayers. It is the OSBA’s

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<sup>7</sup> PAWC Statement No. 1-R at 13.

<sup>8</sup> *Id.* at 9.

<sup>9</sup> OSBA Statement No. 1-S at 2.

<sup>10</sup> PAWC Statement No. 1-R at 13.

position that general ratepayers should not be responsible for excessive service line replacement costs associated with Part 2 projects. The purpose of the OSBA's recommended cap on Part 2 cost recovery is to incentivize PAWC to control costs by delaying going forward with certain Part 2 projects until such time as a sufficient number of customer requests were received to ensure a project was "economic."<sup>11</sup>

**B. Alternatively, Affected Customers Should Contribute Excess Part 2 Costs**

Alternatively, in the event that the Commission decides not to impose a cost recovery cap on Part 2 projects, the OSBA argues that the Commission should require a customer to provide a contribution in aid of construction ("CIAC"), as needed, equal to the difference between: a) the cost of replacing the customer's specific Part 2 lead service line, and b) \$3,500, or the average replacement cost associated with Part 1 projects conducted through the completion date of a given customer's Part 2 project, whichever is greater. By requiring this limited customer contribution, general ratepayers would not be forced to subsidize excessively costly Part 2 service line replacements. Currently, customers are responsible for the total cost of lead service line replacement, and many may have done so at their own cost. Although it may be in the public interest to now require ratepayers to subsidize the average cost of service line replacements, it would be inequitable to make them responsible for "excess" service line replacement costs associated with Part 2 projects. A limited CIAC mitigates this inequity.

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<sup>11</sup> OSBA Statement No. 1-S at 3.



### **III. CONCLUSION**

The OSBA respectfully requests that the Commission adjudicate this proceeding in accordance with the arguments presented herein.

Respectfully submitted,



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Dated: March 1, 2018

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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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DATE: March 1, 2018

  
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