



COMMONWEALTH OF PENNSYLVANIA

June 14, 2018

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
PO Box 3265
Harrisburg, PA 17105-3265

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 Reply Exceptions to the Recommended Decision, 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,

A handwritten signature in blue ink, appearing to read "Elizabeth Rose Triscari".

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**

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

**REPLY EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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

For:

**John R. Evans
Small Business Advocate**

**Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101**

Date: June 14, 2018

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”). The Company’s Petition proposed a two-part replacement plan: (1) Replacement Plan-Part 1 (“Part 1”), whereby PAWC would replace customer-owned lead service lines encountered in connection with scheduled main replacement projects, which the OSBA generally supported agreeing that Part 1 projects should have priority due to the relatively greater risk of raising lead levels for affected customers when replacing mains; and (2) Replacement Plan-Part 2 (“Part 2”), whereby replacements would be completed upon request by a customer, after coordinating and grouping similar requests by geographic location. The OSBA also supports replacement of lead Service Pipes under Part 2, but its main concern in this proceeding has been the Company’s proposal to recover potentially excessive costs from ratepayers in connection with Part 2.

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.

On March 1, the OSBA filed a Main Brief on the limited issue of cost recovery for the Company's proposed Part 2. Main Briefs were also filed by PAWC, OCA, and I&E.

The OSBA filed a Reply Brief in response to PAWC's position on Part 2 cost recovery on March 15, 2018. Reply Briefs were also filed by PAWC, I&E, and OCA.

On May 15, 2018, ALJ Barnes issued a Recommended Decision ("RD"), which agreed with the OSBA's argument that while Part 2 projects should be permitted, excessive costs in connection with Part 2 should not be recovered from all ratepayers. Specifically, the RD found:

I am persuaded by the credible testimony of OSBA's witness Kalcic to find that there ought to be a limit on excessive costs as there is no limit on total spending. OSBA St. 1 at 3-6, OSBA R.B. 2. In Part 2 where the average replacement cost exceeds \$3,500 per unit, ratepayers should not be responsible for the excess replacement costs. Individually affected customers and/or the Company should bear the risk associated with any Part 2 cost overruns, not general ratepayers. This will encourage the Company to minimize mobilization/demobilization costs and achieve the desired "economies of scale" in Part 2 service pipe replacements. Exhibit OSBA – I-1(b), OSBA M.B. 2-5. 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.

Alternatively, in the event that the Commission decides not to impose a cost recovery cap on Part 2 projects, the Commission should require a customer to provide 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, the contracting customer receives better value for its contribution and general ratepayers would not be forced to subsidize excessively costly Part 2 service line replacements. OSBA St. 1 at 4. This limit should not deter a customer, who needs only to pay the differential and should reduce excessive expenditures on Part 2. OSBA R.B. at 3. Currently, customers are responsible for the total cost of lead service line replacement. 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.¹

PAWC was the only party to file Exceptions to the RD on June 4, 2018. The OSBA submits the following reply to the Company's Exception No. 4.

II. REPLY EXCEPTIONS

1. OSBA Reply Exception to PAWC Exception No. 4: The Commission Should Not Impose A Cost Recovery Cap On Replacement Plan – Part 2 Projects Or Require A Customer Contribution Based On The Cost Of An Individual LSP Replacement.

PAWC's Exception argues that a cost recovery cap on both Part 1 and Part 2 lead Service Pipe replacements is unnecessary because it "already bounded by the \$6.0 million budgetary allotment under which Part 1 replacements will have first priority of expenditures."² However, as the OSBA explained in its Main and Reply Briefs, and incorporates both by reference here, the Company's proposed \$6 million budget allotment is an *annual* cap, not a limit on total spending. Whatever impact this annual

¹ RD at 25-26.

² PAWC Exceptions at 9, 24.

cap may have on mitigating excessive Part 2 spending in a given year, it clearly does not limit ratepayers' ultimate cost exposure in connection with Part 2 projects, for the straightforward reason that PAWC intends to replace ALL customer-owned lead Service Pipes upon customer request, no matter the cost, with no contribution from the affected customers.³

PAWC's further argues a cost recovery cap is unnecessary due to its promises to take steps to capture economies of scale for Part 2 replacements and independently track and report Part 1 and Part 2 expenditures. It then puts the onus on other parties to argue in a base rates or DSIC filing whether certain Part 2 lead Service Pipe replacements were reasonable and prudently incurred. These promises give the OSBA little comfort. While the Company may hope to achieve the economies of scale necessary to make Part 2 projects cost effective, its 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* (“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.”).⁴

The Company’s Exception further argues that the Part 2 cost recovery cap would hinder efficiency and is “improperly asymmetrical and, therefore, unfair” because it would permit PAWC to go forward with Part 2 replacements that cost the same as, or less than, the average cost, but the Company could not proceed with projects that cost more

³ OSBA Main Brief at 2-5, OSBA Reply Brief at 2-3.

⁴ OSBA Statement No. 1 at 3, quoting PAWC response to OSBA-I-1(b).

than the average without “shouldering,” or seeking a customer contribution for the excess costs.⁵

It is ironic that the Company raises the issue of fairness. Unfair to whom? PAWC’s argument makes clear that it does not want to “shoulder the risk” of cost overruns, but yet the Company has no problem saddling ratepayers with such risks, while providing absolutely no limit on ratepayers’ ultimate total cost exposure. The OSBA’s proposal, recommended by ALJ Barnes, promotes the desirable public policy goal of replacing customer-owned lead Service Pipes, while at the same time reducing the risk of excessive expenditures to ratepayers who bear the burden of the socialization of Part 2 project costs. The OSBA’s proposal is not meant to be a deterrent to Part 2 projects, but rather act as an incentive for PAWC to control costs. It is a balanced and equitable approach, anything but unfair.

⁵ PAWC Exceptions at 9.

III. CONCLUSION

The OSBA respectfully requests that the Commission reject the Company's Exception No. 4 and adopt the Recommended Decision.

Respectfully submitted,



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Attorney ID No. 306921

For: John R. Evans
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Dated: June 14, 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).

The Honorable Elizabeth H. Barnes
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