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| PUC logo | COMMONWEALTH OF PENNSYLVANIA  PENNSYLVANIA PUBLIC UTILITY COMMISSION  P.O. BOX 3265, HARRISBURG, PA 17105-3265 | **IN REPLY PLEASE REFER TO OUR FILE**  Docket Nos.  M-2018-2640802  (water)  M-2018-2640803  (wastewater) |

**September 26, 2018**

**PROCEDURE FOR COMMISSION REVIEW OF THE**

**SEPTEMBER 28, 2018 COMPLIANCE PLAN AND LTIIP FILINGS**

**OF THE**

**PITTSBURGH WATER AND SEWER AUTHORITY**

On March 15, 2018, the Commission entered its Final Implementation Order (FIO) at Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater) in a consolidated proceeding to establish the procedures by which the Commission would implement Chapter 32 of the Public Utility Code commencing on April 1, 2018. That Chapter provides for Commission oversight of the Pittsburgh Water and Sewer Authority (PWSA) as if it were a public utility, subject to certain Code exemptions.

The FIO provided dates certain for filings mandated by the General Assembly at 66 Pa. C.S. §§ 3202 and 3204. These include the July 2, 2018 deadline for the filing of proposed water and wastewater tariffs subject to typical base rate proceeding review, now occurring before the Office of Administrative Law Judge according to the 270-day schedule established by 66 Pa. C.S. § 1308.

The FIO also established a due date of September 28, 2018 for the filing of Compliance Plan and Long-Term Infrastructure Improvement Plans based off the 180-day filing deadline of Section 3204. Section 3204(b) requires PWSA to file compliance plans

which shall include provisions to bring an authority's existing information technology, accounting, billing, collection and other operating systems and procedures into compliance with the requirements applicable to jurisdictional water and wastewater utilities under this title and applicable rules, regulations and orders of the commission.

66 Pa. C.S. § 3204(b). In addition, that Section requires PWSA to submit a Long-Term Infrastructure Improvement Plan (LTIIP) simultaneously with the mandated Compliance Plan:

The compliance plan shall also include a long-term infrastructure improvement plan in accordance with Subchapter B of Chapter 13 (relating to distribution systems).

*Id*. Section 3204(c) provides for Commission review of the Compliance Plans and LTIIPs.

The commission shall review the compliance plan filed by an authority under subsection (b) and may order the authority to file a new or revised compliance plan if the compliance plan fails to adequately ensure and maintain the provision of adequate, efficient, safe, reliable and reasonable service.

66 Pa. C.S. § 3204(c). Unlike the procedural instructions contained in Section 3204(a) regarding the PWSA tariff filing (rate case procedures, public input hearings) Section 3204(b) and (c) do not require the Commission to provide specific procedures as a part of its PWSA Compliance Plan and LTIIP review. Similarly, as the Commission pointed out in the FIO, neither Chapter 32 nor the remainder of the Public Utility Code establish a deadline by which the Commission must complete its required review of these filings.

As an initial matter, while the Commission will accept consolidated filings at the above-referenced dockets, PWSA is reminded of the direction of the FIO that PWSA must segregate services and property such that the Commission and interested parties are able to engage in a meaningful review of its Compliance Plan and LTIIP filings.

The PWSA Compliance Plans will be subject to the procedure described below. The mandate of Section 3204(b) and (c) directs the Commission to perform an in-depth review of PWSA technical, operational, and managerial functions to ensure compliance with the Public Utility Code and Commission regulations. More importantly, the General Assembly has directed that the Commission use the Section 3204(c) review to “ensure and maintain the provision of adequate, efficient, safe, reliable and reasonable service” to the public.

Regarding the PWSA LTIIP filings, the Commission will employ the procedures developed for LTIIPs filed pursuant to 66 Pa. C.S. § 1352. *See Implementation of Act 11 of 2012, Final Implementation Order*, Docket No. M-2012-2293611 (Entered August 2, 2012). The LTIIPs will be docketed separately, and the Commission will apply its LTIIP procedures to the PWSA filing as it would any regulated public utility. Nevertheless, the Commission will consider consolidating the Compliance Plan and LTIIP proceedings upon request by petition.

Section 3204(b) directs that PWSA make its Compliance Plan and LTIIP filings with the Commission on **September 28, 2018**. The Commission will then publish notice of the filing of the Compliance Plan and the procedures outlined here in the Pennsylvania Bulletin on October 13, 2018.

No later than forty-five (45) days thereafter, the Commission will, via secretarial letter, assign the filings to the Office of Administrative Law Judge (OALJ) for the resolution of any factual matters that PWSA or interested parties may seek to develop. The Commission will attach to that Secretarial Letter an initial report authored by Commission technical staff consisting of directed questions or issue areas to be addressed by PWSA and interested parties. Stakeholders that wish to file comments prior to assignment to OALJ may do so no later than twenty (20) days after publication in the Pennsylvania Bulletin. However, comments so filed will not be included in the evidentiary record developed by OALJ.

The OALJ will submit a recommended decision on the issues raised by PWSA or the parties no later than eight (8) months from the date on which the matter is assigned to OALJ. Parties may submit exceptions within twenty (20) days and reply exceptions no later than fifteen (15) days thereafter. The Commission will thereafter issue appropriate orders on the filings no later than November 30, 2019.

 Sincerely,

# Rosemary Chiavetta

Secretary