**ANNEX A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**SUBPART C. FIXED SERVICE UTILITIES**

**CHAPTER 65. WATER SERVICE**

**SUBCHAPTER A. SERVICE GENERALLY**

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**SUBCHAPTER B. LEAD SERVICE LINE REPLACEMENTS**

**§ 65.51. Purpose.**

The purpose of this subchapter is to implement 66 Pa.C.S. § 1311(b) governing the standard under which jurisdictional water utilities may seek to replace LSLs and recover associated costs. This subchapter establishes the time, manner, form, and content of filings for Commission approval of LSLRs. This subchapter also sets forth the minimum requirements of LSLRs.

**§ 65.52. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*AAO plan—Annual asset optimization plan—*The term as defined in 52 Pa. Code § 121.2 (relating to definitions).

*Customer-owned lead service line* – The portion of the lead service line extending from the curb, property line or entity connection to an entity’s water meter or, if the entity’s meter is located outside of the structure or water is not metered by the entity, at the first shutoff valve located within the structure.

*Entity* – A public utility as defined in 66 Pa. C.S. § 102 (relating to definitions) that provides water service, a municipal corporation as defined in 66 Pa. C.S. § 102 (relating to definitions) that provides water service beyond its corporate limits, and an authority as defined in 66 Pa. C.S. § 3201 (relating to definitions).

*LSL – Lead service line* – A service line made of lead that connects the water main to a building inlet and a lead pigtail, gooseneck or other fitting that is connected to the lead line.

*DSIC – Distribution system improvement charge* – The term as defined in 52 Pa. Code
§ 121.2 (relating to definitions).

*LSLR – Lead service line replacement* – A service line, whether entity-owned or customer-owned, installed to replace a lead service line.

*LSLR Plan – Lead service line replacement plan* – A plan and supporting documents submitted to and approved by the Commission that specify how an entity intends to implement its lead service line replacement program.

*LSLR Program – Lead service line replacement program* – A program submitted to and approved by the Commission for the replacement of lead service lines by an entity.

*LSLR Program Report – Lead service line replacement program report* – The annual report, including a plan and supporting documents, providing information for lead service line replacements completed by an entity under its lead service line replacement program.

*LSLR Project – Lead service line replacement project* – An entity-scheduled lead service line replacement activity either in conjunction with main replacements or as part of a lead service line replacement program.

*LSLR Project Area* – *Lead service line project area* – The area served by an entity located within a one-mile radius of a lead service line replacement project.

*LTIIP – Long-term infrastructure improvement plan* – The term as defined in 52 Pa. Code § 121.2 (relating to definitions).

*Partial LSLR - Partial lead service line replacement* – A lead service line replacement that does not replace both the entity-owned and customer-owned portions of a lead service line.

*Service line* – The pipe and appurtenances which connect any main to an entity’s water meter or, if the entity’s water meter is located outside of the structure or the connection is not metered by the entity, at the first shutoff valve located within the structure.

*Service Line Inventory* – The process of identifying each service line’s material, composition, diameter, and location.

**§ 65.53. Time to replace LSLs.**

(a) An entity, other than a municipal corporation, shall remove and replace all LSLs, whether entity-owned or customer-owned, within or connected to its water distribution systems within 25 years from the effective date of this Section for a Class A public utility or authority, and within 30 years from the effective date of this Section for a Class B public utility or Class C public utility.

(b) A municipal corporation providing water service beyond its corporate limits shall remove and replace all LSLs, within or connected to its distribution systems, beyond its corporate limits, whether municipal corporation‑owned or customer‑owned, within 30 years from the effective date of this Section.

**§ 65.54. Petitioning the Commission for a LSLR Program.**

(a) An entity shall file a LSLR Program petition in accordance with 52 Pa. Code
§ 65.55(a) with the Commission’s Secretary’s Bureau with copies served upon the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and the parties of record in the entity’s most recent base rate case. Service is evidenced by a certificate of service filed with the LSLR Program petition.

(b) An entity that has a Commission-approved LTIIP shall include with its LSLR Program petition a modified LTIIP containing a LSLR Plan as a separate and distinct component of the entity’s LTIIP.

(c) An entity that does not have a Commission-approved LTIIP when filing its LSLR Program petition shall include a LSLR Plan meeting the requirements of 52 Pa. Code § 121.3 (relating to LTIIP).

**§ 65.55. LSLR Program requirements.**

A LSLR Program must comply with the following:

(a) A Class A public utility or authority shall file a LSLR Program within one year of the effective date of this Section. A Class B public utility, Class C public utility, or municipal corporation shall file a LSLR Program within two years of the effective date of this Section.

(b) An entity’s LSLR Program must include:

(1) A LSLR Plan as described in 52 Pa. Code § 65.56.

(2) A *pro forma* tariff or tariff supplement containing the proposed changes necessary to implement the entity’s LSLR Program as described in 52 Pa. Code § 65.58.

(3) Information required by the Commission for filings under 66 Pa. C.S. § 1308 (relating to voluntary changes in rates), including statements required by 52 Pa. Code § 53.52(a) (relating to applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies).

(c) A final Commission Order approving an entity’s LSLR Program will direct the entity to make any necessary revisions to the *pro forma* tariff or tariff supplement and resubmit the tariff or tariff supplement pursuant to 66 Pa. C.S. § 1308 (relating to voluntary changes in rates).

(d) After initial Commission approval of an entity’s LSLR Program, the LSLR Program must be subject to review in all future base rate cases. An entity shall submit any modification to the LSLR Program for review with its base rate case.

**§ 65.56. LSLR Plan requirements.**

An entity’s LSLR Plan must contain, at a minimum:

(a) *Service Line Inventory*.

(1) A Class A public utility or authority shall complete a Service Line Inventory within 60 months of the filing date of the public utility or authority’s LSLR Program. A Class B public utility or Class C public utility shall complete a Service Line Inventory within 36 months of the filing date of the public utility’s LSLR Program.

(2) A municipal corporation providing water service beyond its corporate limits shall complete a Service Line Inventory beyond its corporate limits within 60 months of the filing date of the municipal corporation’s LSLR Program.

(3) An entity completing an acquisition of a water distribution system shall complete a Service Line Inventory of the acquired system within 36 months of the date of the acquisition.

(4) An entity’s Service Line Inventory must:

(i) Identify the material type of all entity-owned and customer-owned service lines within and connected to the entity’s distribution system.

(ii) Be grouped by material type and diameter.

(iii) Detail any known or discovered lead components.

(iv) Include the entity’s projection of the annual number of service lines to be inventoried and the means by which the entity will identify material types. An entity may utilize several methods to properly identify material types.

(5) Until inventorying is complete, an entity shall provide detailed information regarding the progress of its Service Line Inventory as part of its annual LSLR Program Report under 52 Pa. Code § 65.59.

(6) After an entity’s Service Line Inventory is complete, it must be incorporated into the entity’s next LSLR Plan update pursuant to 52 Pa. Code § 65.57.

(b) *Planning and replacements.* The Planning and Replacements section of an entity’s LSLR Plan must include:

(1) The entity’s projected annual investment in LSLRs with an explanation of the entity’s anticipated sources of financing.

(2) The entity’s projected number of LSLRs per calendar year with an explanation of how the entity’s projection was determined, and a statement that this number is consistent with the entity’s annual cap on LSLRs .

(3) The prioritization criteria considered by the entity when developing its LSLR schedule.

(4) An explanation of the entity’s processes and procedures to address emergency repairs or replacements which reveal LSLs.

(5) The entity’s processes and procedures to obtain customer acceptance of a LSLR prior to commencement of a LSLR Project.

(6) The entity’s processes and procedures based upon a customer’s acceptance of a LSLR, including:

(i) A consent agreement form by which the customer will authorize the completion of the LSLR.

(ii) A brief description of the entity’s process for LSLRs under normal conditions and under atypical conditions.

(iii) An explanation of the entity’s process for coordination with the customer and the information the entity will provide to the customer throughout the LSLR process.

(iv) The entity’s process for addressing LSLR completion and/or closeout with customers.

(7) The entity’s lead/material recycling and disposal efforts, including a description of what the entity will do with proceeds from recycling and disposal efforts.

(8) The industry-accepted practices that the entity plans to utilize to replace entity-owned and customer-owned LSLs.

(9) A detailed explanation of how the entity’s acquisition of water distribution systems will be integrated into the entity’s efforts to complete LSLRs throughout its water distribution system; and

(10) The procedure for documenting a customer’s refusal of, or failure to accept, the offer by the entity to replace a LSL, including the entity’s duty to:

(i) Provide to the customer with a complete disclosure of the known health hazards from the continued use of a LSL.

(ii) Inform the customer that refusal or failure to accept will require the customer to replace the customer-owned LSL, at the customer’s expense, within one year of commencement of an entity’s LSLR Project within a LSLR Project Area in order to be eligible for reimbursement.

(iii) Communicate to the customer that failure to allow the entity to complete the LSLR or to replace the customer-owned LSL concurrent with the entity replacing the entity-owned LSL will lead to termination of water service pursuant to the provisions of the entity’s tariff.

(c) *Communications, outreach, and education*. An entity’s LSLR Plan must outline the entity’s communication, outreach, and education steps to educate customers about the harmful effects of lead and the entity’s plan to address LSLRs.

(1) An entity’s LSLR Plan must describe, at a minimum, how the entity will:

(i) Prioritize LSLR efforts to target sensitive populations as defined by the Environmental Protection Agency or Pennsylvania Department of Environmental Protection, areas with elevated levels of lead in tap water, areas with high concentrations of LSLs and areas of the entity’s distribution system which have elevated corrosion rates.

(ii) Establish, and/or participate in, voluntary lead advisory committees, either individually or on an industry-wide basis.

(iii) Coordinate LSLR Program efforts with state, county and local governments and agencies, community organizations and public works departments.

(iv) Ensure that relevant information will be provided to all bill-paying customers and persons that receive drinking water from the entity, in plain language that can be understood by the general public, including:

(A) An explanation of the health effects of lead in accordance with the language established by the Environmental Protection Agency under 40 CFR 141.85(a)(1)(ii) (relating to health effects of lead).

(B) A notice explaining sources of lead, following the language established by the Environmental Protection Agency under
40 CFR 141.85(a)(1)(iii) (relating to sources of lead).

(C) A description of steps the consumer may take to reduce lead exposure, following the language established by the Environmental Protection Agency under 40 CFR 141.85(a)(1)(iv) (relating to reducing lead exposure).

(v) Provide customers with copies of as-built drawings or similar depictions that indicate the location of the LSLR on the property between the customer’s structure and the curb stop. An entity shall make a good faith effort to provide customers with relevant documents associated with the LSLR.

(2) The entity’s LSLR Plan must include copies of all printed and broadcast material to be distributed under the entity’s LSLR Program.

(3) A Class A public utility or an authority shall develop a LSLR section of the public utility or authority’s website within 12 months of Commission approval of its LSLR Program. The website must contain, at a minimum:

(i) An online tool describing the replacement schedule by geographic location, at least six months into the future.

(ii) Information regarding the reimbursement requirements and a secure online tool that provides customers the ability to determine whether they may be eligible for a reimbursement.

(iii) A secure online map that provides customers the ability to determine whether records reflect that the property has a LSL, delineating the known or reasonably anticipated material types for the utility-owned and customer-owned portions of the service line.

(iv) Information and resources relating to health risks associated with lead and LSLs, the status of current efforts to replace LSLs, community meeting, and advisory committees.

**§ 65.57. Periodic review of LSLR Plan.**

After initial Commission-approval of an entity’s LSLR Plan, the entity shall update the LSLR Plan for Commission review at least once every five years. The Commission will, to the extent possible, coordinate the review of the updated LSLR Plan with the periodic review of an entity’s LTIIP pursuant to 52 Pa. Code § 121.7 (relating to periodic review of an LTIIP).

(a) The Commission’s review will determine:

(1) If the entity has adhered to its LSLR Plan;

(2) If changes to the entity’s LSLR Plan are necessary to maintain and improve the efficiency, safety, adequacy, and reliability of its LSLR Program; and

(3) If the updated LSLR Plan is consistent with the parameters of the entity’s LSLR Program.

(b) Service of the updated LSLR Plan must be made consistent with the requirements of 52 Pa. Code § 65.54(a). The Commission will issue a Secretarial Letter establishing a schedule for the submission of comments and reply comments to aid in its periodic review. If the Commission determines that the entity’s approved LSLR Plan is no longer sufficient to ensure and maintain efficient, safe, adequate, reliable, and reasonable service, the Commission will direct the entity to revise, update, or resubmit its LSLR Plan as appropriate.

**§ 65.58. *Pro forma* tariff or tariff supplement requirements.**

An entity’s *pro forma* tariff or tariff supplement containing proposed changes necessary to implement the entity’s LSLR Program must address, at a minimum:

(a) *LSLR Program annual cap*.

(1) An entity’s *pro forma tariff* or tariff supplement must include a cap on the maximum number of customer-owned LSLs that can be replaced annually.

(b) *Service line demarcation.*

(1) An entity’s *pro forma* tariff or tariff supplement must include a definition for customer-owned lead service line consistent with 52 Pa. Code § 65.52.

(2) An entity may specify in its tariff or tariff supplement that, if a shutoff valve is not located along a specific length of pipe within a structure, the entity may install a shutoff valve to serve as a point of demarcation between the property’s service line and the property’s interior water distribution piping.

(3) An entity shall use the LSLR process to perfect the entity’s ownership of the portion of the service line located within the then-existing right-of-way to ensure that the entity can obtain necessary permits.

(c) *Partial LSLRs*. An entity shall specify as follows in its *pro forma* tariff or tariff supplement:

(1) Neither a property owner nor a bill paying customer may install a partial LSLR. A partial LSLR must result in termination of service until such time as the entity can replace the entity-owned LSL pursuant to subsection 65.62.

(2) Where a customer elects to replace the customer-owned LSL, the customer shall replace the customer-owned LSL concurrent with the entity replacing the entity-owned LSL, subject to the following:

(i) For a Class A public utility or an authority, the customer shall provide the public utility or authority at least 90 days’ notice prior to replacing the customer-owned LSL.

(ii) For a Class B or Class C public utility or a municipal corporation, the customer shall provide the public utility or municipal corporation at least 180 days’ notice prior to replacing the customer-owned LSLs.

(3) Applicants for water service at a property where a customer previously refused, or failed to accept, an entity’s offer of a LSLR may not be permitted to connect to the entity-owned service line until the applicant verifies the replacement of the customer-owned LSL by providing a paid invoice from a contractor licensed to perform LSLR work in the Commonwealth where applicable, or a verified statement from the contractor attesting to completion of the LSLR.

(d) *Reimbursements*. An entity shall provide a reimbursement to an eligible customer who replaced their LSL within one year of commencement of an entity’s LSLR Project within a LSLR Project Area.

(1) An entity’s *pro forma* tariff or tariff supplement must include language explaining its reimbursement terms and conditions which shall contain, at a minimum:

(i) An explanation of the entity’s method for determining the amount of reimbursement, including any restrictions on reimbursements.

(ii) An explanation of the entity’s reimbursement methods, including the forms of payment to be used by the entity to distribute reimbursements and the length of time by which the utility will issue a reimbursement for an eligible reimbursement request.

(iii) An explanation of the entity’s method for determining customer eligibility, providing that:

(A) Customers located within a LSLR Project Area are eligible for a reimbursement of LSLR expenses up to 125% of the average cost the entity would have incurred to perform the replacement of a similarly-sized service line, not to exceed the customer’s actual cost.

(B) Customers shall submit to the entity, a detailed estimate and paid invoice from a contractor licensed to perform LSLR work in the Commonwealth where applicable, verifying the replacement of the customer-owned LSL. In lieu of a detailed estimate, a verified statement from the contractor attesting to completion of a LSLR may be sufficient.

(2) If the value of reimbursements would cause the entity to exceed its annual budgeted cap on the number of LSLRs, the entity’s annual budgeted cap for LSLRs for the following year must be reduced by this amount.

(3) An entity shall make reasonable best efforts to assist customers through the reimbursement process and, to the extent possible, make determinations in favor of the customer where the customer has provided reasonable evidence of a LSLR to the entity.

(e) *Warranty*. An entity’s *pro forma* tariff or tariff supplement must provide a warranty on LSLR work performed of a term of not less than two years. The entity’s warranty provisions must:

(1) Define the start date of the two-year term.

(2) Ensure that the materials and workmanship of the replacement and restoration of surfaces are covered.

(3) Define the maximum coverage amounts under the warranty.

(4) Explain any liability an entity will have for damages not covered by the warranty.

(5) Ensure entity access to the property to correct any deficiencies.

**§ 65.59. LSLR Program Reports.**

(a) An entity with an approved LSLR Program shall file with the Commission a LSLR Program Report by March 1 of each year, in both print and electronic formats, including supporting spreadsheets. If an entity is implementing its LSLR Plan as part of a Commission-approved LTIIP, the entity shall include a LSLR Program Report as part of the entity’s AAO Plan under 52 Pa. Code § 121.6(b)(3) (relating to AAO Plan filings).

(b) An entity’s LSLR Program Report must identify the preceding year’s activities, including:

(1) The number of LSLs replaced in the preceding year by county.

(2) The length of LSLs removed, by pipe diameter, in each county.

(3) The length, pipe diameters, and material types of LSLRs by county.

(4) The actual cost of each LSLR by county.

(5) The average cost of a LSLR by county.

(6) The total annual LSLR expenditures for the calendar year by customer class.

(7) The total projected LSLR expenditures for the following calendar year.

(8) The entity’s outreach and coordination activities with other utilities, the Pennsylvania Department of Transportation, local governments, and customers.

(9) The number and geographic location of LSLR customer refusals for the calendar year.

(10) Applicable lead monitoring requirements established by the
Pennsylvania Department of Environmental Protection for each of the entity’s water distribution systems.

(11) The entity’s compliance with the regulatory requirements established by the Environmental Protection Agency and the Pennsylvania Department of Environmental Protection, including a description of any violations thereof associated with lead.

(12) The current status of the entity’s Service Line Inventory efforts, including the known material types and pipe diameters of customer service lines.

(13) The entity’s efforts to obtain grants, low interest loans and donations for LSLRs.

**§ 65.60. Accounting and financial.**

(a) An entity shall record LSLR costs in compliance with the National Association of Regulatory Utility Commissioners uniform system of accounts applicable to the entity as intangible assets.

(b) An entity may defer:

(1) Income taxes related to no cost and low-cost sources of funding for LSLRs, including applicable income taxes on contributions-in-aid-of-construction and/or below-market rate loans, for accounting purposes to the extent that such costs are not recovered through the entity’s existing base rates or DSIC. Prudent and reasonable deferred income taxes must be amortized over a reasonable period of time with a return on the entity’s investment.

(2) Service line inventory, LSLR program development, LSLR Plan, LSLR Program Report, and reimbursement expenses for accounting purposes to the extent that such costs are not recovered through the entity’s existing base rates. Prudent and reasonable deferred expenses must be amortized over a reasonable period of time without a return on the entity’s investment, unless the Commission, pursuant to 66 Pa. C.S. § 523 (relating to performance factor consideration), finds that providing a return on the entity’s investment is warranted based on sufficient supporting data submitted by the entity in its rate case filing.

**§ 65.61. Preexisting LSLR activities.**

An entity that received prior Commission approval to perform LSLR activities shall submit for Commission approval a LSLR Program that, at a minimum, conforms with the requirements of this subchapter and takes effect no later than the effective date of the rates established under the entity’s next base rate case following the effective date of this Section, or within two years of the effective date of this Section, whichever comes first.

**§ 65.62. Prohibition on partial LSLRs.**

The following provisions must apply after the effective date of this Section:

(a) Where a customer elects to replace a customer-owned LSL, an entity shall replace the connected entity-owned LSL concurrent with the customer’s replacement of the customer-owned LSL, subject to the following:

(1) A Class A public utility or authority shall replace the entity-owned LSL within 90 days of the date of the customer’s request or on the LSLR date specified by the customer, whichever is later.

(2) A Class B or Class C public utility or a municipal corporation shall replace the entity-owned LSL within 180 days of the date of the customer’s request or on the LSLR date specified by the customer, whichever is later.

(b) An entity may not install, or cause to be installed, a partial LSLR and may not furnish water service using a partial LSLR that is installed by a customer after the effective date of this Section.

(c) If a customer refuses, or fails to accept, an entity’s offer to replace a customer-owned LSL, the entity shall replace the entity-owned portion of the LSL in accordance with the entity’s LSLR Plan and terminate service in accordance with the entity’s tariff.

(d) Where an entity has reasonable evidence indicating that a customer is being served by a partial LSLR installed by the customer after the effective date of this Section, the entity shall terminate service to the customer in accordance with the entity’s tariff.

(e) An entity shall install, or cause to be installed, entity-owned and customer-owned LSLRs even where an entity is under a Pennsylvania Department of Environmental Protection directive to replace LSLs due to a water system’s action level exceedance of 0.015 mg/L as defined in 25 Pa. Code § 109.1103 (relating to monitoring requirements).

**ANNEX B**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**SUBPART C. FIXED SERVICE UTILITIES**

**CHAPTER 66. WASTEWATER SERVICE**

**SUBCHAPTER A. SERVICE GENERALLY**

**§ 66.1. Definitions.**

*Public utility –* Persons or corporations owning or operating equipment or facilities in this Commonwealth for wastewater collection, treatment, or disposal for the public for compensation. The term does not include a person or corporation not otherwise a public utility who or which furnishes service only to himself or itself, or a bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis.

**SUBCHAPTER B. DAMAGED WASTEWATER SERVICE LATERALS**

**§ 66.31. Purpose.**

The purpose of this subchapter is to implement 66 Pa.C.S. § 1311(b) governing the standard under which jurisdictional wastewater utilities and certain other entities may seek to replace, rehabilitate or repair damaged wastewater service laterals and recover associated costs. This subchapter sets forth the scope of and provides minimum requirements for damaged wastewater service lateral replacements.

**§ 66.32. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*AAO plan – Annual asset optimization plan* – The term as defined in 52 Pa. Code § 121.2 (relating to definitions).

*Combined sewer system* – As defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Company’s service lateral* – The portion of a service lateral owned by the company, extending from a main to the inlet connection of a customer’s service lateral at the curb or property line.

*Customer* – A party contracting with a public utility for service.

*Customer’s service lateral*. – The portion of a service lateral owned by the customer, most often extending from the curb, property line or utility connection to a point two feet away from the face of the foundation of the structure.

*DSIC* – *Distribution system improvement charge –*The term as defined in 52 Pa. Code § 121.2 (relating to definitions).

*DWSL – Damaged wastewater service lateral.* – A customer’s service lateral containing a single area or a combination of several areas, acting collectively, identified by visual or other means, along the length of the lateral which has or have been determined to significantly impair the intended function of the customer’s service lateral to convey wastewater flow to the company’s service lateral and keep inflow and infiltration flows, within reason, out of the customer’s service lateral.

*DWSL Plan – Damaged wastewater service lateral plan.* – A plan and supporting documents submitted to and approved by the Commission that specify how an entity intends to implement its damaged wastewater service lateral program.

*DWSL Program – Damaged wastewater service lateral program.* – A program submitted to and approved by the Commission for the replacement, rehabilitation and/or repair of damaged wastewater service laterals by an entity.

*DWSL Program Report* – *Damaged wastewater service lateral program report* – The annual report, including a plan and supporting documents, providing information for damaged wastewater service lateral replacements completed by an entity under its damaged wastewater service lateral program.

*DWSL Project – Damaged wastewater service lateral project* – An entity’s scheduled damaged wastewater service lateral activity either in conjunction with main replacements or as part of a damaged wastewater service lateral program.

*DWSL Project Area* – *Damaged wastewater service lateral project area –*The area of a sewershed described by an entity as being eligible for the entity’s damaged wastewater service lateral plan.

*DWSL Replacement – Damaged wastewater service lateral replacement.* – A service lateral installed to replace a damaged wastewater service lateral or an approved method under the entity’s damaged wastewater service lateral plan to rehabilitate and/or repair a damaged wastewater service lateral.

*Entity* – A public utility as defined in 66 Pa.C.S. § 102 (relating to definitions) that provides wastewater service, a municipal corporation as defined in 66 Pa.C.S. § 102 (relating to definitions) that provides wastewater service beyond its corporate limits, and an authority as defined in 66 Pa.C.S. § 3201 (relating to definitions).

*Hydraulic design capacity* – The term as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Hydraulic overload* – The term as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Inflow* – The term as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 965.1 (relating to definitions).

*Infiltration* – The term as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 965.1 (relating to definitions).

*I&I - Inflow and infiltration*. – The total quantity of water from both infiltration and inflow.

*LTIIP – Long-term infrastructure improvement plan* – The term as defined in 52 Pa. Code § 121.2 (relating to definitions).

*Main* – The pipe of a public utility system, excluding service laterals, located in a public highway, street, alley or private right-of-way which pipe is used in collecting and conveying wastewater.

*Monthly average flow* – The term as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Sanitary sewer system* – “Separate sanitary sewer system” as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Service lateral* – The pipe and appurtenances that connect any main to a point two feet away from the surface of the foundation of the structure.

*Sewershed*. – A delineated area contributing wastewater flows to a single downstream point in a wastewater system.

*Wastewater*. – The term as defined in Section 102 of the Public Utility Code, 66 Pa. C.S. § 102 (relating to definitions).

*Wastewater facilities* – Sewerage facilities as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Wastewater system* – Sewer system as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

*Wastewater overflow* – Includes the terms “CSO-Combined sewer overflow” and “Sanitary sewer overflow” as defined by the Pennsylvania Department of Environmental Protection under 25 Pa. Code § 94.1 (relating to definitions).

**§ 66.33. DWSL Program parameters.**

(a) Any entity may petition the Commission for approval of a DWSL Program to replace, rehabilitate and/or repair DWSLs where its purpose can be specifically linked to the entity’s efforts to address either of the objectives set forth in 52 Pa. Code § 66.33(b).

(b) An entity’s purpose for petitioning the Commission for approval of a DWSL Program shall be linked to:

(1) Excessive I&I causing, or which is reasonably expected within the next five years to cause, a hydraulically overloaded condition, wastewater overflows and/or additional flow which is prudent for the entity to avoid.

(2) Design or construction conditions causing, or which are reasonably expected to cause within the next five years, wastewater overflows.

**§ 66.34. Petitioning the Commission for a DWSL Program.**

(a) An entity may file a DWSL Program petition with the Commission’s Secretary’s Bureau with copies served upon the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and the parties of record in the entity’s most recent base rate case. Service is evidenced by a certificate of service filed with the DWSL Program petition.

(b) An entity that has a Commission-approved LTIIP shall include with its DWSL Program petition a modified LTIIP containing a DWSL Plan as a separate and distinct component of the entity’s LTIIP.

(c) An entity that does not have a Commission-approved LTIIP when filing its DWSL Program petition shall include a DWSL Plan meeting the requirements of 52 Pa. Code § 121.3 (relating to LTIIP).

**§ 66.35. DWSL Program requirements.**

(a) A DWSL Program must include the following:

(1) A DWSL Plan as described in 52 Pa. Code § 66.36.

(2) A pro forma tariff or tariff supplement containing the proposed changes necessary to implement the entity’s DWSL Program as described in 52 Pa. Code § 66.38.

(3) Information required by the Commission for filings under 66 Pa.C.S. § 1308 (relating to voluntary changes in rates), including statements required by 52 Pa. Code § 53.52(a) (relating to applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies).

(b) A final Commission Order approving an entity’s DWSL Program will direct an entity to make any necessary revisions to the pro forma tariff or tariff supplement and resubmit the tariff or tariff supplement pursuant to 66 Pa. C.S. § 1308 (relating to voluntary changes in rates).

(c) After initial Commission-approval of an entity’s DWSL Program, the DWSL Program shall be subject to review in all future base rate cases. An entity shall submit any modification to the DWSL Program for review with its base rate case.

**§ 66.36. DWSL Plan requirements.**

An entity’s DWSL Plan must contain, at a minimum:

(a) *Planning and replacements*. The Planning and Replacements section of an entity’s DWSL Plan shall include:

(1) The entity’s projected annual investment in DWSL replacements with an explanation of the entity’s anticipated sources of financing.

(2) The entity’s projected number of DWSL replacements per calendar year with an explanation of how the entity’s projection was determined, and a statement that this number is consistent with the entity’s annual cap on DWSL replacements.

(3) The identification criteria or standard to be used by the entity to determine whether a customer’s service lateral is damaged and is impacting the entity’s wastewater system.

(4) The eligible areas designated by the entity as proposed DWSL Project Areas described with a bearing angles and distances or metes and bounds description and graphically depicted.

(5) The prioritization criteria considered by the entity when developing its DWSL replacement schedule.

(6) A benefit analysis detailing the expected improvements in the entity’s wastewater system functionality.

(7) An estimate of the net present value of the entity’s future reduced and/or increased costs associated with DWSL replacements identified in the DWSL Plan, broken down by capital costs and operation and maintenance costs.

(8) The entity’s processes and procedures based upon a customer’s acceptance of a DWSL replacement, including:

(i) A consent agreement form by which the customer will authorize the completion of the DWSL replacement.

(ii) A brief description of the entity’s process for DWSL replacements under normal conditions and atypical conditions for gravity and pressurized DWSLs.

(iii) An explanation of the entity’s process for coordination with the customer and the information the entity will provide to the customer throughout the DWSL replacement process.

(iv) The entity’s process for addressing DWSL replacement completion and/or closeout with a customer.

(9) The procedures for documenting a customer’s refusal of the offer by the entity to replace a DWSL, including the entity’s duty to:

(i) Provide the customer with a complete disclosure of the known health hazards from the continued use of a DWSL.

(iv) Inform the customer that refusal will require the customer to complete a DWSL replacement, at the customer’s expense, within one year of commencement of an entity’s DWSL Project within a DWSL Project Area in order to be eligible for reimbursement.

(10) The industry-accepted construction practices the entity plans to utilize to replace both entity-owned and customer-owned service laterals.

(b) Communications, outreach, and education. An entity’s DWSL Plan must outline the entity’s communication, outreach and education steps to educate customers about the harmful effects of DWSLs and the entity’s plan to address DWSL replacements.

(1) An entity’s DWSL Plan must describe, at a minimum, how the entity will:

(i) Prioritize DWSL replacement efforts to areas of the entity’s collection system that have known wastewater overflows, basement backups, or I&I issues.

(ii) Coordinate DWSL Program efforts with state, county and local governments and agencies, community organizations and public works departments.

(iii) Ensure that relevant information will be provided to all bill-paying customers and persons that receive wastewater service from the entity, in plain language that can be understood by the general public; including a description of steps the consumer may take to identify DWSLs.

(iv) Provide customers with copies of as-built drawings or similar depictions that indicate the location of the DWSL replacement on the property between the customer’s structure and the edge of the existing right-of-way. An entity shall make a good faith effort to provide customers with relevant documents associated with the DWSL replacement.

(2) The entity’s DWSL Plan must include copies of all printed and broadcast material to be distributed under the entity's DWSL Program.

(3) A Class A public utility or authority shall develop a DWSL section on the public utility’s website within 12 months of the Commission approval of its DWSL Program. The website shall contain, at a minimum:

(i) A secure online tool that provides customers the ability to determine whether their property is eligible for a reimbursement.

(ii) A secure online tool that provides customers the ability to determine whether records reflect that the property of record has a DWSL.

(iii) A copy of any static map or graphic representation depicting Project Areas.

(iv) Information and resources relating to the health risks associated with DWSLs, the status of current efforts by the public utility to replace DWSLs, and community meetings and advisory committees hosted by the public utility.

**§ 66.37. Periodic review of DWSL Plan.**

After initial Commission approval of an entity’s DWSL Plan, the entity shall update the DWSL Plan for Commission review at least once every five years. The Commission will, to the extent possible, coordinate the review of the updated DWSL Plan with the periodic review of an entity’s LTIIP pursuant to 52 Pa. Code § 121.7 (relating to periodic review of an LTIIP).

(a) The Commission’s review will determine:

(1) If the entity has adhered to its DWSL Plan.

(2) If changes to the entity’s DWSL Plan are necessary to maintain and improve the efficiency, safety, adequacy, and reliability of its DWSL Program.

(3) If the updated DWSL Plan is consistent with the parameters of the entity’s DWSL Program.

(b) Service of the updated DWSL Plan shall be made consistent with the requirements of 52 Pa. Code § 66.34(a). The Commission will issue a Secretarial Letter establishing a schedule for the submission of comments and reply comments to aid in its periodic review. If the Commission determines that the entity’s approved DWSL Plan is no longer sufficient to ensure and maintain efficient, safe, adequate, reliable, and reasonable service, the Commission will direct the entity to revise, update, or resubmit its DWSL Plan as appropriate.

**§ 66.38. *Pro forma* tariff or tariff supplement requirements.**

An entity’s *pro forma* tariff or tariff supplement containing proposed changes necessary to implement the entity’s DWSL Program must address, at a minimum:

(a) *DWSL Program annual cap*. An entity’s *pro forma* tariff or tariff supplement must include a cap on the maximum number of DWSL replacements that can be completed annually.

(b) *Service line demarcation*.

(1) Each entity’s *pro forma* tariff or tariff supplement must include a definition for customer’s service lateral that is consistent with 52 Pa. Code § 66.52.

(2) Each entity shall use the DWSL replacement process to perfect the entity’s ownership of the portion of the service lateral located within the then-existing right-of-way to ensure that the entity can obtain necessary permits to complete work within the public right-of-way in the future.

(c) *Frequency of DWSL replacements*. An entity’s *pro forma* tariff or tariff supplement must include a restriction where the entity may not complete more than one DWSL replacement for a customer at a property that previously received a DWSL replacement for a length of time equal to the lesser of the average service life for DWSL replacements established in the entity’s most recent base rate case or the average service life for Account No. 363 – Services to Customers in the entity’s most recent Service Life Study filed with the Commission pursuant to 52 Pa. Code § 73.5 (relating to service life study report).

(d) *Reimbursements*. An entity shall provide a reimbursement to a customer who completed a DWSL replacement within one year of commencement of the entity’s DWSL Project within a DWSL Project Area.

(1) An entity shall include in its required *pro forma* tariff or tariff supplement language explaining its reimbursement terms and conditions, including the following:

(i) An explanation of the entity’s methods for determining the amount of reimbursements, reimbursement methods, and any restrictions on reimbursements.

(ii) An explanation of the entity’s reimbursement methods, including the forms of payment to be used by the entity to distribute reimbursements and the length of time by which the utility will issue a reimbursement for an eligible reimbursement request.

(iii) An explanation of the entity’s method for determining customer eligibility, providing that:

(A) Customers located within a DWSL Project Area are eligible for a reimbursement of DWSL replacement expenses up to 125% of the average cost the entity would have incurred to perform a DWSL replacement of a similarly-sized customer’s service lateral, not to exceed the customer’s actual cost.

(B) Customers must submit to the entity a detailed estimate and paid invoice from a contractor, licensed to perform such work in the Commonwealth where applicable, verifying the completion of a DWSL replacement. In lieu of a detailed estimate, a verified statement from the contractor attesting to completion of a DWSL replacement may be sufficient.

(2) If the value of reimbursements causes the entity to exceed its annual budgeted cap on the number of DWSL replacements, the entity’s annual budgeted cap for the following year shall be reduced by this amount.

(3) An entity shall make reasonable best efforts to assist customers through the reimbursement process and, to the extent possible, make determinations in favor of the customer where the customer has provided reasonable evidence of a DWSL replacement to the entity.

(4) A customer’s refusal of a DWSL replacement offer by the entity does not negate the customer’s ability to submit for reimbursement in accordance with the entity’s reimbursement procedure once the customer has independently replaced a DWSL.

(e) *Warranty*. An entity’s *pro forma* tariff or tariff supplement must provide a warranty on DWSL replacement work performed of a term of not less than two years. The entity’s warranty provisions must:

(1) Define the start date of the two-year term.

(2) Ensure that the materials and workmanship of the DWSL replacement and restoration of surfaces are covered.

(3) Define the maximum coverage amounts under the warranty.

(4) Explain any liability an entity will have for damages not covered by the warranty.

(5) Ensure entity access to the property to correct any deficiencies.

**§ 66.39. DWSL Program Reports.**

(a) An entity with an approved DWSL Program shall file with the Commission a DWSL Program Report by March 1 of each year, in both print and electronic format, including all supporting spreadsheets. If an entity is implementing its DWSL Program as part of a LTIIP, the entity shall include a DWSL Program Report as part of the entity’s AAO Plan under 52 Pa. Code § 121.6(b)(3) (relating to AAO Plan filings).

(b) An entity’s DWSL Program Report must identify the preceding year’s activities, including:

(1) The number of DWSL replacements completed in the preceding year by county.

(2) The length of DWSL replacements completed, by pipe diameter and by replacement, rehabilitation or repair method, in each county.

(3) The pipe lengths, diameters, and material types of DWSL replacements, broken down as follows:

(i) By county.

(ii) By DWSL replacement flow type (i.e., gravity or pressurized).

(iii) By wastewater system type serving the properties that received the DWSL replacements (i.e., sanitary sewer system or combined sewer system).

(4) The actual cost of each DWSL replacement, broken down as follows:

(i) By county.

(ii) By DWSL replacement flow type (i.e., gravity or pressurized).

(iii) By wastewater system type serving the properties that received the DWSL replacements (i.e., sanitary sewer system or combined sewer system).

(5) The following information for each of the entity’s Project Areas, specific to each wastewater facility that is currently, or is projected within the next five years to be, hydraulically overloaded or where flow is impacting or detrimental to wastewater system function:

(i) Monthly average flow for, at a minimum, a two-year period prior to DWSL replacements being installed.

(ii) Three-month maximum flow for, at a minimum, a two-year period prior to DWSL replacements being installed.

(iii) Monthly average flow for, at a minimum, a two-year period after DWSL replacements have been installed.

(iv) Three-month maximum flow for, at a minimum, a two-year period after DWSL replacements have been installed.

(6) A calculation of the average marginal cost of I&I for each of the entity’s wastewater systems, by individual sewershed, broken down by the following types:

(i) Wastewater systems where wastewater treatment is provided by the entity.

(ii) Wastewater systems where wastewater treatment is not provided by the entity.

(7) The average cost of a DWSL replacement by county.

(8) The entity’s total annual DWSL replacement expenditures for the calendar year by customer class.

(9) The entity’s total projected DWSL replacement expenditures for the following calendar year.

(10) The entity’s outreach and coordination activities with other entities, the Pennsylvania Department of Transportation, local governments and customers.

(11) The number and geographic locations of DWSL replacement customer refusals for the calendar year.

(12) The number of customers that had water and/or wastewater service terminated due to refusal to replace, or to accept the entity’s offer to replace, a DWSL, by wastewater system.

(13) Applicable wastewater system monitoring requirements established by the Pennsylvania Department of Environmental Protection as part of a corrective action plan or consent order and agreement.

(14) The entity’s compliance with the regulatory requirements established by Environmental Protection Agency and Pennsylvania Department of Environmental Protection, including a description of any violations associated with wastewater overflows and any connection management plans.

(15) The entity’s efforts to obtain grants, low and no interest loans and donations for DWSL replacements.

(16) A benefit analysis comparing the cost of DWSL replacement work performed to the observed benefits which may include measurable cost savings, a measurable increase in available wastewater system capacity, a reduction in the number of service interruptions, and/or a reduction in the number of observed wastewater overflows.

**§ 66.40. Accounting and financial.**

(a) An entity shall record DWSL costs in compliance with the National Association of Regulatory Utility Commissioners uniform system of accounts applicable to the entity as intangible assets.

(b) An entity may defer:

(1) Income taxes related to no cost and low-cost sources of funding for DWSL replacements, including applicable income taxes on contributions-in-aid-of-construction and/or below-market rate loans, for accounting purposes to the extent that such costs are not recovered through the entity’s existing base rates or DSIC. Prudent and reasonable deferred income taxes must be amortized over a reasonable period of time with a return on the entity’s investment.

(2) DWSL program development, DWSL Plan, DWSL Program Report, and reimbursement expenses for accounting purposes to the extent that such costs are not recovered through the entity’s existing base rates. Prudent and reasonable deferred expenses must be amortized over a reasonable period of time without a return on the entity’s investment, unless the Commission, pursuant to 66 Pa. C.S. § 523 (relating to performance factor consideration), finds that providing a return on the entity’s investment is warranted based on sufficient supporting data submitted by the entity in its rate case filing.

**§ 66.41. Unpermitted connections.**

(a) As part of an entity’s DWSL Program, an entity shall disconnect any unpermitted connection to a customer’s service lateral in compliance with its tariff provisions.

(b) Notwithstanding 52 Pa. Code § 66.41(a), where the continued use of any previously unpermitted connection to a customer’s service lateral is permissible under other applicable laws, including the entity’s tariff, an entity may permit the continued use of such connections as long as the entity’s permission and existence of additional connection(s) is documented.

**§ 66.42. Competitive advantage.**

An entity shall make a good faith effort to structure its DWSL Program to prevent competition with optional insurance and warranty products that cover DWSL replacements.