

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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

 @pa_oca

 /pennoca

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

September 23, 2020

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

Re: Petition of Aqua Pennsylvania, Inc. for
Approval of Tariff Changes Authorizing
Replacement of Customer-Owned Lead
Service Lines
Docket No. P-2020-3021766

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to the Petition of Aqua Pennsylvania, Inc. in the above-referenced proceeding. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served per the attached 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

Enclosures:

cc: Office of Administrative Law Judge (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*296627

CERTIFICATE OF SERVICE

Re: Petition of Aqua Pennsylvania, Inc. for :
Approval of Tariff Changes Authorizing : Docket No. P-2020-3021766
Replacement of Customer-Owned Lead :
Service Lines :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to the Petition of Aqua Pennsylvania, Inc., 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 23rd day of September 2020.

SERVICE BY E-MAIL ONLY

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

John R. Evans, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

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

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

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
Dated: September 23, 2020
*296629

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Aqua Pennsylvania, Inc. for	:	
Approval of Tariff Changes Authorizing	:	Docket No. P-2020-3021766
Replacement of Customer-Owned Lead	:	
Service Lines	:	

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 5.61(e) of the Pennsylvania Public Utility Commission’s (PUC or Commission), 52 Pa. Code § 5.61(e), the Office of Consumer Advocate (OCA) provides the following Answer to the Petition of Aqua Pennsylvania Inc. (Aqua or Company), in the above-captioned proceeding. As set forth below, the OCA does not disagree with the concept of Aqua replacing customer-owned lead service lines, however, the OCA is not in agreement with all of Company’s proposals and has questions regarding how the replacement program will be implemented.

I. INTRODUCTION

On September 3, 2020, Aqua filed with the Commission a Petition seeking tariff revisions (attached as Exhibit No. 1 to the Petition) which will allow it to replace customer-owned lead service lines (COLSL)¹ when it is replacing mains, and recover those costs as provided in Section 1311(b)(2) of the Public Utility Code, which was added to the Public Utility Code pursuant to Act 120 of 2018. 66 Pa. C.S. § 1311(b)(2). Aqua sets forth its proposal to record those costs in Account No. 333 and to include the costs, between rate cases, in its Distribution System Improvement

¹ Rules 20 and 25 of Aqua’s water tariff address the responsibility of the customer to maintain its portion of the service line and excludes any responsibility of the Company. Petition at 5.

Charge (DSIC). It also proposes an annual cap of 200 COLSL replacements or \$800,000, whichever comes first. Petition at 1-2. Aqua also requests expedited approval. Petition at 3.

As explained in the Petition, there are two parts to the service lines: the portion of the service line which runs “from the Property to the Curb Stop or curb line or such point as designated by the Company” (customer-owned) and the portion of the service line from that point to Aqua’s main (Company-owned). Petition at 4. The Company-owned portion is maintained by Aqua while current tariff rules 20 and 25 place the responsibility on the customer to maintain the customer-owned portion of the service line. Petition at 4-5. Aqua’s plans to replace COLSL when it is replacing mains, whether or not the Company’s service line is made of lead. Petition at 2, 8-9.

II. ANSWER

Aqua indicates that it ceased installing lead service lines by the 1930’s. Petition at 4. Aqua estimates that there are approximately 200 Company-owned lead service lines (LSL) remaining on its system and it states that it is reasonable to assume that the majority of the same customer premises served by the Company’s LSL will have COLSL. Petition at 8. As set forth in its Petition, Aqua indicates that it will replace COLSL that it encounters during main replacements whether or not the Company-owned service line is made of lead or some other materials. Petition at 2, 8-9. It will begin replacing COLSL as soon as practicable after the Commission approves the Petition. Id. at 9. It seeks “expedited approval to begin replacements in West Chester, Shenango, and Bristol systems in order to avoid delay in completing main replacement projects, including road restoration work.” Id.

Aqua does not propose language to address COLSL replacements that are made at a customer’s request (outside of planned main replacement projects) because it expects that COLSL that remain throughout its system will be addressed during the main replacement projects. Petition

at 11. The Petition does not provide the basis for this conclusion. Section 1311(b)(2)(i) contemplates a Commission-approved program to address the situation where a customer requests the replacement of their COLSL. 66 Pa. C.S. § 1311(b)(2)(i). Other water utilities that have received approval for a plan for COLSL replacement have addressed this situation of a customer-requested COLSL replacement. Petition of The York Water Co. for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Costs of Certain Customer-Owned Service Line Replacements to the Company's Service Account, Docket No. P-2016-2577404 (Order entered Mar. 8, 2017); Petition of Pennsylvania-American Water Co. For Approval of Tariff Changes and Accounting and Rate Treatment Related to Replacement of Lead Customer-Owned Service Pipes, Docket No. P-2017-2606100 (Order entered Oct. 3, 2019).

Aqua intends to communicate with and provide information to its customers about lead service lines. See Petition at 12. It appears that those communications will be provided to all of its water customers, not just to those who live in a main replacement project area. As discussed below, the OCA supports communications with and providing information to customers so that those customers can check their service lines for the presence of lead. In conjunction with the broad communication, the OCA submits that it would be beneficial to have the appropriate plan in place to address requests from customers who may discover lead service lines at their homes and seek replacement of those COLSL by the Company. Under Aqua's request and its proposed tariff language, this situation cannot be addressed unless Aqua files another Petition.

Aqua states that it estimates that the average cost to replace a COLSL will be \$4,000. Petition at 9. The Company has proposed a budget cap of \$800,000 per year² or 200 COLSL per year. Id. If the funds are not used in any year, they will be carried forward and added to the next year. Petition at 10. This cap “is adequate to address COLSLs that are encountered when conducting main replacements given the scope of the projects in areas where Aqua anticipated encountering COLSLs.” Id. The basis for that conclusion is not clear from the Petition. Aqua also states that in developing its proposed budget cap, it “attempted to balance the impact of replacing COLSLs upon customer rates.” Id. The information related to the balancing of the replacement of COLSLs with the impact upon customer rates is not provided in the Petition. It would be reasonable to have Aqua provide the basis for its proposed budget cap and why it believes the budget cap is adequate to address COLSLs and provides a proper balance of replacement and impact upon customer rates.

Aqua indicates that it will provide an agreement for an affected customer to execute prior to the COLSL being replaced and that it will post an example of the agreement on its website. Petition at 9, 12. Aqua has not provided a draft of that agreement for review. The OCA submits that such agreement should be provided for review before the Commission acts on the Petition.

Regarding a customer who might refuse to enter into an agreement with Aqua for the replacement of the COLSL, Aqua indicates that it will replace the Company-owned portion and will “outline the potential health risks associated with a partial LSL replacement in a communication to the homeowner.” Petition at 9. Aqua did not provide its proposed communications to the homeowner regarding a partial replacement. The OCA submits that it is

² It is not clear whether Aqua intends to use a calendar year for purposes of the budget cap, but for purposes of this Answer, OCA will treat the proposal in that manner.

appropriate for Aqua to provide enhanced communications in this situation, especially given Aqua's knowledge of the health risks related to partial replacements. See Petition at 7-8. In addition, the OCA submits that Aqua should have an outreach process in place to work with customers who may initially be hesitant to enter into an agreement for the replacement of a COLSL. Aqua should be required to track those customers who choose not to enter into the agreement and the reasons provided by the customers. This information would be helpful in its outreach to its customers.

Aqua states that it will record the original cost of the COLSL in its Service account, Account 333. Petition at 12. Account 333 does not anticipate that costs related to customer-owned service lines would be included in it because those costs are not normally recovered by the utility. Although Section 1311(b)(2) permits the recovery, it would be beneficial for the costs for the replacement of COLSL to be identifiable. As such, the OCA submits that Aqua should create a subcategory within Account 333 that separately identifies costs for replacement of COLSL. The OCA also submits that it will be helpful to the Commission and to stakeholders to receive an annual report of the number of COLSL replaced and the cost of those replacements by geographic region.

Aqua indicates that it will issue a press release and "provide a bill insert to customers upon approval of the Company's Petition describing the requirements of the Company's program and how customers can participate in the program." Petition at 12. Aqua also states that it will provide information related to lead and lead service lines on its website. Id. The OCA does not think that one press release and one bill insert, along with general information about lead and lead service lines on its website will be sufficient to inform its customers of this program. The OCA submits that Aqua should be required to provide a plan for ongoing communications with its customers

regarding the program. In addition, Aqua should provide an opportunity for the statutory advocates to review and comment on its materials and proposed communication plan.

Aqua's Petition also addresses the reimbursement of customers who replaced their lead service lines. Petition at 13. Customers who have replaced their lead service line within one year prior to the "commencement of the main replacement project" and have the necessary proof of their costs, can be reimbursed the lower of the actual costs or the average costs the Company would have incurred to perform the replacement of a similarly-sized service line. Petition at 13; Exhibit No. 1 (proposed rule 20.2 (b)). It is unclear what the "commencement of the main replacement project" means and how a customer would know that date. For example, does the commencement of the main replacement project mean the date that the permits were received or the date that the first excavation took place? Although Aqua has provided its current estimate of the average cost of a COLSL replacement, it is not clear whether the average cost may change, and if it does, how anyone would know what that average cost is for a given year. The OCA proposes that along with the ongoing communications that will be necessary, as discussed above, that the Company provide additional communication to the areas in which it is beginning main replacement projects so that customers who will be impacted by each project will be aware of these provisions. In addition, the OCA submits that the average cost of a COLSL replacement be updated by Aqua at the start of each year along with the budgeted amount available in that year for COLSL replacements (because of the carryover of unused funds from the prior year).

WHEREFORE, the Office of Consumer Advocate generally supports Aqua's goal of replacing customer-owned lead service lines. The Office of Consumer Advocate requests that the Petition be referred to the Office of Administrative Law Judge for hearings on issues raised by the OCA's Answer.

Respectfully Submitted,

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

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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

September 23, 2020
296563