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April 13, 2021

Via Electronic Filing

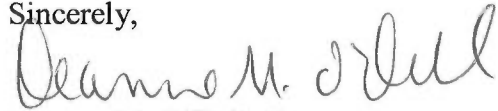
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority
Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and
R-2021-3024779 (stormwater)

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pittsburgh Water and Sewer Authority's Petition for Waiver of Statutory Definition of Fully Projected Future Test Year with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell, Esq.

DMO/lww
Enclosure

cc: Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PWSA's Petition for Waiver of Statutory Definition of Fully Projected Future Test Year upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Deanne M. O'Dell, Esq.

Dated: April 13, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	Docket Nos. R-2021-3024773 (Water)
	:	R-2021-3024774 (Wastewater)
V.	:	R-2021-3024779 (Stormwater)
	:	
PITTSBURGH WATER AND SEWER AUTHORITY	:	

**PETITION OF
THE PITTSBURGH WATER AND SEWER AUTHORITY
FOR WAIVER OF STATUTORY DEFINITION OF
FULLY PROJECTED FUTURE TEST YEAR**

Pursuant to Section 3202(b) of the Public Utility Code and 52 Pa. Code § 5.41, The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) respectfully submits this Petition requesting that the Pennsylvania Public Utility Commission (“PUC” or “the Commission”) waive the application of the statutory definition of the fully projected future test year (“FPFTY”) so as to permit PWSA to use a FPFTY beginning on January 1, 2022 in the above-captioned proceedings.

Simultaneously with the filing of this Petition, PWSA has filed a base rate case pursuant to 66 Pa. C.S. § 1308(d). Consistent with its mandatory budget process, the base rate case is using a historic test year (“HTY”) ending December 31, 2020, a future test year (“FTY”) comprised of the period from January 1, 2021 through December 31, 2021, and a FPFTY comprised of the period from January 1, 2022 through December 31, 2022. However, an

interpretation of the statutory definition of FPFTY¹ would require that the FPFTY commence on February 1, 2022² and continue for 12 months.

Use of the FPFTY commencing on January 1, 2022 (as opposed to February 1, 2022) is reasonable because (a) it comports with PWSA's fiscal year and budgetary requirements; (b) would result in ease of administration as it would eliminate the potential confusion of having projections and data that span more than one forecasted fiscal year of the Authority; and (c) would reduce the Authority's administrative costs of compliance.

I. Background

1. PWSA is a municipal authority organized and existing under the laws of the Commonwealth of Pennsylvania that is now regulated as a public utility by the Commission.³ PWSA is responsible for producing and supplying water along with maintaining and operating the water and sewage infrastructure in much of Pittsburgh, Pennsylvania. PWSA also manages stormwater that is conveyed both through its combined sewer systems and separate storm sewer systems.

2. The names, addresses and telephone number of PWSA's counsel are:

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¹ See Paragraph 4 of this Petition.

² The rate case was filed on April 13, 2021. The application of the full suspension period (60 days plus 7 months) will end on January 12, 2022. Based on the end of the suspension period, our interpretation of Section 315(e) of the Public Utility Code is that the first month that rates could be placed in effect is February 2022. See 66 Pa.C.S. § 315(e).

³ See 66 Pa.C.S. §§ 102, 3201, 3202(a).

3. On February 14, 2012, Act 11 was signed into law. That Act, *inter alia*, allows utilities to utilize a FPFTY as its baseline for setting new base rates.⁴ The key provisions regarding the use of a FPFTY were codified in Chapters 3 and 13 of the Public Utility Code.⁵

4. Certain statutory definitions are included in Act 11. Specifically, it defines the FPFTY as “the 12-month period beginning with the first month that the new rates will be placed in effect after application of the full suspension period permitted under section 1308(d) (relating to voluntary changes in rates).”⁶ The Commission has stated that, under this approach, the new rates will be consistent with the test year used to establish those rates for at least the first year.⁷

5. Simultaneously with this Petition, PWSA is filing a general rate case pursuant to 66 Pa.C.S. § 1308(d). The statutory suspension period for this filing will end on January 12, 2022.

6. PWSA’s filing is based on a FPFTY that begins on January 1, 2022. This date is consistent with PWSA’s existing and historical fiscal years.

⁴ 66 Pa.C.S. § 315(e).

⁵ 66 Pa.C.S. §§ 315(e), 1350 - 1360. On August 2, 2012, the Commission issued its Final Implementation Order establishing procedures and guidelines to carry out the ratemaking provisions of Act 11. *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered Aug. 2, 2012 (“Final Implementation Order”). The Final Implementation Order is a policy statement setting forth how the Commission intends to interpret Act 11 in future adjudications and rulemakings. See *Petition of PPL Electric Utilities Corporation For Approval of a Distribution System Improvement Charge*, PUC Docket No. P-2012-2325034, Recommended Decision dated July 25, 2014 at 18-19, modified (on other grounds) in part by Opinion and Order entered April 9, 2015. With respect to the FPFTY, the Final Implementation Order provides that the Commission will initiate a separate rulemaking proceeding to promulgate regulations regarding the use of a FPFTY.

⁶ 66 Pa.C.S. § 315(e).

⁷ Final Implementation Order at p. 5.

7. Under Section 3202(b) of the Public Utility Code, “Upon request of [PWSA], the Commission may suspend or waive the applicability of any provision of [the Public Utility Code] to [PWSA], except for this section [Section 3202].”⁸

II. The Requested Waiver

8. For the reasons set forth herein, pursuant to Section 3202(b) of the Public Utility Code, PWSA requests a waiver of the application of the statutory definition of FPFTY so as to permit PWSA to use a FPFTY beginning on January 1, 2022 in this proceeding.⁹ Strict application of the requirements of Section 315(e) would require that the FPFTY begin in February 2022 rather than January 2022, as PWSA is proposing.

9. PWSA operates on a fiscal year (FY) basis with years running (operating) from January through December.

10. Use of the FPFTY comprised of the period from January 1, 2022 through December 31, 2022, is reasonable because: (a) it is consistent with PWSA’s fiscal year and the data required for budgetary and other purposes for municipal regulatory purposes; (b) would result in ease of administration and facilitate review and comparison of the test year information with the data submitted in other forums; and (c) would avoid the potential confusion of having projections and data that span more than one forecasted fiscal year of the Authority.

⁸ 66 Pa.C.S. § 3202(b).

⁹ Consistent with this request, PWSA is also seeking a waiver of a Commission regulation that would conflict with this requested relief. *See* 52 Pa.Code § 1.91. The regulation to be waived is 52 Pa.Code § 53.53(b), which relates to the definitions of HTY and FTY.

11. Recalculation of the FPFTY to commence on February 1, 2022 (as opposed to January 1, 2022) would increase PWSA's administrative costs by requiring the Authority to draw data from more than one forecasted FY of the Authority. The expense of reconfiguring data that spans more than one forecasted FY, and casting new projections, would be excessive and unnecessary.

12. Permitting PWSA to utilize a FPFTY that begins in January 2022 rather than in February 2022 will not prejudice any party. The intent of requiring that the FPFTY begin in the month that the base rate increase suspension ends was to reduce regulatory lag. A difference of one month in the beginning of the FPFTY will not have a material impact on PWSA's financial projections, or make them materially less current. Moreover, "regulatory lag," if any, would inure to the detriment of PWSA.

13. PWSA filed a Petition for Waiver seeking waiver of the application of the statutory definition of the FPFTY simultaneous with the filing of its 2018 rate case. The Commission granted PWSA's Petition for Waiver.¹⁰ The Commission should grant the instant Petition as it is substantially similar to the Petition for Waiver that was granted in PWSA's 2018 rate case.

14. The Commission has also previously employed the discretion the Legislature has afforded it under the Public Utility Code to waive the application of the statutory definition of the fully projected future test year for other utilities.¹¹

¹⁰ *PaPUC et al. v. PWSA*, Docket No. R-2018-3002645, Prehearing Order issued July 20, 2018.

¹¹ *See, e.g., PUC v. PGW*, Docket No. R-2020-3017206, Corrected Prehearing Order dated May 15, 2020, granting PGW's Petition for Waiver of Statutory Definition of Fully Projected Future Test Year; *PUC v. PGW*, Docket No. R-2017-2586783, Prehearing Order #1 dated March 30, 2017, granting Petition of PGW for Waiver of Statutory Definition of Fully Projected Future Test Year. In addition, PWSA notes that the Commission, as part of a settlement, accepted the non-conforming FPFTY of Ambler Borough.

15. It is, therefore, reasonable to waive the application of the statutory definition of FPFTY so as to permit PWSA to use a FPFTY beginning on January 1, 2022 in this proceeding.

III. Expedited Approval

16. PWSA is proposing that the Commission grant the requested waiver in an expedited manner. This relief is integral to the rate case, which PWSA anticipates will be subject to extensive informal and/or formal discovery and if a suspension and investigation order is issued must be fully decided before January 12, 2022.¹²

17. Alternatively, if the Commission for some reason does not choose to grant authority, PWSA respectfully requests that the Commission to permit PWSA to revise its financial presentation. Much of the data to do this will already be in the record. Such a revision, while requiring the expenditure of extensive time and resources, will not make a material change to PWSA's financial statistics nor change its revenue requirement.

18. PWSA has served copies of this Petition on the following: the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, the Commission's Office of Special Assistants, and the Commission's Bureau of Technical Utility Services. If the Commission concludes that additional notice is necessary, PWSA will provide such additional notices as the Commission may direct.

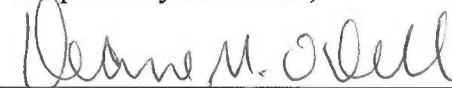
See PUC v. Borough of Ambler Water Department, R-2014-2400003, Opinion and Order entered December 4, 2014 adopting Recommended Decision dated October 17, 2014.

¹² See footnote 2.

IV. Conclusion

WHEREFORE, PWSA respectfully requests that the Commission (1) waive the application of the statutory definition of FPPTY so as to permit PWSA to use a FPPTY beginning on January 1, 2022, in this proceeding; and (2) take any other action deemed to be in the public interest.

Respectfully submitted,



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Dated: April 13, 2021

Counsel for
The Pittsburgh Water and Sewer Authority

VERIFICATION

I, William J. Pickering, am the Chief Executive Officer for The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”), and I hereby state that the facts set forth in the foregoing Petition for Waiver of Statutory Definition are true and correct to the best of my knowledge, information and belief and that I expect the Authority to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to sworn falsification to authorities).

DocuSigned by:

William J. Pickering

William J. Pickering

Chief Executive Officer

The Pittsburgh Water and Sewer Authority