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May 14, 2021

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Via Electronic Filing

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

RE: Wylie Holdings, L.P. v. The Pittsburgh Water and Sewer Authority
Docket Nos. F-2019-3013502; F-2019-3013508; F-2019-3013511;
F-2019-3013517; C-2019-3014514; C-2019-3014518; C-2019-3014520

Dear Secretary Chiavetta:

Enclosed for electronic filing please find The Pittsburgh Water and Sewer Authority's Motion to Consolidate with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

Enclosure

cc: Certificate of Service (with Enclosures)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PWSA's Motion to Consolidate upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Albert Caruso, Esq.
285 East Waterford Dr., Suite 160
Homestead, PA 15120
al@gszmlaw.com

Hon. Charles E. Rainey, Jr.
Chief Administrative Law Judge
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

Matthew Homsher, Mediator
Office of Administrative Law Judge
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120
mahomsher@pa.gov

Dated: May 14, 2021

/s/ Karen O. Moury
Karen O. Moury, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013502
v.	:	(3825 Liberty Avenue)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013508
v.	:	(3513 Penn Avenue)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013511
v.	:	(3208 Brereton Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013517
v.	:	(5134 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014514
v.	:	(4400 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014518
v.	:	(5770 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014520
v.	:	(5159 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	

NOTICE TO PLEAD

TO:

Albert Caruso, Esq.
285 East Waterford Dr., Suite 160
Homestead, PA 15120
al@gszmlaw.com

You are hereby notified that an Answer to the enclosed **Motion to Consolidate** of The Pittsburgh Water and Sewer Authority (“Authority”) must be filed within 20 days of the date of service. All pleadings, such as an Answer to a Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for the Authority and the Office of Administrative Law Judge.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265
<https://efiling.puc.pa.gov/>

With a copy to:

Karen O. Moury, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
kmoury@eckertseamans.com

/s/ Karen O. Moury

Karen O. Moury, Esquire

Date: May 14, 2021

Counsel for
The Pittsburgh Water and Sewer Authority

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013502
v.	:	(3825 Liberty Avenue)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013508
v.	:	(3513 Penn Avenue)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013511
v.	:	(3208 Brereton Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. F-2019-3013517
v.	:	(5134 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014514
v.	:	(4400 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014518
v.	:	(5770 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	
Wylie Holdings, L.P.	:	
	:	Docket No. C-2019-3014520
v.	:	(5159 Butler Street)
	:	
The Pittsburgh Water and Sewer Authority	:	

**PITTSBURGH WATER AND SEWER AUTHORITY'S
MOTION TO CONSOLIDATE**

Pursuant to 52 Pa. Code §5.81(a) of the regulations of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), The Pittsburgh Water and Sewer Authority (“PWSA”) submits this Motion to Consolidate the above-captioned matters. In support of this Motion, PWSA avers as follows:

1. On October 16, 2019, the Commission served four Formal Complaints (“Complaints”) on PWSA filed by Wylie Holdings, L.P (“Wylie Holdings” or “Complainant”) relating to past-due balances for water services rendered at 3825 Liberty Avenue (F-2019-3013502); 3513 Penn Avenue (F-2019-3013508); 3208 Brereton Street (F-2019-3013511); and 5134 Butler Street (F-2019-3013517). The Complainant alleged that the balance is due to months of inaccurate billing due to faulty equipment.

2. PWSA timely filed Answers to the four Complaints on November 5, 2019, along with a Motion to Consolidate. By its Answers, PWSA denied the material averments of the Complaints. PWSA also provided detailed descriptions of the results of its efforts to inspect the water meters and remote reading devices, and to install new meters.

3. Wylie Holdings did not oppose the Motion to Consolidate, and by Interim Order dated December 10, 2019, Administrative Law Judge (“ALJ”) Mary D. Long granted the Motion to Consolidate and referred the cases to the Commission’s mediation unit.

4. On November 22, 2019, the Commission served three Complaints on PWSA filed by Wylie Holdings relating to properties at 4400 Butler Street (C-2019-3014514), 5770 Butler Street (C-2019-3014518) and 5159 Butler Street (C-2019-3014520). The 4400 Butler Street Complaint alleged similar issues as were raised in the original four Complaints. The 5770 Butler Street Complaint requested that a car wash be moved from a commercial rate schedule to an

industrial rate schedule. The 5159 Butler Street Complaint alleged that the subject property was being billed for a water line beneath the parking lot.

5. On December 12, 2019, PWSA timely filed an Answer to the 4400 Butler Street Complaint, denying the material averments and explaining the results of the efforts it had undertaken to change the meter due to its old style. PWSA also timely filed an Answer and New Matter to the 5770 Street Complaint, noting that property used for a car wash expressly falls with the definition of commercial property in PWSA's tariff and that the Complainant was properly being charged a commercial rate. In addition, PWSA timely filed an Answer to the 5159 Butler Street Complaint, explaining that the Complainant had failed to continue filing Vacancy Affidavits to certify that the property has been vacant for a period in excess of 90 days, as required by its tariff.

6. In January 2020, the parties agreed to include the additional three Complaints referenced in Paragraph 4 in the settlement discussions regarding the original four Complaints identified in Paragraph 1. Periodically, throughout 2020 and the first several months of 2021, the parties provided updates to Mediator Matthew Homsher about the status of settlement discussions concerning the seven Complaints.

7. While the parties exchanged settlement offers and counter-offers in April and May 2021, an amicable resolution of the seven Complaints was not achieved. PWSA requested on May 6, 2021 that Mediator Homsher refer the matters for a hearing before an ALJ.

8. As these matters are now proceeding to hearing, PWSA is filing this Motion to request that the additional three Complaints served in November 2019 be consolidated with the original four Complaints for hearing and decision.

9. Section 5.81(a) of the Commission’s regulations states that “[t]he Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer [also] may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.” 52 Pa. Code § 5.81(a).

10. Other considerations in ruling on a consolidation include the following: (a) whether additional issues exist that could cloud the determination of common issues; (b) whether consolidation will reduce litigation costs and decision-making for the parties and the Commission; (c) whether the issues in one proceeding go to the heart of an issue in the other proceeding; (d) whether consolidation will unduly protect a hearing or produce a disorderly or unwieldy record; (e) whether different statutory and legal issues are involved; (f) whether the party with the burden of proof differs in the proceedings; (7) whether consolidation will unduly delay the resolution of one of the proceedings; and (8) whether supporting data in both proceedings will be repetitive. *See PUC v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, Second Prehearing Order at 3-4 (Nov. 26, 2012) (“*Lancaster Sewer Fund Prehearing Order*”). As stated in that order, no single consideration, nor group of these considerations, is dispositive of consolidation. Rather, all factors must be evaluated, and a balancing of those favoring and disfavoring consolidation is required. *Id.* at 3.

11. As noted above, the 4400 Butler Street Complaint (C-2019-3014514) alleges similar issues as the original four Complaints, which have already been consolidated. Although the 5770 Butler Street Complaint (C-2019-3014518) and the 5159 Butler Street Complaint (C-2019-3014520) do not raise the same issues, PWSA believes that the other considerations

referenced in the *Lancaster Sewer Fund Prehearing Order* support consolidation of them with the original four Complaints and the 4400 Butler Street Complaint.

12. Specifically, consolidation would reduce litigation costs and decision-making for the parties and the Commission; consolidation would produce an orderly record; the Complainant carries the burden of proof in all proceedings; consolidation would not unduly delay the resolution of either proceeding; and, some of the supporting data in the proceedings will be identical. For example, PWSA expects to present the same witness(es) for all seven Complaints, so that consolidation would avoid the need to have the witness(es)' job responsibilities described multiple times. In addition, PWSA's testimony discussing its transition in coming under the Commission's jurisdiction in 2018, PWSA's overall structure and the services it provides, and the tariffs under which it operates will be identical for all seven Complaints. Further, the factual testimony for the 5770 Butler Street Complaint and the 5159 Butler Street Complaint will be fairly minimal since both address issues that are governed by PWSA's tariff, concerning the proper classification of a car wash as a commercial customer and the need for the Complainant to file Vacancy Affidavits for the property used as a parking lot, respectively.

13. Consolidating these proceedings would promote judicial economy and conserve valuable resources of the parties and the Commission. Since the proceedings involve the same parties and many similar issues, no reason exists to have them litigated at separate dockets. As such, PWSA respectfully requests that the Office of Administrative Law Judge consolidate the above-captioned Complaints into one proceeding.

WHEREFORE, The Pittsburgh Water and Sewer Authority respectfully requests that the Office of Administrative Law Judge consolidate the Formal Complaints at the above-captioned docket numbers into one proceeding.

Respectfully submitted,

/s/ *Karen O. Moury*

Karen O. Moury, Esquire (I.D. No. 36879)
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Date: May 14, 2021

Counsel for
The Pittsburgh Water and Sewer Authority

Verification

I, Julie A. Quigley, am the Director of Customer Service for The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”), and I hereby state that the facts set forth in the foregoing **Motion** 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 unsworn falsification to authorities).

Date: May 14, 2021

/s/ Julie A. Quigley
Julie A. Quigley
Director of Customer Service
The Pittsburgh Water and Sewer Authority