

Deanne M. O'Dell  
717.255.3744  
dodell@eckertseamans.com

May 28, 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 Pittsburgh Water and Sewer Authority's Prehearing Memorandum in 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: Hon. Eranda Vero w/enc.  
Certificate of Service w/enc.

## CERTIFICATE OF SERVICE

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

### Via Email Only

Christine Maloni Hoover, Esq.  
Erin L. Gannon, Esq.  
Lauren E. Guerra, Esq.  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Fl., Forum Place  
Harrisburg, PA 17101-1923  
[choover@paoca.org](mailto:choover@paoca.org)  
[egannon@paoca.org](mailto:egannon@paoca.org)  
[lguerra@paoca.org](mailto:lguerra@paoca.org)

Gina L. Miller, Esq.  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North St., 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120  
[ginmiller@pa.gov](mailto:ginmiller@pa.gov)

Elizabeth R. Marx, Esq.  
John W. Sweet, Esq.  
Ria M. Pereira, Esq.  
Elizabeth R. Marx, Esq.  
John W. Sweet, Esq.  
Lauren N. Berman, Esq.  
The Pennsylvania Utility Law Project  
118 Locust St.  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

Erin K. Fure, Esq.  
Office of Small Business Advocate  
Forum Place Building  
555 Walnut Street, 1st Floor  
Harrisburg, PA 17101  
[efure@pa.gov](mailto:efure@pa.gov)

Brian Kalcic  
Excel Consulting  
225 S. Meramec Ave., Suite 720T  
St. Louis, MO 63105  
[Excel.consulting@sbcglobal.net](mailto:Excel.consulting@sbcglobal.net)

Thomas J. Sniscak, Esq.  
Kevin J. McKeon, Esq.  
Whitney E. Snyder, Esq.  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

Yvonne S. Hilton,  
John F. Doherty,  
Lawrence H. Baumiller,  
City of Pittsburgh Department of Law  
City-County Building, Suite 313  
414 Grant Street  
Pittsburgh, PA 15219  
[yvonne.hilton@pittsburghpa.gov](mailto:yvonne.hilton@pittsburghpa.gov)  
[john.doherty@pittsburghpa.gov](mailto:john.doherty@pittsburghpa.gov)  
[lawrence.baumiller@pittsburghpa.gov](mailto:lawrence.baumiller@pittsburghpa.gov)

May 28, 2021



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Deanne M. O'Dell, Esq.

**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	:	

**PREHEARING MEMORANDUM OF  
THE PITTSBURGH WATER AND SEWER AUTHORITY**

Pursuant to 52 Pa. Code §§ 5.221-5.224 and the Prehearing Conference Order issued on May 25, 2021 by Administrative Law Judge Eranda Vero (“ALJ Vero”), The Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”) submits this Prehearing Memorandum.

**I. PROCEDURAL HISTORY**

On April 13, 2021, PWSA filed a base rate case pursuant to 66 Pa. C.S. § 1308(d), docketed at Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater) (“Rate Filing”). Pursuant to the Rate Filing, PWSA is asking the Commission for approval to increase its combined water, wastewater and stormwater rates by \$32.2 million, to be phased-in in 2022 and 2023. Additionally, PWSA is proposing its first stormwater fee and tariff to fund its stormwater management program and provide a more equitable rate structure for stormwater service.

On the same date, PWSA filed Petitions: (1) for Consolidation of Water, Wastewater, and Stormwater Rate Proceedings and for Authorization to Use Combined Water, Wastewater and Stormwater Revenue Requirements; and (2) for Waiver of Statutory Definition of Fully Projected Future Test Year.

On April 14, 2021, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement filed a Notice of Appearance in this proceeding.

On April 21, 2021, the Pennsylvania Public Utility Commission (“Commission”) issued a Secretarial Letter seeking PWSA’s responses to data requests from the Bureau of Technical Utility Services (“TUS”).

On April 23, 2021, the Office of Consumer Advocate (“OCA”) filed a Complaint.

On April 26, 2021, Pittsburgh UNITED filed a Petition to Intervene, and the Office of Small Business Advocate (“OSBA”) filed a Complaint.

On April 27, 2021, PWSA filed a letter indicating that is electing not to file a formal answer to the complaints filed by the OSBA and the OCA, nor to any subsequently filed complaints.

On April 30, 2021, a letter from Commissioner Ralph V. Yanora requested that the parties examine ten identified issues in this proceeding.

On May 3, 2021, PWSA served responses to the data requests of TUS.

On May 17, 2021, PWSA filed responses to the April 30, 2021 questions from Commissioner Yanora.

On May 20, 2021, the Commission entered three orders – one at each of the above referenced docket numbers – suspending PWSA’s proposed tariff supplement for investigation and referring the cases to the OALJ.

On May 25, 2021, a Telephonic Prehearing Conference Notice was issued scheduling a Telephonic Prehearing Conference for June 1, 2021. ALJ Vero also issued a Prehearing Conference Order with further direction regarding the Telephone Prehearing Conference including the directive that all parties must file a Prehearing Conference Memorandum by 4PM on Monday, May 31, 2021.

On May 27, 2021, PWSA filed a Motion for Protective Order.

## II. REPRESENTATION

PWSA's attorneys in this matter are:

Deanne O'Dell, Esquire  
Daniel Clearfield, Esquire  
Karen O. Moury, Esquire  
Lauren Burge, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8th Floor  
Harrisburg, PA 17101  
dodell@eckertseamans.com  
dclearfield@eckertseamans.com  
kmoury@eckertseamans.com  
lburge@eckertseamans.com

Deanne O'Dell is the designated primary speaker for purposes of the prehearing conference. PWSA prefers that documents be served electronically to the above email addresses and agrees to receive service of documents electronically in this proceeding. To the extent that materials are not available electronically, PWSA requests that only one hard copy of documents, if any, be served upon Deanne O'Dell at the above mailing address.

## III. ISSUES

### A. **Pending Consolidation Petitions and Motion for Protective Order**

PWSA respectfully requests that the following petitions be granted:

1. PWSA's April 13, 2021 Petition for Consolidation of Water, Wastewater, and Stormwater Rate Proceedings and for Authorization to Use Combined Water, Wastewater and Stormwater Revenue Requirements;
2. PWSA's April 13, 2021 Petition for Waiver of Statutory Definition of Fully Projected Future Test Year; and
3. PWSA's May 27, 2021 Motion for Protective Order.

**B. Statutory Rate Effective Suspension Period and PWSA Voluntary Extension**

PWSA filed its rate case on April 13, 2021. The application of the full suspension period (60 days plus 7 months) will end on January 12, 2022. 66 Pa.C.S. § 1308(d). Pursuant to the Commission’s public meeting schedule, the last public meeting before January 12, 2022 is December 16, 2021. To accommodate this date, the Prehearing Conference Order directed parties, if possible, to develop a proposed litigation schedule which would require the filing of reply briefs by September 10, 2021.

PWSA, the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”) and Pittsburgh UNITED (“UNITED”) (collectively, PWSA and the advocates) have held several discussions intended to develop a proposed litigation schedule that would accommodate the December 16, 2021 public meeting date without success.

Ultimately PWSA and the advocates reached informal consensus that if PWSA were to agree to voluntarily suspend the rate suspension date by one day from January 12, 2022 to January 13, 2022 to enable the Commission to act on the rate case at its January 13, 2022 public meeting, additional time would be available to develop a litigation schedule. The benefits of this additional time have been identified as: (1) accommodating witness availability given other rate cases that are pending and all parties are still working under restrictions as a result of the on-going COVID-19 pandemic; (2) permitting more time in the schedule to enable settlement discussions (and recognizing the ability of PWSA and the advocates to reach settlements in past cases); (3) permitting more time to review PWSA’s stormwater proposals in recognition that this is the first stormwater rate case to be filed with the Commission; and, (4) permitting additional time for PWSA to submit supplemental direct testimony to response to directed questions from

both Commission Yanora and included in the Technical Staff Report included with the rate suspension order docketed at R-2021-3024779 (stormwater).

While all of these reasons to support a delay in the rate effective date are reasonable, PWSA also needed to consider how any voluntary extension of the statutory rate effective date could jeopardize its ability to receive the rate relief requested (to include implementation of a new stormwater fee) and resulting impacts for its customers. PWSA is concerned that targeting a public meeting date for the same day the suspension period ends risks the ability of PWSA to place the rates in effect on that date due to factors out of PWSA's control including the Commission's entry of a final order and the ability of PWSA to reflect the approved rates in its billing system.<sup>1</sup> Any delay in the ability of PWSA to collect Commission approved rates may negatively impact its ability to continue to fund its very aggressive capital improvement program which includes progress on its lead service line remediation program and addressing years of deferred system maintenance. Further, as a municipal authority regulated on the cash-flow basis, PWSA issues bonds and needs to maintain sufficient cash reserve to meet bonding covenants and to be able to be able to issue future bonds. Any delay in the ability to receive this revenue may have a negative impact on this important funding source for PWSA.

Regarding the ability of PWSA to recoup revenue that may not be billed on the same date as the end of the suspension period, recent Commission precedent has affirmed that utilities are entitled to appropriate rate relief in accordance with 66 Pa. C.S. § 1308(d) immediately

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<sup>1</sup> As an example, the Commission acted at its February 7, 2019 public meeting to approve a settlement of PWSA's initial rate case. *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2018-3002645 (water) and R-2018-3002647 (wastewater), Opinion and Order entered February 27, 2019. However, the Commission identified other, non-rate related issues PWSA was to address in its compliance tariff, and the final order was not entered until February 27, 2019. As a result PWSA did not issue its proposed tariff supplements implementing the Commission approved rates until February 28, 2019 and the rates became effective March 1, 2019. Thus, PWSA did not collect the Commission approved rates for almost a month.

following the end of the statutory suspension period.<sup>2</sup> Consistent with this precedent, Pennsylvania America Water Company (“PAWC”) implemented a recoupment surcharge on May 1, 2021 to recoup unbilled revenues for the period between the rate change effective date of January 28, 2021 (the date of the suspension period) and March 8, 2021 which is the date PAWC implemented the Commission approved rates.<sup>3</sup>

Based on its evaluation of all of these issues, PWSA has elected to voluntarily agree to a one day suspension of the current statutory rate effective period from January 12, 2022 to January 13, 2022 to align with the Commission’s January 13, 2022 public meeting. In consideration of this, the advocates have indicated that they do not oppose PWSA’s ability to implement a recoupment surcharge if there is a delay in its ability to implement the new Commission approved rates on January 13, 2022.

With this understanding among PWSA and the advocates, the schedule proposed below is based on a January 13, 2022 rate effective date and action at the Commission’s January 13, 2022 public meeting. Note that the proposed date for reply briefs, October 4, 2021, is approximately three months prior to the January 13, 2022 public meeting. This is similar to the amount of time between September 10, 2021 (as referenced in the Prehearing Conference Order) and the December 16, 2021 public meeting.

### **C. Substantive Issues from the Rate Case Filing**

The primary issue in this proceeding is what level of base rate increase is just and reasonable for PWSA pursuant to the “Cash Flow” method of ratemaking. As explained in detail in PWSA’s filings and the supporting materials, the requested increase in revenues is necessary,

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<sup>2</sup> *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.* Docket No. R-2020-3018835, Opinion and Order entered August 20, 2020 at 21.

<sup>3</sup> *See, Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company*, Docket No. R-2020-3019369, Order on Reconsideration dated August 20, 2020.



reasonable, and in the public interest. The proposed increase in revenues is the minimum necessary to enable PWSA to cover operating and capital costs to permit it to continue invest in the infrastructure needed to maintain and improve its safety, reliability and customer service levels. The proposed rate increase is necessary to: 1) increase operations to a level that is sufficient to maintain PWSA's large system; 2) fund PWSA's substantial Capital Improvement Plan; and 3) address decreased collections and consumption caused by the COVID-19 pandemic.

Additional issues in this proceeding include the appropriate allocation of the rate increase among the customer classes and the reasonableness of the rules set forth in PWSA's Tariffs relating to the provision of water and wastewater conveyance services. PWSA's proposal also includes additional features (including the manner in which it is proposing to structure and assess the new stormwater fee and further enhancements to our low income customer assistance programs) intended to mitigate the rate impact for PWSA's customers. It should be noted that issues having to do with the Authority's compliance with the Public Utility Code, PUC rules and regulations and/or PUC Orders are being addressed in PWSA's Compliance Plan proceedings. As such, to the extent compliance-related issues are raised by other parties in this proceeding, the Authority submits that these issues are appropriately deferred for development and resolution to PWSA's compliance plan process.

#### **D. Proposed Supplemental Direct Testimony**

In addition to the rate issues discussed in the prior section, PWSA proposes to file Supplemental Direct Testimony to address: (1) the April 30, 2021 questions from Commissioner Yanora; and, (2) the Compliance Plan Stage 2 Stormwater issues identified in the Technical Staff Report and Directed Questions Stage 2 dated May 20, 2021 ("Stormwater Directed Questions").

Effective April 1, 2018, PWSA became subject to the Public Utility Code with the exception of Chapters 11 (relating to certificates of public convenience) and 21 (relating to

relations with affiliated interested). *See* 66 Pa.C.S. § 3201 *et seq.* (“Chapter 32”). Pursuant to 66 Pa.C.S. § 3204(c), PWSA was required to file “a compliance plan to bring its existing information technology, accounting, billing collection and other operating systems and procedures into compliance” with Commission requirements. Currently, the Commission is in “Stage 2” of the compliance process and part of Stage 2 includes evaluation of stormwater issues.<sup>4</sup> Because this rate case is PWSA’s first proposal asking the Commission to approve a stormwater rate and a stormwater tariff, the Commission granted PWSA’s Motion to Hold in Abeyance the Stage 2 Stormwater Compliance Plan on May 20, 2021.<sup>5</sup> Recognizing, however, that it would be beneficial for the parties in this rate case to have directed questions from Commission Staff regarding stormwater issues, the Commission included the 15-page Stormwater Directed Questions with its May 20, 2021 order suspending the stormwater rate case for investigation.<sup>6</sup>

In Supplemental Direct Testimony, PWSA proposes to provide additional information and, where available, responses to the Stormwater Directed Questions that are relevant to its proposals in this proceedings. PWSA proposes to identify, in the Supplemental Direct Testimony, issues that can be deferred until the restart of the Stage 2 Stormwater Compliance Plan proceeding. Other parties in this proceeding will have the ability via their direct testimony to respond to PWSA’s initial evaluation of the Stormwater Directed Questions. Given the time available for this proceeding and the extent of the Stormwater Directed Questions, PWSA believes this approach is a reasonable way to proceed.

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<sup>4</sup> As directed by the Commission, PWSA filed its Stage 2 Compliance Plan: Stormwater on April 9, 2021 at Docket No. M-2018-2640802 and M-2018-2640803.

<sup>5</sup> *Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority*, M-2018-2640802 and M-2018-2640803, Opinion and Order entered May 20, 2021 at 21-22.

<sup>6</sup> *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority – Stormwater*, Docket No. R-2021-3024779 Order entered May 20, 2021.

#### IV. WITNESSES

PWSA served the following testimonies with its rate case filings:

<b>Witness</b>	<b>St No.</b>	<b>Topics</b>
William J. Pickering	1	Overview of Filing; Description of PWSA and Process of Transition; Organizational Structure, Management Quality Updates; and Accomplishments Since Last Rate Case
Edward Barca	2	Support for Proposed Rate Increase, Pro Forma Financial Results, Development of Operating Budget & Capital Needs, Sources of Funding, Calculation of Revenue Requirements, Allocation of Water, Wastewater & Stormwater Costs, Proposed Rates and Charges
Tom Huestis	3	Support for Proposed Rate Increase, Financial Policies and Goals, Capital Markets Consideration, Peer Review of Financial Metrics
Harold Smith	4	Allocation of Total System Revenue Requirements, Water Cost Allocation and Rate Design, Wastewater Cost Allocation and Rate Design, Stormwater Cost Allocation and Rate Design, Gradualism Adjustment, Two Year Phase In
Barry King	5	Capital Projects, Updates on Rate Case Commitments
Julie Quigley	6	Compliance Plan Stage 2, Customer Service and Collections Update, Impact of Rate Request on Future Affordability, Public Notice of Rate Filing (Including Stormwater Fee), Low Income Customer Assistance Program Enhancements, Stormwater Service, Customer Service Issues, Tariff Revisions (Including Fee Revisions & Line Extensions)
Tony Igwe	7	Stormwater Issues, Stormwater Plan, Proposed Stormwater Tariff, Compliance Plan Stage 2 Stormwater
Keith Readling	8	Stormwater Program Revenue Requirements, Identifying Impervious Area, Stormwater Fee Structure, Stormwater Fee Billing, Stormwater Credit Program

These testimonies and accompanying exhibits fully support PWSA's proposed rate increase, allocation of its rate increase among customer classes, and the Authority's proposed rate design.

PWSA reserves its right to add additional witnesses or change the identity of its witnesses at any time upon appropriate notice to the Presiding Officer and the parties.

**V. PROCEDURAL SCHEDULE**

PWSA proposes the following litigation schedule based on a January 13, 2022 end of suspension which, as discussed above, includes a voluntary one day extension of the current statutory period:

<b><u>Event</u></b>	<b><u>Proposal</u></b>
Rate Case Filed	April 13, 2021
Prehearing Conference	Tuesday, June 1, 2021 at 2PM
PWSA Supplemental Direct Testimony (Stormwater/Yanora)	June 14, 2021
Public Input Hearings	June 22, 23, 24, 2021
Service of written direct testimony of all other parties	Friday, July 9, 2021
Service of written rebuttal testimony	Monday, August 9, 2021
Service of written surrebuttal testimony	Friday, August 20, 2021
Rejoinder Outline or Testimony	Thursday, August 26, 2021
Witness matrix listing the parties intending to cross-examine each witness and the extent of any cross-examination	Friday, August 27, 2021
<b><u>Technical evidentiary hearings</u></b>	<b><u>Tuesday, August 31, 2021, Wednesday, September 1, 2021 &amp; Thursday, September 2, 2021</u></b>
Filing and service of main briefs	Wednesday, September 22, 2021
Filing and service of reply briefs or submission of joint settlement petition executed by representatives of parties thereto, together with all parties' statements in support of joint petition/settlement	Monday, October 4, 2021
<i>ALJ RD (ETA) – 60 days prior to 1/13/22 Public Meeting</i>	<i>November 12, 2021 (40 days from Reply Brief date)</i>
<i>Exceptions (ETA)</i>	<i>December 2, 2021 (20 days after ALJ RD)</i>
<i>Reply Exceptions (ETA)</i>	<i>December 13, 2021 (11 days after Exceptions)</i>
<i>Public Meeting Target Date</i>	<i>January 13, 2022 (31 days after Reply Exceptions)</i>
(Voluntary) End of Suspension Period (shifted one day to accommodate scheduling)	Thursday, January 13, 2022

Under the proposed schedule, all dates are in-hand delivery, and electronic mail for receipt and distribution will satisfy in-hand service dates.

## **VI. DISCOVERY**

As of May 28, 2021, PWSA has received seventeen sets of discovery and has either responded to, or is in the process of responding to, several hundred interrogatories/data requests. PWSA has established a cloud-based, secure site for the assistance of the parties in handling discovery. Discovery responses including attachments are available at ESCM Share File site. For a party to receive access, please contact Deanne O'Dell (dodell@eckertseamans.com) or 717-255-3744 and provide the name and email address of the person seeking access. PWSA also encourages the use of informal discovery to expedite the discovery process and has already conducted one informal workshop.

PWSA is willing to discuss any proposed discovery modifications. PWSA, however, proposes that the time for initial discovery (until the filing of other parties' direct testimony) remain at 15 days. PWSA will commit to answering discovery as quickly as possible.

## **VI. RATE CASE TABLES**

Rate Case Tables were developed in collaboration with the parties in PWSA's prior rate case. Because the Commission's existing template for this information was developed for traditionally regulated utilities, the ALJs granted PWSA leave to develop Rate Case Tables consistent with the cash flow method for calculating the revenue requirement. Pursuant to this directive, PWSA developed an initial version of the Rate Case Tables and then worked collaboratively with the parties to further adjust and refine the initial version. PWSA received helpful feedback from the parties during this process and the final, agreed-to version of the Rate Case Tables were shared with the ALJs on July 24, 2020. The purpose of the Rate Case Tables

is to provide a common format for parties and the ALJ to present their proposals. PWSA Exhibit WJP-1 presents PWSA's proposals in this case using this template.

**VII. SETTLEMENT**

PWSA is willing to discuss the settlement of its claims and is optimistic that its agreement to voluntarily extend the rate suspension period will enable the parties to engage in productive discussions.

Respectfully submitted,



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Deanne M. O'Dell, Esq.  
(PA Attorney ID No. 80614)  
Daniel Clearfield, Esq.  
(PA Attorney ID No. 26183)  
Karen O. Moury, Esq.  
(PA Attorney ID No. 36879)  
Lauren Burge, Esq.  
(PA Attorney ID No. 311570)  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
717.237.6000  
717.237.6019 (fax)  
dclearfield@eckertseamans.com  
dodell@eckertseamans.com  
kmoury@eckertseamans.com  
Counsel for  
The Pittsburgh Water and Sewer Authority

Dated: May 28, 2021