



VIA E-FILING

June 2, 2021

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

**RE: Comments of Aqua Pennsylvania, Inc.
Rulemaking to Implement Act 120 of 2018 at 52 Pa. Code Chapters 65 and 66
Docket No. L-2020-3019521**

Dear Secretary Chiavetta:

Enclosed please find the Comments of Aqua Pennsylvania, Inc. to the Pennsylvania Public Utility Commission's ("PUC" or the "Commission") September 17, 2020 Proposed Rulemaking Order regarding the Commission's implementation of Act 120 of 2018.

If you have any questions regarding this filing, please contact me at 610-645-1130.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alex Stahl".

Alexander R. Stahl
Regulatory Counsel

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Implement Act 120 of 2018 : Docket No. L-2020-3019521
at 52 Pa. Code Chapters 65 and 66 :

Comments of
Aqua Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Implement Act 120 of 2018 : Docket No. L-2020-3019521
at 52 Pa. Code Chapters 65 and 66 :

**COMMENTS OF AQUA PENNSYLVANIA, INC.
TO THE
SEPTEMBER 17, 2020 PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

Aqua Pennsylvania, Inc. (“Aqua” or the “Company”) appreciates the opportunity to comment on the Pennsylvania Public Utility Commission’s (“PUC” or the “Commission”) Proposed Rulemaking Order entered September 17, 2020 in Docket No. L-2020-3019521 (“Proposed Order”), regarding the implementation of Act 120 of 2018 (“Act 120”) concerning lead service lines and damaged wastewater laterals.

At the Commission’s September 17, 2020 public meeting, the Commission directed the Law Bureau to submit the Proposed Order to the Attorney General and the Governor’s Budget Office for review, then also to the Independent Regulatory Review Commission and Legislative Standing Committees. Finally, the Law Bureau was directed to provide the Proposed Order and Annexes A and B with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*. The Commission directed comments to be filed within 60 days of publication in the *Pennsylvania Bulletin*. The Proposed Order was published in the *Pennsylvania Bulletin* on April 3, 2021.

Aqua serves approximately 443,000 water customers in Pennsylvania. Aqua’s water systems include approximately 5,840 miles of main. Aqua’s wastewater subsidiary, Aqua Pennsylvania Wastewater, Inc., serves approximately 45,000 connections in Pennsylvania. Aqua’s water and wastewater systems serve both rural and urban areas.

Aqua commends the Commission for their continued initiatives to improve health and safety for customers by eliminating lead service lines and damaged wastewater laterals. It is with this background that Aqua provides the following suggestions and clarifying comments for the Commission's consideration.

II. COMMENTS

The Company would first note that it filed a Petition for Approval of Tariff Changes Authorizing Replacement of Customer Owned Lead Service Lines on September 3, 2020 at Docket No. P-2020-3021766 ("Aqua LSL Petition"). On April 23, 2021, the Company and the parties to that proceeding filed a Joint Petition for Settlement which was recommended for approval without modification by the Administrative Law Judge. Additionally, the Environmental Protection Agency ("EPA") promulgated updated regulations concerning the Lead and Copper Rule ("LCR") on January 15, 2021.¹

In addition to the below comments, the Company has included a redline document as Appendix A to these comments showing the changes to the regulations proposed by the Company.

A. Lead Service Line Replacements

The Company agrees with the Commission that separating Chapter 65, 52 Pa. Code § 65.1 et seq., into two subchapters will facilitate the implementation of Act 120.

1. § 65.51. Purpose

The Company has no comments to this section.

¹ 86 Fed. Reg. 10, 4198-4312 (2021).

2. § 65.52. Definitions

As noted above, the EPA has recently promulgated updated LCR regulations. The Company would first note that the definition of Lead Service Line (“LSL”) in the LCR regulations includes a galvanized service line if it was or is downstream of a lead service line or a service line of unknown material. The Company believes the Commission’s regulations should be updated accordingly to include galvanized steel that is or was downstream from a LSL to comport with the EPA’s updated LCR.

The Company disagrees that the definition of LSLR Project Area should include a radius of one mile from the LSLR Project. The Company believes that the LSLR Project Area should be defined, for a main replacement project, as the premises affected by a main replacement project. This would mean the residences, businesses, etc. that are directly affected by a main replacement project. For other replacements not associated with a main replacement project, the Company does not believe a distance qualifier should apply. Including a one-mile distance qualifier from the site of any one-off replacement would create a patchwork of one-mile qualifying customers, of which, depending on the year, may cover large swaths of service territory when combined that will constantly change based on the timing of a one-off replacement.

The LSLR Project Area becomes important for any reimbursement that may occur for a customer. In the Company’s Joint Petition for Settlement, it has offered a sliding scale reimbursement for the previous three years from the start of a main replacement project, and a similar sliding scale reimbursement for those that request it within the first three years of the approval of the Company’s Lead Service Line Replacement Program. The Company believes that this plan for reimbursements provides customers with opportunity to benefit from the Company’s

Replacement Program and equitable results for those customers who may have replaced their customer owned lead service line in the past.

The Company agrees with the Commission's definition of "entity".

3. § 65.53. Time to replace LSLs

The Company agrees with the Commission that a 25-year timeframe to replace both entity owned and customer owned lead service lines for Class A public utilities is reasonable. The Company has implemented a policy that it will seek to observe the service line material in a customer's structure connecting to the customer meter to determine whether it is lead. This observation occurs during any service call that a field service representative will have access to the customer's property. This observation mainly occurs during meter replacements. Based upon the Commission's regulations, residential customer meters are replaced every 20 years. By implementing a 25-year timeframe to replace all lead service lines in the Company's system, the Company will have observed all residential customer service lines within that timeframe.

Additionally, the Company has and will continue to implement pre-main replacement project investigation of service line materials to plan projects accordingly, which allows the Company to have advanced notice that it will encounter LSLs during a replacement project. Through these investigation efforts the Company will be able to find and schedule LSLs for replacement.

4. § 65.54. Petitioning the Commission for a LSLR Program

The Company is not opposed to filing a modified Long-Term Infrastructure Improvement Plan ("LTIIIP") to include its LSLR Plan within the LTIIIP document. Regarding whether a shorter notice and protest period should be required, the Company submits that those entities with an already Commission approved lead service replacement program in place prior to these regulations

taking effect, a 10-day protest period should apply. Those entities with an already approved plan have had their plan reviewed by the Commission and have begun implementing replacements.

5. § 65.55. LSLR Program requirements

The Company agrees with the Commission that Class A public utilities that do not have a pre-existing replacement program should file a LSLR Program within one year of the effective date of the Commission's regulations. The Company suggests adding additional clarifying language to Section 65.55(a) to reference Section 65.61 for those entities with already existing Commission approved lead programs.

The Company, however, disagrees that the LSLR Program "must be reviewed" in each base rate case. The Company believes that the language should be changed from "must" to "may" in Section 65.55(d). The proposed regulations already require periodic review of the entity's LSLR Plan under Section 65.57 which comprises the process, procedure, and materials used by entities to carry out lead service line replacements. The Company believes that by making this provision permissive will allow flexibility, as an entity's LSLR Program may not require review in each base rate case, but can still be reviewed in the rate case, if necessary.

The Company also disagrees with the Commission that a modification to the Company's LSLR Program may only be done during a base rate case. An entity should be permitted to petition the Commission outside of a base rate case for modifications to its LSLR Program. The LSLR Program includes a LSLR Plan and a pro-forma tariff or tariff supplement. Under the regulations as written, if an entity would require a change to either the LSLR Plan or the tariff supplement, that change could not occur outside of a base rate case. For example, if an entity initially establishes a cap on the number and dollar amount of LSLs it may replace in a given year, and finds through further investigation that there were more LSLs in the entity's service territory than

it believed, the entity should be permitted to petition the Commission to increase its cap. Waiting for the next base rate case, which may be several years away, would unnecessarily delay the replacement of more LSLs in an entity's system.

Furthermore, if the Pennsylvania Department of Environmental Protection ("DEP") implements more stringent regulations of the EPA's LCR that would require a change to an entity's LSLR Plan or if DEP or EPA ordered an entity to increase its LSLR rate, amount or scope due to monitoring results or other factors, an entity would either have to violate the LCR or its Commission approved LSLR Plan if a change to the LSLR Program could not be made outside of a base rate case.

6. LSLR Plan requirements

i. § 65.56(a). Service Line Inventory

The Company believes that a service line inventory can be completed for its existing systems within 60 months of the effective date of the Commission's regulations, provided that in developing the inventory certain assumptions and methods may be used. The only full proof way to determine the material type of a customer side service line is in-person examination of the service line in the customer's structure. Completing an in-person examination of every customer service line in an entity's system would be a significant and costly undertaking that would not likely be completed in five years. In the Company's case, over 400,000 service lines would need to be observed in less than five years, which would not be possible to do at a reasonable cost to customers. Therefore, the Company submits that entities should be permitted to make certain assumptions when developing their inventory, and if reasonable assumptions are not permitted in the development of the inventory, the time to complete the inventory should be extended to ten years.

Use of lead for service line installations were widely used across the country until the 1950s. Lead was also used in plumbing fixtures until the 1986 amendments to the federal Safe Drinking Water Act² and the 1991 Pennsylvania Plumbing System Lead Ban and Notification Act³. As such, structures constructed after 1995 should be considered not to have LSLs.⁴ Additionally, lead was not typically used for service lines over 1 inch in diameter. As such an assumption that any service line over 1 inch would not be lead will also allow an entity to narrow and target its review and search for LSLs. Regarding the entity-owned portion of the service line, physical examination would require pot-holing the road to view the material type of the service line.

For new acquisitions, the Company disagrees that 36 months should be the requirement to complete a service line inventory for that new acquisition. Many acquired systems have poor and incomplete records regarding their assets, and the Company is sometimes starting from scratch in operating the system. The Company proposes 60 months to complete the inventory of a newly acquired system.

The Company disagrees with the Commission that a service line inventory of all entity-owned and customer-owned service lines materials and diameters should be required. The purpose of Act 120 is to find and replace lead service lines. Therefore, an identification of “not lead” should be acceptable for a service line material. Moreover, the Company submits that pipe diameter, while it may be nice to have, it should not be required in developing the inventory. The fundamental question is whether the customer has a lead service line.

² See 42. U.S.C. § 300g-6.

³ See 35 P.S. §§ 723.3-723.5.

⁴ The Company is using 1995 to provide a margin for error.

Regarding costs and process of obtaining a complete service line inventory, the Company is reviewing both internal and external resources needed to complete the inventory. As discussed above certain assumptions will assist in lowering overall costs to establish the inventory and allow for more targeted review of the Company's system.

ii. § 65.57(b). Planning and replacements

The Company agrees that an entity can provide a projection of the number of LSLs it will replace in the upcoming five years, specifically related to main replacement projects. However, as is often the case with main replacement projects, timing can shift based upon a number of factors including weather, municipal paving schedules, or reprioritization of projects, among others. Also, the projection though for one-off replacements by customer request will vary year to year. The Company submits that significant fluctuation can occur based on the number of requests for one-off replacements an entity may receive in a given year, or if a large concentration of LSLs is identified during main replacement project. Based upon this, if an entity is submitting information through its Annual Asset Optimization Plan ("AAOP") and LTIP, under 52. Pa. Code § 65.59, an increase or decrease in the quantities or dollars projected for LSLRs should not trigger a major modification under the Commission's regulations, 52 Pa. Code § 121.2. If this flexibility is not built into the program, the Commission may then be required to process petitions for LTIP modification several times within the five-year projected period.

The Company agrees with the information to be included in the planning and replacement section of the LSLR Plan. Regarding procedures for customer acceptance or refusal of a LSLR, the Company has submitted its form of consent agreement in the Aqua LSL Petition, attached to these comments as **Attachment B**. The consent agreement will allow the Company to replace the

customer's LSL and sets forth that the customer will take dedication, ownership, and responsibility for the customer portion of the LSL after the work is completed.

For customer requested replacements, obtaining the customer's consent and dedication of the service line is more straight forward. When a customer side LSL is discovered by observation or through a main replacement project, the Company will provide a letter to those customers with discovered LSLs requesting that the customer complete the consent agreement and return it to Aqua. The Company will attempt to contact the customer by phone if the customer fails to contact the Company or return the consent form. The Company plans to make contact by phone twice and leaving a door hanger or letter at the customer's premise. The Company will record that the customer did not respond to these attempts to contact the customer.

Where the Company has made contact with the customer and the customer refuses to replace the LSL, the Company will provide information regarding the health effects of lead similar to the lead handout included as **Attachment C** to these comments. The Company will note the customer's refusal in its customer information system.

iii. § 65.56(c). Communications, outreach, and education

The Company agrees with the Commission that the entities should take steps to establish customer education materials and a communications plan to provide that information to its customers. The Company will seek to prioritize sensitive populations like health care facilities, nursing homes, day care facilities, schools, and hospitals through identifying those customers first and determining if there are LSLs at those locations. The Company can do this through its customer information system. The Company will also seek to prioritize low-income customers who request replacement of LSLs. The Company will verify low-income customers through its

community-based organizations and/or through contact with the Company's customer service centers.

The Company disagrees with the Commission that an entity should be required to provide as-built drawing showing the location of the LSLR on the customer's property. Entities are unlikely to have as-built drawings of each customer's service line. Moreover, as noted by the Commission, entities are not required to share with customers information that poses a security risk to utility infrastructure. The service line location along with the connection point to the entity's service line and possibly the main in the street could potentially pose a security risk. The Company proposes to remove that provision from the regulations.

Concerning an entity's website, the Company is not opposed to dedicating a section of its website to house information regarding lead, including, communications materials, the consent agreement, and information on the health effects of lead. However, the Company disagrees that it should be required to establish an online tool showing projects planned six months into the future, a tool that would show whether the customer is eligible for reimbursement, and a map showing if the customer has a lead service line. The Company is concerned with privacy of customer information related to an online tool and would require staff to continually update this website based on project timing and changes to project schedules. The Company recognizes that the LCR requires some form of location identifier for LSLs be provided on the entity's website for water systems with a population over 50,000; however, this is on a system by system basis, by PWSID, so this information is not required for all systems, and does not have to be in the form of a map.

7. § 65.57. Periodic review of LSLR Plan

The Company agrees with the Commission that the LSLR Plans should be reviewed during the periodic review of the LTIP. The Company has no comments on this section.

8. § 65.58 Pro forma tariff or tariff supplement requirements

i. § 65.58(a). LSLR Program annual cap

The Company developed its proposed annual cap at 200 LSLRs per year. The annual cap was based on the number of estimated LSLs in the Company's system. The Company reviewed tap cards, water sampling data, and meter exchange and service call information. The Company reviewed the total number of service lines, total potable service lines and number of known lead and known not lead service lines to develop its proposed cap. The Company also included a \$800,000 budgeted cap for those replacements by multiplying the 200 LSLR cap by \$4,000, which was an estimated average cost for customer side service line replacements. The \$4,000 was developed through discussions with contractors and review of similar LSLR projects. These projects generally ranged from \$3,000 to \$5,500 depending on the length of the service line and other factors, including restoration.

ii. §65.58(b). Service line demarcation

The Company agrees with the Commission that the line of demarcation between the customer's service line and the customer's internal plumbing should be the meter or, if the meter is located outside the structure or if there is no meter, at the first shut-off valve in the structure. The Company also agrees that if there is no shut-off valve within five feet of the interior wall, that an entity may install a shut-off valve within that first five feet.

The Company's tariff specifically defines what a customer owns and what the Company owns related to service lines. The Company's Service Line is defined as "[t]he service line owned by the Company that extends from the water main to the curb stop or curb line or such point as designated by the Company." The Customer Service Line is defined as "[t]he service line owned by the Customer that extends from the Curb Stop or curb line (or such point as designated by the

Company) to the property or building being served.” The Company does not believe it has ownership ambiguities regarding its service lines.

Concerning customer notification requirements of lead internal plumbing found while replacing the customer lead service line, entities should not be required to investigate or have a duty to investigate internal plumbing of a customer. If an entity observes lead service internal plumbing, the entity can provide information on the health effects of lead and suggest that the customer replace those lines, but it should not be required to investigate or determine material type of internal plumbing. Entities should not be exposed to potential liability of what may, may not, or should have been observed related to internal plumbing of a customer’s structure.

iii. § 65.58(c). Partial LSLRs

The Company understands the Commission’s proposal to require termination of service where there is a partial LSL to encourage replacement of LSLs across Pennsylvania. The Company notes that terminating service for refusal to allow an entity to replace a customer side LSL, or discovery of a partial replacement, will present difficulties for entities administering a LSLR. For example, if a customer rents a property and the landlord does not accept or refuses to replace the customer side LSL, the customer will be left without water service on no fault of their own. Additionally, a replacement by a customer will be difficult to track and to know if a partial replacement has occurred. In theory, the entity would be present for a replacement and connection to its system, however, the reality is that often a customer would replace their service line and not contact the entity at all unless the plumber could not get access to the curb stop. Moreover, if a partial is discovered, an entity would be more likely to enter an emergency PA One Call ticket and replace the partial, rather than terminate service to the customer.

iv. § 65.58(d). Reimbursements

The Company agrees with the Commission that an entity's tariff should reflect language explaining the reimbursement conditions. The Company disagrees with the reimbursement amounts set forth in the draft regulations, which are set at up to 125% of the average cost the entity would have incurred to perform the replacement, not to exceed the customer's actual cost. The Company suggests that this language should be changed to reflect that customers would be eligible for reimbursement at the lower of the customer's actual cost or what the entity would have incurred to perform the replacement.

v. § 65.58(e). Warranty

The Company agrees with the Commission on the two-year warranty term for LSLRs. The Company submits that the two-year warranty terms should begin from the date of dedication to the customer of the replaced customer LSL. This will provide a definitive date from which the warranty will run. Regarding the maximum coverage under the warranty, the Company submits that the warranty should be a limited warranty to repairing the customer's service line. The Company also believes that access for any repairs under warranty can be addressed in the customer consent agreement, which will provide that the customer will allow access to its property to correct any deficiencies under warranty within the two-year warranty period.

The Company would also like to clarify that if a customer replaces its customer side LSL outside of the entity's replacement program and seeks reimbursement from the entity, the two year warranty will not apply to that service line replaced by someone other than the entity or the entity's contractors. The entity should not be responsible for providing a warranty on work that was not completed by the entity or the entity's contractors. This change is also reflected in Section 65.56(b)(10)(ii). This should encourage customers to seek replacement under an entity's program.

9. § 65.59. LSLR Program Reports

The Company agrees with the Commission that certain information should be provided in reporting and tracking LSLRs completed during the program. The Company though believes that certain reporting requirements are unnecessary. The Company would suggest removing (b)(2) and (3) from the reporting requirements. The Company believes that length and pipe diameter does not need to be reported and would be overly burdensome to collect.

10. § 65.60. Accounting and financial

The Company disagrees with the Commission that LSLRs should be recorded as intangible assets. The Company submits that the proper National Association of Regulatory Utility Commissioners (“NARUC”) account to record these costs is a sub account of Account 333 and depreciated over the group remaining life of the entire services class of assets. By recording these investments this way, it will allow for a more accurate match of cost recovery through depreciation expense incorporated into the cost of service. The Company submits that entities would treat the cost of customer side LSL replacements as an incremental cost attributed to the Company side service. The Company recommends reporting on this activity at the project group level, not an accounting asset.

Regarding Section 65.60(b)(2), the Company disagrees with this proposed language. The Company submits that all of the cost associated with the investigation and development of the service line inventory and the LSLR program be accounted for as a “Preliminary Survey and Investigation Charges”, consistent with NARUC Account 183. Costs accumulated in this account will be recognized incrementally as actual work is completed and placed in service, since the work being completed is occasioned by or benefitting from the studies, review and investigation undertaken by the Company to implement the LSLR Program. Under this method, costs will be

recognized for return on and return of the Company's investment as projects are completed and depreciated over the useful life of the services asset class.

11. § 65.61. Preexisting LSLR activities

The Company would want to clarify that if an entity has a pending rate case before the Commission at the time these regulations go into effect, that it would be required to file a LSLR Program no later than the effective date of its next base rate case or within two years of the effective date of the regulations, whichever sooner, and not on the date rates would go into effect for an entity's pending rate case.

12. § 65.62. Prohibition on partial LSLRs

The Company agrees that partial LSLR should be discouraged and will seek customer cooperation in replacing an existing partial LSL or where a replacement would create a partial LSL. However, as noted above in response to Section 65.58(c), termination of service will create difficulties for entities implementing their LSLR Programs.

B. Damaged Wastewater Service Laterals

The Company agrees with the Commission that a new Section 66 should be established to address wastewater specific regulations.

1. § 66.31. Purpose

The Company has no comments on this section.

2. § 66.32. Definitions

The Company agrees with many of the Commission's proposed definitions to apply to Damaged Wastewater Service Lateral ("DWSL") Program. The Company suggests the following changes to the definitions.

Regarding the definition of Customer's service lateral, the Company suggests changing the definition to define the lateral as two feet outside the exterior wall of the structure to clarify "away from" in the definition. This same change is suggested in the definition of service lateral. Regarding the definition of DWSLs, the Company proposes to change "area" to "defect" to clarify that it is defects in the DWSL that causes the impairment to the lateral.

3. § 66.33. DWSL Program Parameters

The Company agrees with the Commission that Act 120 should not be used as a replacement for customer responsibility to maintain and repair their wastewater service lateral. The Company agrees with the Commission that the replacement of DWSLs should be linked to excessive inflow and infiltration ("I&I") which is causing or expected to cause hydraulically overloaded conditions or wastewater overflows, or that a system that has become stressed over time from its original construction that is expected to lead to wastewater overflows.

The Company would always elect to improve its sewer collection system where I&I was present by first addressing main line sewers which the Company owns. If, after having made these improvements, I&I was still present in an excessive amount, the Company would look for DWSL's and the potential for their replacement. The approach would involve hydrostatic testing, if possible, and/or closed circuit televising ("CCTV") inspection for the presence of DWSL's. The Company's approach in general is, consistent with DEP's guidelines, to remove I&I at the source in lieu of expenditures to accommodate I&I flow. The Company's experience is that building facilities larger to accommodate I&I is not favored and is a main reason why DEP has the Corrective Action Plan ("CAP") program as part of Chapter 94 as well as the Connection Management Plan ("CMP") program which ties requests for an increase in connections to a confirmed reduction in I&I within the collection system. Comparing the cost to replace DWSL's

to expenditures to accommodate the I&I will generally show that expenditures related to accommodate I&I will be less expensive; however it will not address DEP's guidelines to eliminate I&I where it is occurring.

4. § 66.34. Petitioning the Commission for a DWSL Program

The Company agrees with the Commission and has no comments on this section.

5. § 66.35. DWSL Program requirements

Similar to Section 65.55, the Company disagrees that the DWSL Program “must be reviewed” in each base rate case. The Company believes that the language should be changed from “shall” to “may” in Section 66.35(c). The proposed regulations already require periodic review of the entity's DWSL Plan under Section 66.37 which comprises the process, procedure, and materials used by entities to carry out DWSL Replacement. The Company believes that by making this provision permissive will allow flexibility, as an entity's DWSL Program may not require review in each base rate case, but can still be reviewed in the rate case, if necessary.

The Company also disagrees with the Commission that a modification to the Company's DWSL Program may only be done during a base rate case. An entity should be permitted to petition the Commission outside of a base rate case for modifications to its DWSL Program. The DWSL Program includes a DWSL Plan and a pro-forma tariff or tariff supplement. Under the regulations as written, if an entity would require a change to either the DWSL Plan or the tariff supplement, that change could not occur outside of a base rate case. For example, if an entity initially establishes a cap on the number and dollar amount of DWSLs it may replace in a given year, and finds through further investigation that there were more DWSLs in the entity's service territory than it believed, the entity should be permitted to petition the Commission to increase its

cap. Waiting for the next base rate case, which may be several years away, would unnecessarily delay the replacement of these damaged laterals in an entity's system.

6. § 66.36. DWSL Plan requirements

i. § 66.36(a). Planning and replacements

The Company notes that identification of DWSLs is a much different and more difficult task than identifying LSLs. Repairing DWSLs is usually the last step in a concerted effort to investigate a system with hydraulic overloading or wastewater overflow issues. This process would begin by reviewing systems with high I&I as evidenced by flow metering under dry and wet weather conditions. The Company would then proceed to examine manholes for evidence of I&I in the upper cone region (inflow contribution from road-base stone), through the manhole lid (open pic holes or lack of lid to frame gasketing), or at the point where pipes penetrate the manhole (defective pipe to manhole gaskets or sealing).

If there were no issues observed, the Company would then move on to determine if the mains were leaking by completing smoke testing on the main lines (potentially provides I&I clues for the main line, manholes, laterals, as well as roof drain and sump pump connections) or CCTV inspection of the main to determine whether cracks, shifted joints, or improperly connected laterals, which may be sources of active I&I, can be observed. If the main is found to be damaged it will be scheduled for spot repairs, replacement or lining. However, if the main does not show damage, the Company can begin looking at sections of the system to determine if roof drains or sump pumps are connected to the system. If the Company eliminates, or partially eliminates the above elements of the system as the source or partial source of I&I to the extent the quantified I&I measured in the metering phase is not fully accounted for, the Company would review sections of the system's customer laterals.

CCTV inspection of the customer lateral may be the most direct approach to an assessment of the lateral condition. Hydrostatic testing may be possible as well if lateral access is available. The Company would look for similar defects in the laterals as described above. However, a thorough inspection throughout the entire length of lateral can be extremely difficult. In many cases, sewer laterals do not have enough access locations to allow for a proper assessment throughout the entire lateral. Sewer laterals often contain significant bends which do not allow for conventional lateral televising access of the entire lateral. Despite these challenges, the most effective methodologies that we have found to identify suspected DWWLs is to investigate the lateral connection (and the few feet of lateral that can be seen from the main line) through main line closed circuit televising. Lateral televising can be completed from the main line towards the home/building with a lateral launch camera which is a secondary camera attached to the main-line CCTV camera robot which can be launched up into a connecting lateral. Lateral televising can also be completed from a lateral cleanout (or other access locations) towards the main line sewer and home with a flexible cable mounted “push” camera system.

As this investigation work takes place the Company will have a better understanding of the number of laterals that may need to be replaced. The DWSL Plan therefore will need to be updated to reflect this investigative work which may be occurring for several sewesheds within specific systems at the same time.

Regarding customer acceptance or refusal of a DWSL Replacement, the Company would follow similar procedures on the LSLR Program through providing information to the customer on DWSLs and a consent agreement to allow replacement of the DWSL. Dedication of the sewer line back to the customer is the point of closing out the project to the customer, the Company will have provided information to the customer at the beginning of the project that would describe the

process for replacement. If a customer refuses to allow the Company or the Company's contractor to replace the DWSL, this refusal will be noted in the Company's customer information system.

ii. § 66.36(b). Communications, outreach, and education

Entities should develop information regarding DWSLs that can be put on an entity's website. Since investigation of systems is an ongoing process, entities can develop letters, door hangers, and calls to specific customers describing the DWSL program and encourage the customers to provide the entity with any information of sewer backups that may assist in the investigation of the system.

The Company disagrees with the Commission that as-built drawings should be provided to the customer. Similar to the discussion regarding LSLs in Section 65.56(b), the Company would not be in possession of as-built drawings of the customer's sewer lateral, and, moreover, providing such information would present possible security concerns for the system. The Company also disagrees with the Commission that an online tool should be set up to determine if a customer has a DWSL. This tool will not be helpful as a DWSLs will only be known upon inspection of a sewer lateral through CCTV, at which time the Company would contact the customer about the DWSL. The Company does not see the benefit of putting this information in an online tool if the customer has already been informed of the DWSL.

7. § 66.37. Periodic Review of DWSL Plan

The Company agrees with the Commission that the DWSL Plans should be reviewed during the period review of the LTIP. The Company has no comments on this section.

8. § 66.38. Pro forma tariff or tariff supplement requirements

i. § 66.38(a). DWSL Program annual cap

As noted above, DWSL Replacements would typically be the last step in a system investigation. As an entity completes an investigation of a system or sewershed, the entity can provide more accurate numbers on how many laterals will need to be replaced. However, this number will be fluid as an entity may be investigating several systems or sewersheds in a system at the same time with results coming at different times.

ii. § 66.38(b). Service line demarcation

The Company submits that its tariff clearly defines a Company Service Lateral and a Customer Service Line. The Company defines a Customer Service Line as “[t]he connecting facilities from the Company sewage supply lines or mains at the curb-line into and within the customer’s premises.” The Company defines a Company Service Latera as “[t]he pipe or line extending laterally out from the Company collection main that connects to the building service line at the hypothetical or actual curb line, edge of the right-of-way or the actual property line” The Company submits that these definitions provide clear demarcation of ownership between company owned and customer owned service lines.

The Company would propose to include a definition in line with Section 66.52 noting that the customer’s service line will end two feet outside the exterior wall of the customer’s structure.

iii. § 66.38(c). Frequency of DWSL replacements

The Company agrees with the Commission that the tariff should include a provision that DWSLs are not eligible for more than one replacement during the time of the average of the service life established in the entity’s most recent base rate case. The Company would note that under Section 73.5, wastewater utilities are not required to file Service Life studies. Moreover, the

Company proposes that this provision apply going forward as of the effective date of the regulations as entities may not have accurate records of replaced customer side service lines.

iv. § 66.38(d). Reimbursements

The Company agrees with the Commission that an entity's tariff should reflect language explaining the reimbursement conditions. The Company disagrees with the reimbursement amounts set forth in the draft regulations, which are set at up to 125% of the average cost the entity would have incurred to perform the replacement, not to exceed the customer's actual cost. The Company suggests that this language should be changed to reflect that customers would be eligible for reimbursement at the lower of the customer's actual cost or what the entity would have incurred to perform the replacement.

v. § 66.38(e). Warranty

The Company would similarly like to clarify that if a customer replaces its customer side DWSL outside of the entity's replacement program and seeks reimbursement from the entity, the two year warranty will not apply to that service line replaced by someone other than the entity or the entity's contractors. The entity should not be responsible for providing a warranty on work that was not completed by the entity or the entity's contractors. This change is also reflected in Section 66.36(a)(9)(ii). This should encourage customers to seek replacement under an entity's program.

9. § 66.39. DWSL Program Reports

The Company agrees that certain information can be provided in the AAOP related to DWSL Replacements. However, the Company disagrees with several of the sixteen proposed reporting metrics, especially in the timeframe for submission of an AAOP (60 days after the end of a calendar year where data would need to be collected).

The Company does not believe, length, pipe diameter and replacement method by county or the length, diameter, material type broken down by county, flow type, or system type is necessary in AAOP reporting. In AAOP reports, the Company presently reports total lineal feet of pipe and total number of manholes rehabbed or replaced. Aqua could provide total length of customer lateral replaced or lined by system similar to what we provide today for our main line work irrespective of pipe diameter, material type, or flow type. We do not see the positive benefit of providing this additional information which would necessitate capturing and logging information presently not collected.

The Company does not have nor could it easily obtain a marginal cost of I&I for each of the entity's wastewater systems, by individual sewershed broken down by whether the entity provides treatment. I&I varies year to year depending on precipitation and antecedent soil moisture and groundwater level conditions. The Company believes, at best, a general trend of annual average flow and 3-month maximum average flow as reported in annual Chapter 94 Reports over a more extended period of time would provide an indication of general trends in I&I correction.

One of the difficulties with fixing certain leaks within a system is that that specific fix may cause other issues within the system. For example, if one identifies a leak at a particular main line pipe joint and installs a short section of cured in place liner ("CIPP"), this may likely stop the observed a leak at this location. However, in many cases, presence of leaks into the sewer system is directly related to groundwater levels. Having repaired the leak with the CIPP at the noted location would result in a rise in the groundwater level due to the "drain" previously present. The groundwater level would be expected to rise and find the next defect or "drain point" upstream which would continue to provide a release into the sewer. It is a well-known fact that the correction

of I&I in a sanitary sewer system is a process which takes time. The efficacy of I&I repairs may not become completely evident until the majority of system defects are addressed.

Rather than attempt to quantify I&I and ascribe a cost to it particularly by sewershed, the company believes that reporting the annual average flow cost per thousand gallons treated may provide a better metric if examined over the long-term which would take into consideration annual precipitation as mentioned above. Practically speaking, an incremental increase in electrical cost associated with pumping and possibly a minor increase in chemical cost for treatment might be expected.

The Company does not believe that refusals by geographic location should be reported publicly. The Company is concerned with customer privacy in providing this information. Additionally, the Company would note that Section 66.39(b)(12) indicates that customers with DWSL that refuse to fix, or allow the entity to fix, their DWSL will have their service terminated. Termination of wastewater service is a more complex issue than termination of water service. If an entity provides both the water and wastewater service, the entity can terminate water service for refusal to fix the DWSL; however, systems where both services is provided by the same entity are not as common.

10. § 66.40. Accounting and financial

The Company disagrees with the Commission that DWSL Replacements should be recorded as intangible assets. The Company submits that the proper National Association of Regulatory Utility Commissioners (“NARUC”) account to record these costs is a sub account of Account 363 and depreciated over the group remaining life of the entire laterals class of assets. By recording these investments this way, it will allow for a more accurate match of cost recovery through depreciation expense incorporated into the cost of service. The Company submits that

entities would treat the cost of customer side DWSL replacements as an incremental cost attributed to the Company side service. The Company recommends reporting on this activity at the project group level, not an accounting asset.

Regarding Section 66.40(b)(2), the Company disagrees with this proposed language. The Company submits that all of the cost associated with the development of the DWSL Program be accounted for as a “Preliminary Survey and Investigation Charges”, consistent with NARUC Account 183. Costs accumulated in this account will be recognized incrementally as actual work is completed and placed in service, since the work being completed is occasioned by or benefitting from the studies, review and investigation undertaken by the Company to implement the DWSL Program. Under this method, costs will be recognized for return on and return of the Company’s investment as projects are completed and depreciated over the useful life of the laterals asset class.

11. § 66.41. Unpermitted connections

The Company agrees with Commission that any unpermitted connections should be disconnected. If a connection is allowed to remain it will be documented in the entity’s customer information system.

12. § 66.42. Competitive advantage

The Company does not have any comments to this section.

C. Responses to Vice Chairman Sweet’s Statement

Concurrently with the issuance of the Commission’s Proposed Order, Vice Chairman Sweet issued a statement with additional questions for interested parties. Below are responses to Vice Chairman Sweet’s questions.

- 1. Does the NOPR adequately carry out the directives in the statute? If not, how should it be changed?**

The Company believes the NOPR carries out the directives of the statute.

- 2. Should all water utilities be required to develop and file a lead service line replacement plan? If not, under what circumstances should a plan be required?**

The Company believes that all water utilities should be required to develop and file a lead service line replacement plan. It is well established that there are health effects from exposure to lead, and each water utility should strive to remove lead from their systems.

- 3. Does this NOPR conflict with Act 44 of 2017 that prevents the imposition of obligations upon municipal authorities regarding replacement of LSLs by municipal authorities?**

No. The Company does not believe this NOPR conflicts with Act 44 of 2017. Act 120 and this NOPR applies specifically to municipal authorities that fall under the jurisdiction of the Commission. An authority that seeks to recover LSLR in rates would be required to comply with the Public Utility Code and the Commission's regulations.

- 4. Does the requirement that the filed plan include the location of customer refusals adequately protect customer information?**

The Company is concerned about customer privacy related to providing an online tool for customers to determine if their service line is made from lead, if the customer has a DWSL, or if the customer refuses to replace the LSL or DWSL. Concerning refusals, the Company would propose to note the refusal within the entity's customer information system and could report refusals by county to appropriately protect customer information.

5. Does the NOPR grant the utilities with preexisting LSLR activities the flexibility to continue replacing affected lines under already approved terms?

As noted above in response to Section 65.61, the Company is concerned with timing of rate case filings and when a LSLR Program would need to be established. If the Company's above clarification is adopted, the Company believes the NOPR will provide entities with enough flexibility to continue under their current programs and modify them as needed to comport with the Commission's new regulations.

6. Does the NOPR adequately provide due process to both utility and customer?

Yes. Service of the replacement programs are through the same method as service of an LTIP or modified LTIP. The replacement programs will be reviewed by the Commission through AAOP filings and periodic reviews, and may be reviewed in a rate case to determine that the programs are working effectively. Since the costs associated with the replacement programs will be recovered through established DSIC programs, for those entities that have DSIC, the Company believes that due process is satisfied.

7. Does the NOPR adequately provide information regarding the process to be used when a filed plan is contested?

While the NOPR does not set forth the specific procedures for a litigated replacement program, the Company believes that the procedure would follow a typical litigated proceeding.

8. Should this NOPR be streamlined, and if so, how?

The Company submits that the suggested changes to the regulations set forth in the Company's comments will sufficiently streamline the NOPR and the reporting process for entities that apply for a LSLR Program and DWSL Program.

III. CONCLUSION

Aqua appreciates the opportunity to comment on the Proposed Rulemaking Order and asks that the Commission consider its comments. Aqua looks forward to continuing to work with the Commission on these issues. Please direct any questions with regard to these comments to the undersigned.

Respectfully submitted,



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ATTACHMENT A

ANNEX A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
SUBPART C. FIXED SERVICE UTILITIES
CHAPTER 65. WATER SERVICE
SUBCHAPTER A. SERVICE GENERALLY

* * * * *

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, **edge of an entity easement or right of way**, 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 (**or galvanized steel that is or was at any time downstream of a lead service line**) 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~~ customers served by an entity ~~located~~ that are directly affected by the main replacement project through disconnection of their service to the existing main and installation and reconnection of their service to a new main. ~~within a one-mile radius of a lead service line replacement project.~~

LTIP – 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 LTIP shall include with its LSLR Program petition a modified LTIP containing a LSLR Plan as a separate and distinct component of the entity's LTIP.
- (c) An entity that does not have a Commission-approved LTIP when filing its LSLR Program petition shall include a LSLR Plan meeting the requirements of 52 Pa. Code § 121.3 (relating to LTIP).

§ 65.55. LSLR Program requirements.

A LSLR Program must comply with the following:

- (a) Except as set forth in 52 Pa. Code § 65.61, 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~~ may be subject to review in all future base rate cases. An entity shall submit a petition for any modification to the LSLR Program for review ~~with its base rate case~~ by the Commission.

§ 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 ~~36-60~~ 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. ~~Material type of “not lead” may be used in completing an inventory.~~
- (ii) Be grouped by material type ~~and diameter.~~

- (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~~ A description of 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.~~
- ~~(iviii)~~ 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 LTIP pursuant to 52 Pa. Code § 121.7 (relating to periodic review of an LTIP).

- (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~~ at the lower of the customer's actual cost or what the entity would have incurred to perform the replacement.
- (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.

(6) Explain that the entity or the entity's contractor will not be required to provide a warranty to a customer where the customer refused to allow the entity to replace the LSL and the customer elected to replace the LSL on its own and seek reimbursement.

§ 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 LTIP, 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~~ under Account 333 and depreciated over the group remaining life of the asset class. ~~Service line inventory, LSLR program development, LSLR Plan, LSLR Program Report, and reimbursement expenses will be recorded in Account 183 Preliminary Survey and Investigation Charges and will be capitalized as plant in service incrementally as work is completed.~~

(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 outside the exterior wall 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 defect~~ or a combination of several ~~areas defects~~, 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.

LTIP – 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~~ outside the exterior wall 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 LTIP shall include with its DWSL Program petition a modified LTIP containing a DWSL Plan as a separate and distinct component of the entity’s LTIP.

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

§ 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~~ may be subject to review in all future base rate cases. An entity shall submit a petition for any modification to the DWSL Program for review with its base rate case by the Commission.

§ 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 environmental** hazards from the continued use of a DWSL.

~~(ivii)~~ 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; however the customer will not be eligible for a warranty from the entity or the entity's contractor under 52 Pa. Code § 66.38(e).

(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.
 - (ivii) Information and resources relating to the health-environmental 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 LTIP pursuant to 52 Pa. Code § 121.7 (relating to periodic review of an LTIP).

- (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 at the lower of the customer's actual cost or what the entity would have incurred to perform the replacement 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; however, the customer will not be eligible for a warranty from the Company under 52 Pa. Code § 66.38(e).

(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.
- (6) Explain that the entity or the entity's contractor will not be required to provide a warranty to a customer where the customer refused to allow the entity to replace the DWSL and the customer elected to replace the DWSL on its own and seek reimbursement.

§ 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).~~

(42) 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.~~

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

- (84) The entity's total annual DWSL replacement expenditures for the calendar year by customer class.
- (95) The entity's total projected DWSL replacement expenditures for the following calendar year.
- (406) The entity's outreach and coordination activities with other entities, the Pennsylvania Department of Transportation, local governments and customers.
- (417) 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.~~
- (438) 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.
- (449) 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.
- (4510) The entity's efforts to obtain grants, low and no interest loans and donations for DWSL replacements.
- (4611) 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 ~~under Account 363 and depreciated over the group remaining life of the asset class. DWSL program development, DWSL Plan, DWSL Program Report, and reimbursement expenses will be recorded in Account 183 Preliminary Survey~~

and Investigation Charges and will be capitalized as plant in service incrementally as work is completed. 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.

ATTACHMENT B

Customer Lead Service Line Replacement License Agreement



LICENSE AGREEMENT TO REPLACE THE CUSTOMER OWNED LEAD SERVICE LINE

The undersigned customer(s) (the “Customer”), through this License Agreement, grants Aqua Pennsylvania, Inc. (“Aqua” or the “Company”) and its contractors and/or subcontractors a license to enter upon the Customer’s property at the service address set forth below (the “Property”) for the purpose of replacing the Customer-owned lead service line with a new Customer-side service line and connecting the new Customer-side service line to the Company’s facilities, at no cost to the Customer.

Service

Address: _____

City: _____ State: _____ Zip: _____

The Customer represents that the Customer is the sole legal owner of the Property and has sole authority to agree to this License Agreement. The term of this License Agreement shall be six (6) months following the date this License Agreement is countersigned by the Company.

The Company or the Company’s contractor and/or subcontractor has installed the Company-side service line from the Company’s water main to the curb stop, meter pit, or valve (as applicable) at or near the Customer’s property line. The Company, in its sole discretion has determined the location of the Company-side service line. The Company-side service line will be owned and maintained by the Company.

The Company or the Company’s contractor and/or subcontractor shall replace the Customer-owned lead service line with a new service line of size and material determined by the Company. The Customer-owned lead service line will be abandoned in place. The Company shall connect the new Customer-side service line to the Company’s connecting facilities and the Customer’s premises. It may be necessary for the Company or Company’s contractor to gain entry into the Customer’s premises to make the connection at the meter with the new Customer-side service line. The ownership of the new Customer-side service line will be transferred to the Customer at the completion of the replacement. Ownership and maintenance responsibilities of the new Customer-side service line will remain with the Customer.

Following the replacement of the Customer-side service line, the Company will restore the Customer’s Property as reasonably as practicable to its former condition prior to the commencement of the replacement under this License Agreement. The Company warrants the workmanship and materials of the installation of the new Customer-side service line for a

period of twenty-four (24) months from the date the replacement is completed. The Company's liability is limited to repairing or replacing the Customer-side service line.

In consideration of the Company performing the customer-side service line replacement at the Company's cost and receiving the associated warranty on workmanship and materials as set forth above, the Customer agrees to indemnify, release and hold harmless the Company and its affiliates, agents, and contractors and/or subcontractors from and against all claims, liabilities, and costs resulting from acts and omissions of the Company and/or its contractors and/or subcontractors in replacing and installing the new customer-side service line that are outside of the associated warranty on workmanship and materials.

PLEASE RETURN A SIGNED COPY OF THIS AGREEMENT IN THE PRE-ADDRESSED, POSTAGE PAID, ENVELOPE TO:

**Aqua Pennsylvania, Inc.
762 W. Lancaster Ave.
Bryn Mawr, PA 19010
Attention:**

CUSTOMER

AQUA PENNSYLVANIA, INC.

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Date: _____ Date: _____

ATTACHMENT C



Aqua Wants Our Customers to Be Informed.

Here's what you should know about lead and drinking water.

Lead is not typically found in the streams, reservoirs or wells that serve as water supplies or in the main water lines that carry water from treatment plants to homes. Yet, the chemical properties of water can cause lead and other metals to leach into drinking water. The main source of lead in drinking water is from lead service lines (the pipes that deliver water from water mains in the street and into homes) and from typical household plumbing (lead solder and brass fixtures) that contains lead. Households that have, or suspect having, lead service lines or lead in their household plumbing are strongly encouraged to replace them. The use of lead in solder was prohibited after 1986, so buildings constructed after then should not have contained lead in the solder.

How Aqua protects its customers:

Water utilities, including Aqua, treat drinking water to reduce the chance for metals to leach into the water. Aqua conducts required testing for drinking water contaminants, including lead and copper, to ensure compliance with state and federal drinking water standards. Aqua tests the water at our treatment plants, and also schedules customer tap sampling and tests for lead in potential high-risk areas, to comply with the U.S. Environmental Protection Agency's (EPA) lead and copper rule.

You can always view your community's test results. They are summarized in our annual water quality reports, which are produced for every water system we own and operate.



Call us at 877.987.2782
for more information.



You can find your community's
water quality report at
AquaAmerica.com.

More helpful
information on
the back





If you are a residential customer:

You should know that there are parts of the service line bringing water to your home that are Aqua's property (the pipe that goes from our water main in the street to your curb) and parts of the service line that are your property (the pipe that goes from your curb to your home). When we encounter lead service lines during our maintenance and construction activities, we will replace Aqua's portion and notify the customer of our actions. We will also let you know if we observe lead in your service line. If you have concerns regarding your portion of the service line, or your plumbing, we recommend that you have a licensed plumber check the pipes that are your property. This is important to know, because lead service lines can be a source of lead in tap water. See the section below on "what you can do" for minimizing your risk if this happens.

If your property has lead pipes or fixtures, it's important to be aware of major line disturbances, such as main breaks and repairs – that could alter water flow or pressure – boil water and system pressure advisories, or new water main installations. When lead pipes or fixtures are disturbed, it can result in elevated lead levels in your water. To help prevent this from happening, clean all the screens in your faucets and flush your plumbing system after any disturbances.



If you are a school or day care center:

You should know that the EPA has established more stringent sampling procedures for schools and day care centers. Because children often drink from fountains and faucets at school without flushing the water first, and because they are at higher risk of health effects due to exposure, for their protection, sampling is done differently at schools and day care centers.

Aqua suggests that you call the EPA's safe drinking water hotline at 800.426.4791 or email them using this URL: <https://safewater.zendesk.com/hc/en-us/requests/new>.

It's important for any testing you do to be conducted using EPA protocols, so that the results are meaningful.

The health effects of lead:

Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys and can interfere with the production of red blood cells that carry oxygen to all parts of the body. The greatest risk of lead exposure is to infants, young children and pregnant women.

If you are concerned about lead exposure:

- Contact your local health department or healthcare provider to find out how you can get your child tested for lead.
- Visit the EPA at [EPA.gov/lead](https://www.epa.gov/lead) for more information on the health effects of lead or reducing lead exposure in your home.
- Call Aqua at 877.987.2782 for information about testing your water.

What you can do:

If your home's water shows elevated levels of lead, or if you are concerned about the potential of lead in your water, below are ways you can minimize your exposure.

- **Run your tap to flush out lead.** If your water hasn't been used for several hours, run your water for a few minutes or until it becomes cold or reaches a steady temperature before drinking or cooking.
- **Use cold water to cook or prepare baby formula. Don't boil water to reduce lead.** Lead dissolves more easily into hot water and boiling will concentrate the lead. Boiling water won't reduce lead.
- If you buy a water filter for lead removal, make sure it's approved to reduce lead. Contact NSF International, [www.NSF.org](https://www.nsf.org).