



COMMONWEALTH OF PENNSYLVANIA

September 8, 2021

E-FILED

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

Re: Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 2 / Docket No. M-2018-2640802, M-2018-2640803

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Erin K. Fure

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Parties of Record
Brian Kalcic

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public	:	M-2018-2640802
Utility Code Regarding Pittsburgh Water and	:	M-2018-2640803
Sewer Authority – Stage 2	:	

**OFFICE OF SMALL BUSINESS ADVOCATE
PREHEARING MEMORANDUM**

I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding.

Representing the OSBA in this matter is Assistant Small Business Advocate Erin K. Fure.

Please address all correspondence in this matter as follows:

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II. FILING BACKGROUND

On December 21, 2017, Governor Wolf signed Act 65 of 2017 into law whereby the Pennsylvania Public Utility Code was amended to add new language to 66 Pa. C.S. § 1301 and to add a new Chapter 32 consisting of Sections 3201 through 3209. Section 2 of the Act provides a new Chapter 32 addressing Commission jurisdiction over the provision of utility water, wastewater, and stormwater service by entities created by Pennsylvania cities of the second class under the Municipal Authorities Act. 66 Pa. C.S. §§ 3201-3209. Pennsylvania has only one city of the second class, Pittsburgh, under this legislation, therefore the Commission was given jurisdiction over the Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”).

A tentative implementation order was issued on January 18, 2018 at docket M-2018-2640802 and docket M-2018-2640803 setting forth procedures and guidelines for the implementation of Act 65 of 2017, but also soliciting comments from stakeholders to the tentative implementation order. On March 15, 2018, the Commission issued a Final Implementation Order adopting the procedures and guidelines for implementation of Act 65 of 2017 set forth in the tentative implementation order. The Final Implementation Order directed PWSA to file a compliance plan.

On September 28, 2018, PWSA filed its Petition for Approval of its Compliance Plan at Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater).

On November 27, 2018, the Commission issued a Secretarial Letter assigning the Compliance Plan dockets to the Office of Administrative Law Judge (“OALJ”) and establishing two stages of review for PWSA’s Compliance Plan. The November 27, 2018 Secretarial Letter designated Stage 1 to focus on health and safety issues and Stage 2 to focus on Chapter 56 billing and collection issues and the development of a stormwater tariff.

The proceedings concerning PWSA’s Stage 1 Compliance Plan took place from September 2018 through February 2021. The Commission entered an Opinion and Order on February 4, 2021 which directed, *inter alia*, PWSA to file its Stage 2 Compliance Plan within 60 days of the February 4, 2021 Order.

On April 9, 2021, PWSA filed its Stage 2 Compliance Plan: Stormwater; Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA, and Collection (collectively, “Stage 2 Compliance Plans”); Motion to Hold in Abeyance the Stage 2 Stormwater Compliance Plan (“Abeyance Motion”), and a Petition for Amendment of the Commission’s February 4, 2021 Final Order Regarding Procedural Process for Customer Service and Collections Issues (“Petition for Amendment”).

On April 14, 2021, the Commissions’ Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

On April 16, 2021, I&E filed a letter in support of PWSA’s Abeyance Motion and a letter in support of PWSA’s Petition for Amendment.

On April 23, 2021, a Secretarial Letter was issued directing parties to file any answers to PWSA’s Abeyance Motion or Petition for Amendment by April 28, 2021.

On April 27, 2021, the OSBA filed a Withdrawal of Appearance for Attorney Daniel G. Asmus, while noting that the undersigned remained counsel of record.¹

On April 28, 2021 the Office of Consumer Advocate (“OCA”) filed an Answer to PWSA’s Petition for Amendment and a letter supporting the Abeyance Motion.

On April 28, 2021, Pittsburgh United filed an Answer to PWSA’s Petition for Amendment.

¹ Attorney Asmus’s Notice of Appearance was filed March 19, 2020. Attorney Fure’s Notice of Appearance was filed November 14, 2018.

On April 29, 2021, Pittsburgh United filed Comments to PWSA's Stage 2 Compliance Plan: Chapters 14 & 56.

On April 29, 2021, the OCA filed Comments to PWSA's Stage 2 Compliance Plans.

On April 30, 2021, PWSA filed a letter outlining the points of agreement among PWSA, I&E, OCA, and Pittsburgh United with the goal of assisting the Commission's consideration of PWSA's Petition for Amendment.

On April 30, 2021, PWSA filed a Quarterly Compliance Plan Progress Report for its water and wastewater operations for the First Quarter of 2021.

On May 17, 2021, PWSA filed revised pages to its Supplement No. 6 to Tariff Water—Pa. P.U.C. No. 1.

On May 20, 2021, a Secretarial Letter was issued following a review of the tariff revisions and directed that Supplement No. 6 to Tariff Water—Pa. P.U.C. No. 1 be effective by operation of law as of the effective date contained on each page of the supplement.

On May 20, 2021, the Commission entered an Opinion and Order granting in part and denying in part the Petition for Amendment and amending the Stage 2 Compliance Plan proceeding to direct that the proceeding will be assigned to the OALJ within 120 days of the filing of PWSA's Stage 2 Compliance Plans and to direct the OALJ to issue a Recommended Decision no later than May 25, 2022. The May 20, 2021 Opinion and Order also directed that the Commission's Secretary's Bureau and the Bureau of Consumer Services to issue a Secretarial Letter regarding the scheduling of any informal workshops for the Stage 2 Compliance Plan proceedings. Finally, the May 20, 2021 Opinion and Order granted the Abeyance Motion and directed PWSA to file a revised Stormwater Compliance Plan following the entry of a final Order in the base rate case filed at Docket Nos. R-2021-3024773, R-2021-3024774, and R-2021-

3024779, and outlined a procedure for the Commissions' Bureau of Technical Utility Services to address stormwater compliance issues that remained following the conclusion of the base rate case.

On May 20, 2021, an Order was entered which included Directed Questions to be addressed in the Stage 2 Compliance Plans proceedings.

On August 5, 2021, a Secretarial Letter was issued assigning PWSA's Stage 2 Compliance Plans to the OALJ.

On August 25, 2021, a Prehearing Conference Notice was issued.

On August 26, 2021, a Prehearing Conference Order was entered scheduling a telephonic prehearing conference before Administrative Law Judge ("ALJ") Eranda Vero on September 9, 2021, at 10 a.m.

II. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES

Assisting in the development and presentation of the OSBA's case in this proceeding will be:

Mr. Brian Kalcic
Excel Consulting
Suite 720-T
225 S. Meramec Avenue
St. Louis, MO 63105
(314) 725-2511
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The OSBA will participate in the case to assure that the interests of small business customers of PWSA are adequately represented and protected.

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Authority and other parties through cross-examination of witnesses appearing for those parties and through briefing. The OSBA will particularly focus on any issue where the

impact on the interests of the small business consumers would be unjustifiably different than or disproportionate to the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness.

The OSBA reserves the right to pursue additional issues after reviewing the testimony of the parties and as issues arise throughout the proceeding.

IV. SERVICE OF DOCUMENTS

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date² as satisfying the in-hand requirement. The OSBA requests that electronic copies be provided to its witness identified above. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

V. SETTLEMENT

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

² In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

VI. HEARING AND BRIEFING SCHEDULE

The OSBA will continue to cooperate with other parties to develop a mutually acceptable procedural schedule.

Respectfully submitted,

/s/ Erin K. Fure
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Attorney ID # 312245

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(717) 783-2525
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Dated: September 8, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the : **Docket No. M-2018-2640802**
Public Utility Code Regarding Pittsburgh : **Docket No. M-2018-2640803**
Water and Sewer Authority – Stage 2 :
:

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Eranda Vero
The Honorable Gail Chiodo
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DATE: September 8, 2021

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