



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

January 21, 2022

Via Electronic Filing

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

Re: Petition of The Pittsburgh Water and Sewer Authority for Approval of Pilot Private Service Line Leak Repair and Expanded Conservation Program for Eligible Low Income Customers and Authorization to Track Costs as a Regulatory Asset for Future Base Rate Recovery
Docket No. P-2022-3030253
I&E Answer to PWSA's Petition

Dear Secretary Chiavetta:

Enclosed for electronic filing please find **The Bureau of Investigation and Enforcement's Answer to Pittsburgh Water and Sewer Authority's Petition for Approval of a Pilot Private Service Line Leak Repair and Expanded Conservation Program for Eligible Low Income Customers and Authorization to Track Costs as a Regulatory Asset for Future Base Rate Recovery** for the above-captioned proceeding.

Consistent with the Pennsylvania Public Utility Commission's order regarding waiver of regulations regarding service requirements, issued at docket M-2021-3028321 on September 15, 2021, I&E is providing only electronic service on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina L. Miller', is written over a light blue circular stamp.

Gina L. Miller
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GLM/ac
Enclosures

cc: Per Certificate of Service

Petition, which are more thoroughly described below. Irrespective of I&E's opposition, I&E supports PWSA's suggested procedural process, which includes a request for the Commission to hold further action on the Petition until March 25, 2022 in order to permit parties to pursue a resolution.¹ If a resolution cannot be achieved by March 25, 2022, then I&E respectfully requests that the Commission grant its own request to suspend PWSA's Petition for investigation by I&E and for assignment of the proceeding to the Office of Administrative Law Judge ("OALJ") for the scheduling of Evidentiary Hearings culminating in the issuance of a Recommended Decision.

II. PWSA'S PROPOSAL FOR A LOW INCOME LINE LEAK REPAIR AND CONSERVATION PROGRAM

In its Petition, PWSA proposes to establish a line leak repair and conservation program as a mechanism to address high water consumption that results from private service line leaks from low-income customers who cannot afford the cost of repairs.² The proposal was borne out of PWSA's 2021 base rate case settlement, and I&E notes that it supported the program conceptually as part of that settlement.³ According to PWSA, the line leak repair and conservation program will not only help low income customers reduce their overall water bills, but all of PWSA's ratepayers would benefit from a reduction of uncollectible costs that may otherwise result from high consumption that eligible low-income customers could not afford to remediate.⁴

¹ PWSA Petition, p. 28, ¶57.

² Id. at pp. 2-3.

³ I&E also affirms PWSA's representation on p. 3 of its Petition that prior to filing the Petition, it discussed the initial proposal with I&E, and that it considered I&E's written and oral feedback prior to filing the Petition.

⁴ PWSA Petition, p. 3.

PWSA proposes to implement the line leak repair and conservation program on a pilot basis for one year (“Pilot Program”) beginning on or after January 2, 2023. As proposed, Pilot Program eligibility would hinge upon customers meeting two criteria: economic need and excessive consumption. First, and consistent with existing parameters for its Bill Discount Program, PWSA proposes to establish eligibility for customers with an income at or below 150% of the Federal Poverty Level.⁵ The second layer of eligibility targets customers with high consumption (at or greater than 100% of previous reading and over 9,000 gallons), noting that PWSA proposes to lower the consumption requirement if deemed necessary to ensure that the budgeted funds are utilized to provide services.⁶

PWSA projects that 142 customers will benefit from this program in the initial nine months of formation,⁷ with a total of 250 benefitting during the Pilot Program term.⁸ Additionally, PWSA proposes to limit initial property work to a budget of no more than \$1,346, which is based upon the anticipated cost of providing one-time leak repair, as well as replacement of two faucet aerators, one low flow showerhead and one toilet per property. To the extent that repairs beyond the not-to-exceed cost of \$1,346 are necessary, PWSA would thereafter evaluate whether additional work would be cost beneficial under programming guidelines.⁹ Evaluation guidelines include on a ranking and scoring mechanism that considers consumption level, dollar amount of damage

⁵ PWSA Petition, p. 13, ¶19.

⁶ PWSA Petition, pp. 13-14, ¶21.

⁷ PWSA Petition, p. 21, ¶43.

⁸ PWSA Petition, pp. 19-20, ¶40.

⁹ PWSA Petition, p. 15, ¶24.

caused by leak, amount of outstanding, unpaid charges for the property, anticipated effect of repairs, and the number of remaining properties eligible for budgeted funds.¹⁰

To fund the Pilot Program, PWSA has established a \$400,000 budget, which is comprised of three primary cost categories: (1) staff time and materials development; (2) costs of contractors; and (3) costs of materials.¹¹ Approximately 15%, or \$60,000 of its \$400,000 budget, is proposed for funding administrative costs that include the salary of a full-time employee (\$40,000) and materials (\$20,000).¹² According to PWSA, these costs are incremental to the costs that are currently included in PWSA's base rates as a result of its recent rate case.¹³ In its Petition, PWSA not only requests approval to track Pilot Program costs as a regulatory asset for recovery as part of PWSA's base rate case, but it also indicates that if its proposed cost recovery is denied, it will rescind its Petition and make a new request to implement the Pilot Program as part of its next base rate case.¹⁴

III. I&E'S OPPOSITION TO PWSA'S PETITION

A. PWSA's Proposal to Allocate 15% of the Program Budget For Administrative Costs Warrants Further Investigation

As explained above, PWSA proposes to spend 15% of its Pilot Program budget, or \$60,000 of its \$400,000 budget, is proposed for funding administrative costs that include the salary of a full-time employee (\$40,000) and materials (\$20,000).¹⁵ I&E is concerned

¹⁰ PWSA Petition, pp. 15-16, ¶27.

¹¹ PWSA Petition, p. 3.

¹² PWSA Petition, p. 19, ¶38; pp. 20-21, ¶42.

¹³ PWSA Petition, pp. 20-21, ¶42.

¹⁴ PWSA Petition, p. 19, ¶38.

¹⁵ PWSA Petition, p. 19, ¶38; pp. 20-21, ¶42.

that this level of administrative costs may dilute the effectiveness of the Pilot Program. As an additional concern, I&E notes that while PWSA has admittedly contemplated the development of this program since the settlement of its 2020 rate case,¹⁶ and while in the interim it has since filed a second rate case whereby another rate increase has been permitted to become effective just days ago on January 12, 2022,¹⁷ it now seeks to permission to recover an additional \$60,000 in costs for an employee and program materials.

From I&E's perspective, recovery of all or part of these costs may be unwarranted, given that as a party to PWSA's 2021 base rate case settlement, I&E submitted that its litigation position afforded PWSA with enough revenue to hire all staff contemplated in its filing.¹⁸ While the 2021 PWSA base rate case was settled, because the resulting PWSA revenue settlement was significantly higher than I&E's recommendation in litigation,¹⁹ I&E submits that PWSA may already have sufficient revenue to fund all or most of the administrative costs it now seeks permission to recover in the future. While I&E recognizes that the 2021 base rate settlement was achieved through compromise, and it resulted in a "black-box" settlement whereby line-by-line agreement on revenue items did not exist, recognition of this does not assuage I&E's position that further

¹⁶ PWSA Petition, p. 20, ¶54.

¹⁷ *Pa. PUC v. Pittsburgh Water and Sewer Authority*, R-2021-3024773 et al., Order, p. 2, ¶3 (Entered on November 18, 2021). I&E notes that PWSA recently made tariff filings at this docket to reflect the change of rates as effective on January 22, 2022.

¹⁸ *Pa. PUC v. Pittsburgh Water and Sewer Authority*, R-2021-3024773 et al., I&E Statement No. 2-SR, p. 19.

¹⁹ While I&E's surrebuttal position recommended an increase in annual operating revenue of \$12,965,791 (I&E statement No. 1-SR, p. 16), the Settlement, which was ultimately approved by the Commission, provided for an increase of approximately \$21 million over two years (*Pa. PUC v. Pittsburgh Water and Sewer Authority*, R-2021-3024773 et al., Joint Petition for Settlement, p. 6, ¶III.9.A(1)-A(2)).

investigation is necessary. On this basis, I&E submits that an investigation into the basis for and assumptions underlying the projected costs is warranted.

B. PWSA’s Request to Track Costs as a Regulatory Asset for Future Base Rate Recovery Is Regulatorily Inappropriate

I&E opposes PWSA’s request to track Pilot Program costs as a regulatory asset for future base rate recovery because it is not regulatorily appropriate. At the outset, I&E notes that PWSA correctly indicates that the Commission has previously authorized it to track COVID-19 expenses as a regulatory asset,²⁰ and that the Commission has permitted other utilities to similarly treat certain other types of costs, like storm damage costs, environmental costs, and Commission-directed costs.²¹ However, PWSA’s referenced examples directly illustrate why permission to establish a regulatory asset is not appropriate here. Specifically, the common denominator in all of the examples PWSA relies upon is that they either flowed from unanticipated expenses (storm damage and environmental costs) or resulted from a Commission-issued directive (COVID-19 expenses).²² To be sure, precedent indicates that “the standard which a utility must meet when seeking Commission authorization for deferral accounting is whether, based on Commission precedent, the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against

²⁰ PWSA Petition, pp. 26-27, ¶53.

²¹ PWSA Petition, pp. 26-27, ¶53.

²² *COVID-19 Cost Tracking and Creation of Regulatory Asset*, Docket No. M-2020-3019775 (May 13, 2020 Secretarial Letter).

retroactive recovery of past expense.”²³ Deferred accounting treatment may be granted if the expense is: 1) extraordinary; 2) unanticipated; 3) non-recurring; and 4) substantial.²⁴

In this case, PWSA’s Pilot Program costs are far outside the scope of eligibility, as they fail not one, but all of the established criteria. First, the costs are not extraordinary because they result directly from the Pilot Program that PWSA itself designed and result from a budget it developed and proposes. Furthermore, the costs were not unanticipated, as they instead were expressly anticipated by PWSA since its 2020 base rate case settlement. Additionally, there is no basis to support that the Pilot Program will result in non-recurring expenses, as PWSA’s Petition contemplates extension of the program into future years.²⁵ Finally, the \$400,000 budget PWSA itself proposes for the program is not a substantial expense necessary to trigger inclusion of these costs in a regulatory asset. In reality, PWSA makes no effort to establish eligibility of such treatment.

Despite PWSA’s representation that treating Pilot Program costs as a regulatory asset is “reasonable”²⁶ when it is viewed in the context of factual analysis and precedent, it is demonstrably unreasonable. Accordingly, I&E submits that further investigation into PWSA’s proposed cost recovery for the Pilot Program is warranted. I&E avers that this investigation should include an analysis of whether a cost recovery mechanism, such as a surcharge, would be a regulatorily appropriate method of cost recovery to promote

²³ *Petition of Columbia Gas of Pa., Inc. for Authority to Defer for Accounting and Financial Purposes Certain Start Up Expenses Assoc. with the Redesign of Upgrade of Financial Processes and Info. Systems*, Docket No. P-2012-2319920 (Order Entered December 5, 2012).

²⁴ *Id.*

²⁵ PWSA Petition, p. 21, ¶43.

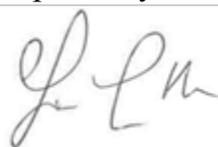
²⁶ PWSA Petition, p. 27, ¶54.

accountability for funds spent and to ensure transparency of spending for ratepayers who will ultimately incur the costs. Accordingly, if the Commission honors PWSA (and now I&E's) request to hold this matter in abeyance until March 25, 2022, I&E anticipates using that opportunity to discuss cost recovery alternative with PWSA and other interested stakeholders.

IV. CONCLUSION

WHEREFORE, for the reasons stated herein, the Bureau of Investigation and Enforcement respectfully requests that the Pennsylvania Public Utility Commission hold further action in this case for 60 days, or until March 25, 2022, in order to permit parties to pursue a resolution. If a resolution is not achieved by March 25, 2022, it is requested that this proceeding be assigned to the Office of Administrative Law Judge for the scheduling of Evidentiary Hearings culminating in the issuance of a Recommended Decision.

Respectfully submitted,



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Date: January 21, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of the Pittsburgh Water and Sewer :
Authority for Approval of Pilot Private :
Service Line Leak Repair and Expanded :
Conservation Program for Eligible Low : Docket No. P-2022-3030253
Income Customers and Authorization to :
Track Costs as a Regulatory Asset for :
Future Base Rate Recovery :
:

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer to Petition** dated January 21, 2022, in the manner and upon the persons listed below:

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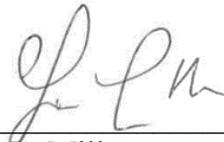
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