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VIA E-FILING

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg PA 17120

**Re: Use of Fully Projected Future Test Year, 52 Pa. Code §§ 53.51-53.56a;
Docket No. L-2012-2317273**

**Comments of National Association of Water Companies – Pennsylvania Chapter on
the Clarified Notice of Proposed Rulemaking Order**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission in the above-referenced matter are the Comments of the National Association of Water Companies – Pennsylvania Chapter.

Electronic copies will be sent to the persons listed below.

If you have any question or concern about this filing, please contact me. Thank you.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *National Association of Water
Companies – Pennsylvania Chapter*

DPZ/kmg
Enclosure

cc: Renardo L. Hicks, Esq. (*Law Bureau*)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Use of Fully Projected Future Test Year, 52 Pa. Code :
§§ 53.51-53.56a : L-2012-2317273

**COMMENTS OF THE NATIONAL ASSOCIATION OF WATER COMPANIES –
PENNSYLVANIA CHAPTER IN RESPONSE TO THE CLARIFIED NOTICE OF
PROPOSED RULEMAKING ORDER**

AND NOW COMES the National Association of Water Companies – Pennsylvania Chapter (“NAWC”), pursuant to the Clarified Notice of Proposed Rulemaking Order (“NOPR Order”) published in the *Pennsylvania Bulletin* on October 1, 2022, 52 Pa. Bulletin 4926, to file these comments with the Pennsylvania Public Utility Commission (“Commission”).

I. INTRODUCTION

NAWC is a trade organization whose members are investor-owned water utilities in Pennsylvania¹ that are regulated by the Commission. Among other functions, NAWC provides members with a vehicle for expressing their position on legislative and regulatory developments before the General Assembly, regulatory agencies, and the courts. NAWC thanks the Commission for this opportunity to express its views on the extensive regulatory changes proposed in the NOPR Order.

¹ The members of NAWC are: Aqua Pennsylvania, Inc., Columbia Water Company, Newtown Artesian Water Company, Pennsylvania-American Water Company, Veolia Water Pennsylvania, Inc. (f/k/a SUEZ Water Pennsylvania Inc.), and The York Water Company. Newtown Artesian Water Company is a Class B water utility; the remaining members of NAWC are Class A water utilities. In addition to water operations, several of the members operate Commission-regulated wastewater systems throughout the Commonwealth.

II. GENERAL COMMENTS

NAWC urges the Commission to view the filing requirements in the regulations as the minimum filing requirements for every base rate case to which they apply. Based on the facts of any particular case, however, the parties pursue different issues. They can do so in discovery; the Commission does not need to require every rate case filing to address every conceivable issue in detail.

Similarly, NAWC urges the Commission to be mindful of the costs that the regulations impose on all participants in a base rate proceeding. Complying with the filing requirements can be a lengthy and expensive process for the public utility filing the rate case (thereby increasing rate case expense for ratepayers), and parsing through a rate filing can be a lengthy and expensive process for the other parties to the proceeding – and for the Administrative Law Judge, the Commissioners, and other Commission staff. NAWC respectfully requests that the Commission consider whether the public benefits from any particular requirement offset the aggregate costs that they impose.

Consequently, NAWC respectfully requests that the Commission reconsider its proposal in order to reduce unnecessary requirements and promote consistency of the regulations. For example: Appendix E, Section III.H.5 requests explanations for variances in miscellaneous revenues, which duplicates information requested in Section III.G.4; Appendix E, Section III.H.12 requests information regarding the annualization of revenues as a result of rate changes, which duplicates information requested in Section III.H.1.g; and Appendix E, Section III.H.11 requests information about whether forfeited discounts and penalties are applied to customer billing, which is addressed in the utility's *pro forma* tariff.

Additionally, the regulations sometimes require data to be reported by month, rather than by year. *See, e.g.*, Exhibit E, Sections III.H.5, 6, 13, 14 and III.J.1. NAWC questions the value of information by month. In addition, NAWC expresses concern about the practicality of this requirement; some utilities may not be able to provide the information by month.

Finally, the proposal requires utilities to produce financial and other data for a wide variety of years. For example, Exhibit E, Section III.H.13 would require the filing utility to provide data for three years before the historic test year (“HTY”), whereas Appendix E, Section IV.A.5 would require the filing utility to project data for five years after the fully projected future test year (“FPFTY”). The variety of reporting periods increases the difficulty of compliance.² In addition, NAWC questions whether data from three years prior to the HTY is useful, considering that such dated information is obsolete. NAWC also questions whether projections as far as five years after the FPFTY are useful, considering that projections so far into the future can be unreliable. In order to eliminate the production of information that is not useful, and to promote the consistency of the regulations, NAWC requests that the Commission consider a more uniform approach for the production of data, such as generally requiring the production of data for no more than two years before the HTY and no more than one year after the FPFTY. If in a particular case, a party wants data for a more extended period, that party can request it in discovery.

² Extended reporting periods can be particularly burdensome depending on the date of the utility’s most recent base rate case. For example, if a utility’s most recent base rate case was in 2018, and the utility files a rate case in 2023, the proposed regulations would require that utility to file data for seven years.

III. COMMENTS ON SPECIFIC PROPOSALS IN THE NOPR ORDER

NAWC respectfully submits the following comments regarding Annex B, the proposed Exhibit E that applies to water, wastewater, stormwater and certain other types of public utilities requesting a general rate increase above \$1 million in annual gross revenues.

Section III.A.5 (introductory language). The Commission proposes requiring that certain supplemental information be provided “when providing the information required by this regulation and in response to each discovery request relative to the current base rate case proceeding, as applicable.” NAWC finds the quoted language unclear and confusing. NAWC recommends that the Commission either remove this requirement or clarify when the designated supplemental information must be provided.

Section III.A.5.b. This subsection would direct the utility to “explain the difference in *projections and adjustments* made for the immediately preceding base rate case as compared to the *projections and assumptions* made relative to the current base rate case” (emphasis added). NAWC recommends that the Commission modify this requirement to state that the utility is to compare “projections and adjustments” for the two cases, or “projections and assumptions” for the two cases. Additionally, NAWC respectfully requests that the Commission clarify what is meant by “projections,” “adjustments” and/or “assumptions.”

Section III.A.8. This subsection would direct the utility to file a working electronic copy of all filing schedules, with all formulas intact. NAWC opposes this requirement because the formulas in the electronic files are proprietary information. NAWC recommends that the Commission delete this requirement. During the proceeding, the parties can exchange proprietary information in discovery subject to a protective order.

Section III.B.10. This subsection would require that the filing utility provide detailed information pertaining to each “major” addition to plant to be placed in operating service, or to be

removed from operating service. NAWC questions whether such detailed information is necessary in every rate case; the Commission should consider eliminating this requirement and allowing parties to request such detailed information in discovery, if they desire it in a particular case. If the Commission retains this requirement, NAWC recommends that it define a “major” addition or removal and that it specify the time period for which the information must be provided.

Section III.E.30. This subsection would require a utility to provide “year by year financial projections for the public utility.” NAWC requests clarification as to what “financial projections” are required.

Section III.H.14. This subsection would require the utility to provide an analysis showing the average usage per customer by rate schedule during multiple years. NAWC asks the Commission to confirm that “rate schedule” refers to customer class (*e.g.*, residential customers, commercial customers and industrial customers), rather than rate zones. The consolidation of rate zones presents difficulties for utilities to present this information by rate zones over time.

Section III.K.8. This subsection would require the filing utility to include a table showing cumulative depreciated original costs by year of installation for utility plant by asset type. Group depreciation data is not usually maintained based on the year of installation. NAWC therefore recommends that the Commission eliminate the requirement that the data be presented by year of installation.

IV. ADDITIONAL RECOMMENDATIONS

In order to give the Commission greater flexibility to accommodate the unique circumstances of each particular public utility, NAWC recommends that the proposed regulations allow a utility to request a waiver of any particular filing requirement when filing its rate case.

Although 52 Pa. Code § 1.91 may allow a utility to request such a waiver, NAWC believes the Commission should remove any doubt that the rate filing requirements may be waived in appropriate circumstances.

In addition, in its Final Rulemaking Order, the Commission should address the effective date of the new regulations. In order to give a utility ample notice that the new regulations will apply to its rate case, NAWC recommends that the Commission make the new regulations applicable to rate cases filed at least six months after the final regulations are published in the *Pennsylvania Bulletin*.

V. CONCLUSION

NAWC thanks the Commission for this opportunity to comment on the NOPR Order and for considering the comments contained herein.

Respectfully submitted,



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