

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of The Pittsburgh Water and Sewer Authority for 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	:	
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	:	P-2022-3030253
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RECOMMENDED DECISION

Before
Eranda Vero
Administrative Law Judge
and
Gail M. Chiodo
Administrative Law Judge

INTRODUCTION

This decision recommends that the Pennsylvania Public Utility Commission (“Commission”) approve without modification the “Joint Petition for Full Settlement Regarding PWSA’s Pilot Private Service Line Leak Repair and Expanded Conservation Program for Low Income Customers” (Joint Petition or Settlement) executed by the Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”), the Office of Consumer Advocate (“OCA”), the Commission’s Bureau of Investigation and Enforcement (“I&E”), and Pittsburgh United (collectively, the “Joint Petitioners” or “Settling Parties”), and filed with the Commission’s Secretary on December 1, 2022. The Settling Parties represented in the Settlement that the Office of Small Business Advocate (“OSBA”) does not oppose the Settlement. The Settling Parties request that the Commission issue a final order in this matter no later than its April 20,

2023, Public Meeting so as to enable PWSA to implement the Pilot Program in the summer of 2023. We recommend approval because the Settlement is unopposed and in the public interest.

HISTORY OF THE PROCEEDING

Pursuant to 52 Pa. Code § 5.41 and Section III.F.7.c of the Commission-approved Joint Petition for Settlement at Docket No. R-2020-3017951, on January 3, 2022, PWSA filed a Petition requesting approval to implement a Pilot Private Service Line Leak Repair and Expanded Conservation Program for Eligible Low Income Customers (Pilot Program or Pilot) and to authorize PWSA to track the Pilot Program costs as a regulatory asset so that it may seek cost recovery in its next base rate filing (Petition).

In its Petition, PWSA proposed 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. PWSA proposed 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.

Procedurally, PWSA's Petition requested that after the due date for any interested stakeholders to file a written response in the matter, the Commission hold the Petition in abeyance for 60 days or until March 25, 2022. PWSA proposed to use this time to discuss the comments of the stakeholders and in an effort to determine a consensus position that may be presented to the Commission. Further, PWSA proposed to file a report (Report) with the Commission no later than March 25, 2022, regarding the outcome of the discussion with the parties as well as any accommodations for further consideration of the Petition. The Report was to identify any areas where consensus was not reached, and ultimately PWSA requested the Commission await the filing of PWSA's Report before taking any further action on the Petition.¹

On January 21, 2022, I&E filed its Answer to the Petition. On January 24th, 2022, Pittsburgh United, through its counsel at the Pennsylvania Utility Law Project, petitioned

¹ Petition ¶ 57.

to intervene and filed its Answer. On the same date, the OSBA filed its Answer, Notice of Intervention, and a Statement and Verification in this proceeding. Also on January 24, 2022, the OCA filed its Answer to the Petition. Although I&E, OSBA, OCA, and Pittsburgh United in their respective Answers did not support all of the provisions proposed by PWSA in its Petition, they did not object to PWSA's request that the Commission hold in abeyance any action in this matter until March 25, 2022, and then refer PWSA's Petition to the Office of Administrative Law Judge (OALJ) for further proceedings.

PWSA did not file the Report proposed in its Petition.² On June 9, 2022, this matter was referred to OALJ for the development of an evidentiary record and the issuance of a decision.

On June 14th, 2022, the Commission issued a Prehearing Conference Notice notifying the parties that a prehearing conference was scheduled to be conducted telephonically on June 27, 2022, and assigned the matter to us. On the same day, we issued a Prehearing Conference Order which, *inter alia*, directed that the parties file and serve a Prehearing Memorandum on or before 2:00 p.m. on June 24, 2022. In accordance with this Order, prehearing conference memoranda were timely filed by PWSA, I&E, OCA, OSBA, and Pittsburgh United. A Prehearing Order dated July 8, 2022, memorialized the decisions from the prehearing conference including the process for discovery and a litigation schedule.

PWSA pre-served the written Direct Testimony of Julie A. Mechling on August 12, 2022. Written rebuttal testimony on behalf of I&E, OCA, and Pittsburgh United was pre-served on September 13, 2022. Finally, on October 4, 2022, written surrebuttal testimony on behalf of PWSA and I&E was pre-served. No written rejoinder testimony was pre-served.

On November 4, 2022, the parties informed us that they had reached a full settlement of all issues. Subsequently, on November 8, 2022, a Cancellation Notice for the hearing scheduled for November 9, 2022, was issued. We directed the parties to submit a Joint Petition for Full Settlement with statements in support on or before December 1, 2022.

² See, Tr. 20-23.

On December 1, 2022, the “Joint Petition for Full Settlement Regarding PWSA’s Pilot Private Service Line Leak Repair and Expanded Conservation Program for Low Income Customers” was filed with the Commission. The Joint Petition was executed by PWSA, OCA, I&E, and Pittsburgh United. The Settling Parties represented in the Settlement that OSBA does not oppose the Settlement.

In the Joint Petition, the Settling Parties request that the Commission issue a final order in this matter no later than its April 20, 2023, public meeting so as to enable PWSA to implement the Pilot Program in the summer of 2023.

In addition, the Settling Parties stipulate to the admission into the record of this proceeding the pre-served testimony and exhibits listed in Exhibit A of the Joint Petition.

TERMS AND CONDITIONS OF SETTLEMENT

The Joint Petition is a 14-page document signed by PWSA, OCA, I&E, and Pittsburgh United. The Joint Petitioners represent that OSBA does not oppose the Settlement. Attached to the Joint Petition are Appendices A-E. Exhibit A is a list of the pre-served testimony and exhibits that the parties have stipulated into the record. Exhibit B is the *Pro Forma* Compliance Tariff Supplement; Exhibits C-F are the Statements in Support of Settlement of PWSA (Exhibit C); I&E (Exhibit D); OCA (Exhibit E); and Pittsburgh United (Appendix F), respectively.

The essential terms of the Joint Petition for Settlement are set forth on pages 6-12 in Section III of the Settlement, with additional terms and conditions listed in Section IV. These terms are stated below verbatim and, for ease of reference, retain the same numbers and headings as they appear in the Settlement.

III. TERMS AND CONDITIONS OF SETTLEMENT

15. The Settling Parties support approving PWSA's Pilot Petition as modified by the incorporation of the below terms and conditions.

A. Pilot Program

1. Eligibility for Participation in Pilot Program

- a. Customers who meet the low income eligibility requirements may be considered for inclusion in the Pilot Program even if they have stopped a leak before it is 200% of the previous month's usage or over 9,000 gallons.
- b. A customer who has received a notice of disconnection regarding unpaid charges attributable to high consumption and has applied for assistance through the Pilot Program will be made subject to a collections lock until service through the Pilot have been delivered.
- c. Participation in Other Low Income Customer Assistance Programs
 - i. Customers who meet the low income eligibility requirements may be considered for inclusion in the Pilot Program even if they are not participating in any of PWSA's other low income customer assistance programs.
 - ii. PWSA will work with customers qualifying for the Pilot Program to assist them with enrollment in all other available low income customer assistance programs for which they qualify.
- d. Coordination and Referrals to Other Programs
 - i. Other Utility Programs and Federal Weatherization Assistance Program
 - (a) PWSA, with the collaboration of members of the Low Income Assistance Advisory Committee ("LIAAC"), will seek to identify opportunities to coordinate with the Low Income Usage Reduction Programs ("LIURP") at local electric and gas utilities and the federal Weatherization Assistance Program ("WAP").
 - (b) So long as such coordination does not delay providing customers with the benefit of the Pilot Program or increase the costs of the Pilot Program, PWSA will implement the measures.

- (c) Any identified coordination opportunities which cannot be pursued due to time or cost constraints will be documented for further evaluation to the extent PWSA elects to propose continuing the program beyond the pilot period.
- ii. Coordination with Existing Home Repair Programs
 - (a) To the extent PWSA is aware of home repair programs, including but not limited to the Whole Home Repair Program established in Section 135-C of Pennsylvania Act 54 of 2022, it will refer qualified customers to such programs to assist with repairs that cannot be completed through the Pilot Program.
 - (b) Customers eligible to receive assistance repairs through other home repair programs will not be eligible to participate in the Pilot Program for the same repairs so as to avoid duplicate payments for the same repair work.
 - (c) PWSA will not reduce the Pilot Program budget for any customers who are able to fund repairs through other available home repair programs.
- iii. Health and Safety Issues
 - (a) PWSA will track the number of households deferred due to health and safety issues with the property that prevent the repairs from being completed in accordance with industry standards.
 - (b) PWSA will refer eligible customers with health and safety issues to local, state and/or federal programs that may perform repairs and will work with LIAAC members to identify relevant programming and referral channels.

2. Landlord Consent Requirements

- a. PWSA will share draft tenant notices and information related to landlord consent with members of LIAAC and consider any and all suggestions from members
 - i. PWSA will make least one telephone call, where it has an accurate telephone number for the landlord, and send one letter to the landlord that contains a copy of the landlord consent form and a description of the program and benefits to be provided.

- ii. If PWSA has an email address on file for the landlord, PWSA will email a link to the web-based version of the landlord consent form to the email address on file. The email will indicate that the tenant has applied for the program and provide a description of the program and the services to be provided.
 - iii. PWSA will create a web-based version of the final landlord consent form and accept an electronic signature as confirmation of consent to perform the repairs.
 - b. PWSA will investigate the feasibility of providing a link to the web-based version of the final landlord consent form via text message where PWSA has that information on file for a landlord.
- 3. Length of Pilot Program
 - a. PWSA will issue the Request for Proposal within three months of final Commission approval.
 - b. The Pilot Program will continue until the funds available for repair have been depleted, such that it may continue beyond one year.
- 4. Data Tracking, Evaluation of Pilot Program and Future Program
 - a. Within 30 days after Commission approval of the Pilot Program, PWSA will convene a collaborative of interested parties and members of LIAAC to identify the data to be tracked to assist in evaluation of the Pilot Program.
 - i. All parties, to the extent they have positions on the data to be tracked, shall provide them to PWSA within 14 days of the Commission's approval of the Pilot Program, on the following topics:
 - (a) a methodology for determining the impact of the Pilot Program on the uncollectibles that would have occurred if the leaks were permitted to continue unabated.
 - (b) metrics to measure other reductions in total costs to other ratepayers, including a reduction in the working capital associated with carrying low-income arrears.
 - (c) metrics to measure the reduction in the cost to the bill discount program based on reduction of the amount of usage charges that would have been discounted had the leaks been permitted to continue unabated.

- (d) metrics to measure the dollar amounts saved by customers due to program participation as opposed to the amount they would have paid had the leak been permitted to persist unabated.
 - (e) metrics to measure the qualitative benefits to low income customers, such as improved living conditions and economic stability.
 - (f) the number of referrals to other home repair programs.
- b. As part of PWSA's next base rate case, PWSA agrees to the following:
- i. PWSA will share the results of its evaluation of the Pilot Program;
 - ii. PWSA will make a proposal for a line repair and conservation program, including whether to propose one or not, based on the results of its evaluation of the Pilot and all parties reserve their right to challenge PWSA's proposal;
 - iii. PWSA's proposal will include a proposed method for recovery of the costs of any future program and all parties reserve their right to challenge PWSA's proposed method for cost recovery; and
 - iv. PWSA's filing will include the metrics and data tracked pursuant to Paragraph A,4.a as long as the filing post-dates the agreed upon timing of the delivery of the Pilot evaluation.
 - v. All parties reserve the right to evaluate the program based on available information at the time of filing and make recommendations in the rate case proceeding, including, but not limited to budget and duration of any subsequently proposed program.

B. Cost Recovery

1. The budget for the Pilot Program will be \$400,000
 - a. At the same time PWSA files its compliance tariffs, it will file an update to the proposed not-to-exceed cost for in-home repairs of

\$1,346 based on current economic conditions and it will provide the data and calculations underlying the update.

- b. If PWSA proposes an increased not-to-exceed repair cost for the Pilot Program, PWSA will not propose to exceed the overall \$400,000 budget for the pilot.
 - c. If the Commission approves implementation of the Pilot Program as proposed and modified by the settlement, then PWSA agrees not to seek future base rate recovery for the costs of the Pilot Program.
2. If PWSA proposes to implement another phase of the Pilot or to implement the program on a permanent basis, such request will be made as part of PWSA's next base rate case which will also include PWSA's proposed cost recovery for consideration by the parties and the Commission.

C. Timeframe for Commission Action

1. All parties support the ability of PWSA to implement this program in the summer of 2023 and propose the following procedural schedule to accommodate that desire:
 - a. All parties waive the right to file briefs and, instead, propose to file a Joint Petition for Settlement with Statements in Support to be filed on December 1, 2022.
 - b. Included with the Joint Petition Settlement will be pro forma tariff pages to implement the Pilot and the parties request that they be permitted to become effective on one day's notice; and,
 - c. If the Administrative Law Judge recommends approval of the Settlement without modification, then all parties waive their right to file Exceptions.
2. The parties jointly request that the Commission issue a final order no later than its April 20, 2023 public meeting.

IV. ADDITIONAL TERMS AND CONDITIONS

16. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement.
17. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

18. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement represents a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.
19. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, PWSA or any Joint Petitioner may withdraw from this Settlement, upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order, and, in such event, the Settlement shall be of no force and effect. In the event that the Commission disapproves the Settlement or PWSA or any other Joint Petitioner elects to withdraw from the Settlement as provided above, each of the Joint Petitioners reserves their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.
20. All Joint Petitioners shall support the Settlement and will make reasonable and good faith efforts to obtain approval of the Settlement by the ALJs and the Commission without modification. The Joint Petitioners agree that such good faith efforts do not necessarily include opposing or responding to comments or oppositions to the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated the issues resolved by the Settlement and will result in the establishment of terms and conditions that – until changed on a going-forward basis as provided in the Public Utility Code – are in accordance with the law and in the public interest.
21. If the ALJs, in their Recommended Decision, recommend that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to: (a) any modifications to the terms and conditions of this Settlement; or, (b) any additional matters proposed by the ALJs in their Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.
22. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

Joint Petition at 6-12.

LEGAL STANDARDS

Chapter 32 of the Public Utility Code gives the Commission jurisdiction and oversight over PWSA. Under Chapter 32, the provisions in the Public Utility Code apply to PWSA in the “same manner as a public utility.”³ Therefore, the Commission has jurisdiction over the provision of utility service by PWSA.

The Commission encourages parties in contested on-the-record proceedings to settle cases.⁴ Settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission’s decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.⁵ In fact, parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest.⁶ In their supporting statements, the Joint Petitioners conclude, after extensive discovery and discussion, that this Settlement resolves all of the contested issues in this case, fairly balances the interests of the company and its customers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

³ 66 Pa.C.S. § 3202(a)(1).

⁴ See 52 Pa. Code § 5.231.

⁵ *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991). See also *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

⁶ *Pa. Pub. Util. Comm’n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

After a full consideration of the terms of the Joint Petition and the Statements in Support, we recommend that the Commission adopt the terms of the Settlement as set forth in the Joint Petition without modification.

DISCUSSION OF THE JOINT PETITION

Each of the Joint Petitioners submitted thorough and well-written Statements in Support of the Settlement. Not every issue was of equal concern to every party. Accordingly, each of the Joint Petitioners' Statements in Support did not necessarily address each aspect of the Settlement. The position of each party is summarized here. The reader is directed to the Statements in Support for a more detailed discussion of each Joint Petitioner's position.

A. Eligibility for Participation in Pilot Program (Settlement III.15.A.1)

PWSA

The Joint Petition makes clear that: (1) PWSA will not exclude low income customers who locate and stop a leak before they achieve a loss that is 200% of the previous reading and over 9,000 gallons; (2) collection activities regarding unpaid charges attributable to high consumption for a customer who has applied for assistance through the Pilot Program will be suspended pending receipt of the repair services; (3) participation in one of PWSA's other low income customer assistance programs is not prerequisite and PWSA will work with customers to enroll in other low income customers assistance programs for which they qualify.⁷

According to PWSA, the Settlement is reasonable because it addresses concerns about ensuring that qualifying low-income customers have access to the Pilot Program, that any collections underway as a result of unpaid charges attributable to high consumption bills are suspended, and that PWSA assists the customers to enroll in other programs for which they may

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Settlement III.15.A.1.a-1.c.

qualify. PWSA argues that these terms not only benefit low-income customers, but they may all be implemented within the proposed budget for the program.⁸

In addition, PWSA agrees to collaborate with members of its Low Income Assistance Advisory Committee regarding potential opportunities to coordinate with programs available through the electric and gas utilities as well as the federal Weatherization Assistance Program.⁹ While coordination with these programs may provide increased benefits for customers, PWSA supports the Joint Petition also because it recognizes that the Authority will prioritize providing benefits to qualifying customers through its Pilot Program so as not to delay benefits or increase costs while documenting any identified coordination opportunities that could not be pursued for further evaluation.¹⁰

As part of the Settlement, PWSA also agrees to refer customers to other home repair programs that may be available to assist with repairs that cannot be completed through the Pilot Program. If customers are referred, the Settlement makes clear that the proposed budget for the Pilot Program will not be reduced.¹¹ In PWSA's view, this is an important settlement term because it ensures a more holistic approach to addressing leak issues by utilizing other funding sources, where available, and allowing more of the proposed Pilot Program budget to be used for customers without other options.¹²

Finally, PWSA agrees, as part of the Joint Settlement, to track the number of households deferred due to health and safety issues with the property, and to refer eligible customers to local, state and/or federal programs as may be identified through collaboration with

⁸ PWSA St. in Supp. at 5-6.

⁹ Settlement III.15.A.1.d.i.

¹⁰ Settlement III.15.A.1.d.i.(b)-(c).

¹¹ Settlement III.15.A.1.d.ii.

¹² PWSA St. in Supp. at 7

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LIAAC members.¹³ PWSA supports this settlement term as a reasonable resolution of the concern raised by Pittsburgh United about properties that may not receive services due to health and safety concerns. In PWSA’s view, this provides a potential pathway for the customer to address the issue without creating additional costs related to the Pilot Program while also identifying an important issue to be evaluated during the Pilot Program for future use.¹⁴

OCA

OCA supports the Settlement’s eligibility criteria for participation in PWSA’s Pilot Program. In particular, OCA argues that PWSA’s agreement to include in its Pilot Program low-income customers who “have stopped a leak before it is at or greater than 200% of the previous month’s usage or over 9,000 gallons”¹⁵ is a reasonable compromise between PWSA’s and OCA’s positions which will help to ensure that customers who act to mitigate high consumption may still benefit from the program.¹⁶

In addition, the Settlement addresses OCA’s recommendation that eligibility for the Pilot Program should not be limited to customers who are participating in PWSA’s Bill Discount Program (BDP).¹⁷ The Settlement specifies that customers who meet the low-income eligibility requirements may be considered for inclusion in the Pilot Program even if they are not participating in any of PWSA’s other low-income customer assistance programs.¹⁸ According to OCA, these terms are consistent with the purpose of the Pilot Program, which is to reach low-income customers who may have a leak but who do not have the financial ability to repair it.¹⁹

¹³ Settlement III.15.A.1.d.iii.

¹⁴ PWSA St. in Supp. at 7.

¹⁵ Settlement III.15.A.1.a

¹⁶ OCA St. in Supp. at 3.

¹⁷ OCA St. 1R at 10-11.

¹⁸ Settlement III.15.A.1.c.i.

¹⁹ OCA St. in Supp. at 3

The need for assistance with line leak repair exists for low-income households generally regardless of whether the customer is enrolled in a low-income assistance program.²⁰

In its Statement in Support, OCA notes that, while the Settlement does not provide for automatic enrollment as recommended by OCA, PWSA has agreed to assist customers qualified for the Pilot Program with enrollment in other low-income assistance programs, including PWSA's arrearage forgiveness program.²¹ Further, OCA endorses the Settlement provisions ensuring that PWSA will provide referrals to and coordinate with other water and energy programs including the Low Income Usage Reduction Program, federal Weatherization Assistance Program and Whole Home Repair Program.²² According to OCA, these terms guarantee that income-eligible customers are offered programs to help them with bill affordability for utility service, and get assistance with repairs that cannot be completed through the Pilot Program. Also, OCA sees them as a step toward the cross-program enrollment and coordination of leak repair and weatherization services to more efficiently and effectively deliver needed services to low-income customers.²³

Further, Section III.15.A.1.b of the Settlement adopts OCA's recommendation that a customer who has received a notice of nonpayment disconnection and has applied for assistance through the Pilot Program should have collection activity halted until services through the Pilot Program have been delivered. OCA explains that this term is in the public interest because enrollment in the Pilot Program will help to repair leaks that have contributed to an unpaid bill and thus make it more likely that the customer will be able to resolve the outstanding balance without the need for disconnection of service.²⁴

²⁰ *Id.*

²¹ OCA St. in Supp. at 3-4, referencing Settlement III.15.A.1.c.

²² Settlement III.15.A.1.d.

²³ OCA St. in Supp. at 4.

²⁴ *Id.*

I&E

I&E did not oppose the metrics that PWSA originally proposed for determining customers' eligibility in the Pilot Program. However, I&E supports the modifications of those metrics as reflected in the Settlement because they allow PWSA to cast a wider net of eligibility among its low-income customers.²⁵ I&E argues that the Settlement terms concerning customer eligibility make the Pilot Program benefits more accessible to ratepayers in need who, without assistance, would otherwise not be able to afford to repair the leaks on their own. I&E further submits that all ratepayers benefit from avoiding uncollectibles that may otherwise result from unrepaired leaks that produce high volumes of lost water.²⁶

I&E recognizes PWSA's commitment to coordinate and provide referrals to other programs that may assist ratepayers as another important benefit of the Settlement. Aside from coordinating with LIURP at local electric and gas utilities and with the federal WAP, I&E points out that PWSA has agreed to refer customers who are eligible for funding through programs including but not limited to the Whole Home Repair Program, so that customers may receive assistance for repairs that cannot be completed through the Pilot Program. PWSA has also agreed that if customers receive benefits under such outside programs, that they will not be able to receive duplicative benefits under the Pilot Program and that the Pilot Program budget will not be reduced for use of outside funding. I&E avers that each of these commitments will ensure that eligible customers are adequately apprised of repair opportunities and that the Pilot Program will operate as efficiently and cost-effectively as possible.²⁷

Finally, I&E acknowledges that safety issues could prevent PWSA's ability to move forward with providing the repairs. Consequently, it commends PWSA's agreement to track the number of impacted customers so that the parties and the Commission have a better

²⁵ I&E St. in Supp. at 4.

²⁶ *Id.* at 5.

²⁷ *Id.* at 5-6.

understanding of issues that may prevent remediation, as well as PWSA's commitment to referring such customers to other avenues of relief that may be available.²⁸

Pittsburgh United

Pittsburgh United also supports the Settlement provisions regarding customer eligibility for participation in the Pilot Program. In its view, these provisions reasonably address Pittsburgh United's recommendations to expand eligibility, improve identification of estimated need, and expand coordination of low-income programming. In particular, Pittsburgh United argues that, given the Authority's relatively low BDP enrollment rates compared to estimated need, it is important that PWSA take advantage of its Pilot Program as an additional venue for outreach to and engagement with its low-income customers.²⁹

We find that the provisions of Section III.15.A.1 of the Settlement are just, reasonable, and in the public interest and recommend that they be approved by the Commission without modification. Both individually and taken together the Settlement's proposed resolution of issues related to eligibility and coordination with other programs is a reasonable compromise that results in a manageable Pilot Program structure that is poised to offer benefits for program participants without increasing the costs of the program.

This result is a reasonable way to ensure that the most accessible benefits available to the customer are provided on a timely basis while noting where future coordination may present greater benefits for the customer.

²⁸ *Id.* at 7.

²⁹ Pittsburgh United St. in Supp. at 7-8.

B. Landlord Consent Requirements (Settlement III.15.A.2)

PWSA

The Settlement memorializes PWSA’s agreement to collaborate with LIAAC regarding tenant notices and information related to landlord consent.³⁰ In addition, PWSA agrees to create a web-based version of the final landlord consent form and accept an electronic signature as confirmation.³¹ Next, PWSA agrees to additional efforts to contact the property owner via telephone, letter and email where such information is on file.³² Finally, PWSA agrees to investigate the feasibility of providing a link to the web-based version of the final landlord form via text message where PWSA has a mobile telephone number for the landlord.³³

PWSA believes that these provisions are in the public interest because they balance concerns raised by the Settling Parties.³⁴ According to PWSA, these provisions ensure that the landlord is provided reasonable notice of the need to consent to the repairs offered via the Pilot Program and provide a variety of convenient methods to grant that consent. All the while, the agreement ensures that the time and costs associated with these commitments may be accomplished within the current proposed budget.³⁵

OCA

During litigation, the OCA recommended changes related to landlord consent requirements proposed by PWSA, including facilitating landlords’ consent through the provision of electronic signatures on web-based forms in addition to traditional paper signed forms.³⁶ In

³⁰ Settlement III.15.2.a

³¹ Settlement III.15.2.a.iii.

³² Settlement III.15.2.a.i-ii.

³³ Settlement III.15.2.b.

³⁴ PWSA St. in Supp. at 8.

³⁵ PWSA St. in Supp. at 9.

³⁶ OCA St. 1R at 16; PWSA St. No 1SR at 22.

the Settlement, PWSA agreed to several changes that reflect OCA's recommendations.³⁷ Accordingly, OCA supports these Settlement terms because they will make it easier for PWSA's customers to begin receiving the benefits of the Pilot Program.³⁸

I&E

In its support of the Settlement provisions regarding the landlord consent requirements, I&E argues that they represent an appropriate resolution to ensure that PWSA will take actions intended to mitigate landlord consent issues from being a barrier to Pilot Program entry and corresponding leak repair. I&E submits that the public interest is served when the Pilot Program goals of remediating private line leaks are met where, otherwise, the cost would be a barrier to repair and ultimately result in unpaid charges that are born by all ratepayers.³⁹

Pittsburgh United

In its testimony, Pittsburgh United raised concerns that tenants would not have equitable access to leak repair and conservation services. It recommended that PWSA take a more active role in attempting to secure landlord consent for repairs to be done and that any situation in which the lack of needed repair would cause the tenant's water service to be terminated be considered a public safety hazard and remediated by PWSA without delay.⁴⁰ In the Joint Settlement Petition, PWSA commits to make changes to its original proposal that address Pittsburgh United's concerns.⁴¹

In supporting the Settlement, Pittsburgh United points out that, rather than relying exclusively on tenants to educate and request consent from their landlords, the Settlement will substantially improve PWSA's outreach to property owners/landlords - which will, in turn,

³⁷ See, Settlement III.15.A.2.

³⁸ OCA St. in Supp. at 5.

³⁹ I&E St. in Supp. at 7-8.

⁴⁰ Pittsburgh United St. No. 1-R at 10:1-9.

⁴¹ See, Settlement III.15.A.2.

improve the accessibility of this program for tenants.⁴² In particular, Pittsburgh United argues that PWSA's assistance with landlord outreach is essential in mitigating tensions between the landlord and the tenant that make it difficult for a tenant to seek landlord approval on their own.⁴³

Upon review, we find that removing unnecessary barriers to program access benefits all PWSA customers who may otherwise bear the costs of water loss caused by unrepaired line leaks. Consequently, the Settlement provisions regarding the landlord consent requirements are just, reasonable, and in the public interest, and we recommend that they be approved by the Commission without modification.

C. Length of Pilot Program (Settlement III.15.A.3)

PWSA

PWSA originally proposed that the Pilot Program be established for a one-year period for a budget of \$400,000 as it is a new program with cost implications. PWSA proposed to evaluate the Pilot Program through focusing on the number of participants who receive service, how much the customers' usage changed after receiving service, and how long any such benefits in conservation were maintained, along with tracking costs and the number of eligible properties that did not receive services due to the lack of agreement by the property owner.⁴⁴

After some significant consideration and discussion of this issue, the Settling Parties agreed to propose that the Pilot Program continue until the funds available for repair have been depleted, such that it may continue beyond one year.⁴⁵ The Joint Petition also establishes

⁴² Pittsburgh United St. in Supp. at 7.

⁴³ *Id.*

⁴⁴ PWSA St. No. 1 at 26-27.

⁴⁵ Settlement III.15.A.3.b.

that PWSA will issue the Request for Proposal within three months of final Commission approval as a way to establish identifiable timeframes for the Pilot Program.

In supporting the Settlement provisions concerning the length of the Pilot Program, PWSA argues these provisions ensure that all the financial benefits to be made available through the Pilot Program will be utilized – even if such benefits extend beyond a year of the opening of the program.⁴⁶ This provision is also related to the agreement of PWSA in Section III.15.A.4.b wherein PWSA agrees to make a proposal for a line repair and conservation, including whether to propose one or not, as part of its next base rate case.⁴⁷ While the timing of PWSA’s next rate case is unknown and the implementation date for the Pilot Program dependent on when the Commission takes action, PWSA supports the intention of the Settling Parties to create the opportunity for an earlier implementation of the Pilot Program. This way, PWSA argues, the evaluation of the program can inform a potential future program as part of PWSA’s next base rate case.⁴⁸

I&E

I&E’s litigation position was in favor of limiting the term of the Pilot Program to one year as the extension of time would compound the cost recovery, budgeting, and disincentivize PWSA from seeking additional funding sources outside of ratepayers.⁴⁹ However, in its Statement in Support, I&E explains that it no longer has any objection to the Pilot Program extending beyond one year, because the Settlement contains provisions that address or eliminate each of I&E’s concerns. According to I&E, there is now a clear benefit to ensuring that all the Pilot Program funds available are depleted because this will ensure that the program benefits are maximized and not arbitrarily forfeited simply as a function of time.⁵⁰

⁴⁶ PWSA St. in Supp. at 10-11.

⁴⁷ Settlement III.15.A.4.b.ii.

⁴⁸ PWSA St. in Supp. at 11.

⁴⁹ I&E St. No. 1-SR, at 3-5.

⁵⁰ I&E St. in Supp. at 8.

Pittsburgh United

During litigation, Pittsburgh United remarked that pilot programs like the one PWSA proposed, involving a new full-time employee, requests for proposals, third-party contractors, and coordination and cooperation between landlords and tenants, can be slow to fully launch. Pittsburgh United's concern was that a one-year program, which would 'go dark' during the evaluation process, would forestall the progress made during that time, thus, adding unnecessarily to the administrative costs of the program to enlist new subcontractors, identify eligible participants, and reestablish internal supports.⁵¹ Pittsburgh United also expressed concerns regarding the quality and scope of any data that could be gathered during such a short time frame.⁵²

Pittsburgh United supports the Joint Settlement Petition, in which PWSA commits to a \$400,000 Pilot Program budget, as initially proposed, but will run the Pilot Program until that budget is fully spent.⁵³ In addition, PWSA commits to making a proposal regarding the future of the Pilot Program in its next base rate proceeding.⁵⁴ Pittsburgh United avers that, while the proposed Settlement does not fully adopt its recommendations, PWSA's commitment to run the program until the initial \$400,000 budget is fully spent – coupled with its agreement to make a proposal regarding the program in its next rate case – reasonably addresses Pittsburgh United's concerns and simultaneously balances the concerns of the other parties.⁵⁵ By running the program until the initially proposed \$400,000 budget is spent, Pittsburgh United believes that PWSA will avoid the inefficiencies and additional administrative costs that may arise by this type of Pilot Program running intermittently. Additionally, Pittsburgh United explains that the extension of the program will assist PWSA in collecting comprehensive data and enable it to

⁵¹ Pittsburgh United St, 1-R at 16.

⁵² *Id.* at 17.

⁵³ Settlement III.15.A.3.

⁵⁴ Settlement III.15.B.2.

⁵⁵ Pittsburgh United St. in Supp. at 8-9.

make a more fully informed recommendation regarding the continuance of the Pilot Program in the context of its next base rate proceeding.⁵⁶

We find the Settlement provisions regarding the length of the Pilot Program are reasonable and serve the public interest. By extending the program's duration beyond the original one-year term and continuing it until the funds available for repair have been depleted, the Settlement allows the program to maximize its benefits while minimizing its inefficiencies and administrative costs. Additionally, any extension of the program term will expand PWSA's ability to collect data and make informed decisions about the program's future. We recommend that the Commission approve these Settlement provisions without modification.

**D. Data Tracking, Evaluation of Pilot Program and Future Program
(Settlement III.15.A.4)**

PWSA

PWSA initially proposed to evaluate the Pilot Program based on the number of participants who receive service, how the customers' usage changed after receiving services, and how long any such benefits in conservation were maintained. PWSA also proposed to keep track of the costs of the measures implemented to evaluate whether the costs of the Pilot Program were reasonable given the results of the program. Finally, PWSA proposed to track and identify the number of eligible properties which did not receive services because of the lack of agreement by the property owner. PWSA proposed to file the result of its evaluation with the Commission three months prior to the end of the pilot period and to include a recommendation as to whether to continue the pilot and, if so, any changes recommended for a future program.⁵⁷

⁵⁶ Pittsburgh United St. in Supp. at 9.

⁵⁷ PWSA St. No. 1 at 26-27.

The Joint Settlement establishes a collaborative process to identify the data to be tracked to assist in evaluation of the Pilot Program.⁵⁸ Prior to the convening of the collaborative, the Joint Settlement invites parties to provide their suggestions regarding six specifically identified topics for consideration.⁵⁹ The purpose of these settlement provisions is to memorialize the items that could be included as part of the evaluation and to establish a collaborative whereby the metrics for measuring these items can be developed.

PWSA believes that the timing of the collaborative, within 30 days after Commission of the Pilot Program, is aggressively set in the interest of having the metrics collaboratively developed in advance of PWSA issuing the Request for Proposal (RFP). By reaching agreement in advance of the issuing of the RFP, PWSA maintains that it can ensure that the approved contractor starts collecting the data necessary to permit a good evaluation of the pilot from day one of implementation.⁶⁰ As such, PWSA supports these settlement provisions for enhancing its initial proposal through collaboration with interested stakeholders in a timely way to develop metrics that will enable all parties, and the Commission, to engage in a well-informed evaluation of the Pilot Program.

PWSA also believes that the Joint Settlement is forward looking regarding the future of the program by establishing commitments regarding PWSA's next base rate. While not providing a guarantee that PWSA will continue the program, PWSA does agree to make a proposal for a line repair and conservation program based on the results of its evaluation of the Pilot Program.⁶¹ PWSA also agrees to share the results of its evaluation of the Pilot Program and to include the metrics and data to be tracked as a result of the collaborative process.⁶² PWSA

⁵⁸ Settlement III.15.A.4.a.

⁵⁹ Settlement III.15.A.4.a.i.

⁶⁰ PWSA St. in Supp. at 13.

⁶¹ Settlement III.15.A.4.b.ii.

⁶² Settlement III.15.A.4.b.i and iv.

supports these provisions because they provide certainty of a future opportunity to review the results of the Pilot Program to inform the future of the program.⁶³

OCA

During litigation, OCA agreed with PWSA that the proposed Pilot Program is likely to reduce the utility's uncollectibles expense.⁶⁴ To determine the true impact of the program on the uncollectibles, OCA recommended that PWSA work with the parties to develop the necessary methodology for determining the increase in uncollectibles that would have occurred if the leaks were permitted to continue unabated.⁶⁵ Additionally, OCA recommended that PWSA examine likely cost reductions other than uncollectibles, such as the reduction in working capital associated with carrying low-income arrears.⁶⁶

OCA supports the proposed Settlement because it addresses these matters. Specifically, PWSA will convene a collaborative to identify the data to be tracked to assist in evaluation of the Pilot Program that addresses the impact on uncollectibles, as defined by OCA, and on other reductions in total costs to other ratepayers, to the BDP, and to program participants.⁶⁷ OCA supports these provisions because they will allow OCA to provide input regarding data tracking to ensure that the data tracked is useful and appropriate for evaluating the existing Pilot Program and any proposals for a future program.⁶⁸

In addition, the results of PWSA's evaluation of the Pilot Program, informed by the metrics and data tracked pursuant to the collaborative will be shared in PWSA's next base

⁶³ PWSA St. in Supp. at 14.

⁶⁴ OCA St. 1R at 22.

⁶⁵ *Id.* at 23.

⁶⁶ *Id.* at 24-25.

⁶⁷ Settlement III.15.A.4.a.i.

⁶⁸ OCA St. in Supp. at 6.

rate case in conjunction with PWSA's proposal to establish a permanent program, if any.⁶⁹ According to OCA, the parties' reservation of their rights to challenge any proposal for a permanent line repair and conservation program⁷⁰ allows the OCA to protect consumer interests through assessment of customer benefit and analysis of how a permanent program should be modified to deliver needed repair services efficiently and effectively to low-income customers while reducing costs associated with high consumption for all customers.⁷¹

I&E

Like OCA, I&E supports the Settlement provisions at Settlement ¶ III.15.A.4 because they memorialize PWSA's commitment to collaborate with interested parties in order to determine the data that should be tracked to enable future evaluation of the Pilot Program. I&E favors the collaborative evaluation discussion and the reporting that will result because both are necessary to ensure that parties and the Commission will ultimately have the tools necessary to gauge the effectiveness and cost-efficiency of the Pilot Program before it continues beyond the trial term.

Pittsburgh United

In its testimony, Pittsburgh United recommended that PWSA implement a two-year Pilot Program period and begin its assessment of the program benefits within three months of the end of the first program year.⁷² Pittsburgh United also recommended that, in addition to the metrics identified in PWSA's initial Petition, the evaluation assess the effect of the Pilot Program on universal service program costs - quantifying the savings achieved through the Pilot Program in terms of dollars saved by the participant and for the BDP.⁷³ Finally, Pittsburgh United recommended that PWSA track the number of households that cannot be served due to

⁶⁹ Settlement III.15.A.4.b.

⁷⁰ Settlement III.15.A.4.b.i., ii.

⁷¹ OCA St. in Supp. at 6.

⁷² Pittsburgh United St. No. 1-R at 16

⁷³ *Id.* at 18.

either health and safety issues or other issues related to the condition of the home, and that PWSA use the health and safety deferral information to make future adjustments to the Pilot Program.⁷⁴

Pittsburgh United supports the Settlement provisions concerning data tracking, the evaluation of the Pilot Program, and future program because they set in place a collaborative process that will likely result in useful data tracking, accurately representing both the successes of the program and identifying improvements to be made. According to Pittsburgh United, this approach will allow a more holistic review of all relevant factors in evaluating the success of the program and determining whether and to what extent the program should continue after the initial pilot phase.⁷⁵

Upon careful consideration, we find that the terms of Section III.15.A.4 of the Settlement are reasonable, just, and serve the public interest. Implementing the program on a pilot basis, and then evaluating it, will provide valuable input as to the future of the program, including its costs and benefits. The Joint Petition represents a reasonable approach to establishing practical parameters to evaluate the Pilot Program and to ensure that the evaluation and data measured will be available in a future rate case where the future of the program can be addressed. The expectation is that by the time PWSA's next base rate is filed there will be data from the Pilot Program available for evaluation. To that end, data tracking will assist the parties in evaluating the effectiveness of the program in the future. We recommend that the Commission approve these provisions without modification.

E. Cost Recovery (Settlement III.15.B)

PWSA

Regarding the costs for the Pilot Program, PWSA initially sought Commission authorization to track the costs as a regulatory asset and seek cost recovery in its next base rate

⁷⁴ *Id.* at 14.

⁷⁵ Pittsburgh United St. in Supp. at 11.

filing and made clear it would rescind its Petition and move to request implementation of the Pilot Program as part of its next base rate case if it were not permitted to seek future cost recovery.⁷⁶

As part of the Joint Settlement, the Settling Parties agree that the budget for the Pilot Program will be \$400,000 and PWSA agrees not to seek future base rate recovery for the costs of the Pilot Program if the Commission approves implementation of the Pilot Program as proposed and modified by the Settlement.⁷⁷ While PWSA does agree to file an update regarding the not-to-exceed cost for the in-home repairs based on current economic conditions, the Joint Petition makes clear such update will not exceed the overall \$400,000 budget.⁷⁸ Finally, the Joint Petition makes clear that cost recovery for any proposed future line repair program will be made as part of PWSA's next base rate case.⁷⁹

In its Statement in Support, PWSA argues that, taken together, the Settlement provisions regarding cost recovery and budgeting are a reasonable resolution of the issues raised by the Settling Parties. In particular, PWSA explains that it will rely on existing available revenue to fund the Pilot Program.⁸⁰ As such, maintaining a certain budget and permitting PWSA flexibility to spend the budget as appropriate for the Pilot Program are significant considerations to limit the amount of the revenue that will be reallocated to the Pilot Program. Going forward, however, PWSA believes that cost recovery for any future line repair program will need more full consideration. PWSA supports the Settlement because it achieves a reasonable resolution of these concerns by making clear such consideration will occur in a future base rate case and with the benefit of the evaluation of the Pilot Program.⁸¹

⁷⁶ PWSA St. No. 1 at 31-32.

⁷⁷ Settlement III.15.B.1.c.

⁷⁸ Settlement III.15.B.1.a.-b.

⁷⁹ Settlement III.15.B.2.

⁸⁰ PWSA St. No. 1-SR at 8.

⁸¹ PWSA St. in Supp. at 16.

OCA

In its Statement in Support, OCA explains that, if the Settlement is approved, PWSA will not recover the costs of the Pilot Program in future rates, i.e., the costs will be funded through existing base rates. As such, participants will receive the benefits of the Pilot Program at no additional cost to any PWSA customer. In addition, OCA argues that the data that PWSA tracks for the Pilot Program will assist OCA to evaluate any future proposal by PWSA for a line repair program, including the mechanism for recovery and calculation of costs and offsets, and recommend appropriate changes to improve the effectiveness of the program and benefits realized by participants and other PWSA customers.

During litigation, OCA also raised a concern about PWSA's proposed initial not-to-exceed amount for line repair and/or leak remediation services of \$1,346.⁸² OCA recommended that PWSA update the not-to-exceed investment amount per household for changes in inflation for 2022 year-to-date and projections for 2023.⁸³ In its Statement in Support, OCA points out that in the Settlement PWSA agrees to provide the requested update and supporting calculations when it files compliance tariffs in this proceeding.⁸⁴ According to OCA, this Settlement provision is in the public interest because increasing the not-to-exceed amount will help to ensure that all of the services needed to address high consumption can be completed without being restricted by an artificially low amount.⁸⁵

I&E

The first issue that I&E raised in litigation was related to what I&E deemed to be excessive administrative costs, comprised of \$60,000, or 15% of \$400,000 budget that PWSA proposed for the Program.⁸⁶ The second issue involved PWSA's claims that regulatory asset

⁸² OCA St. 1R at 19.

⁸³ *Id.* at 20.

⁸⁴ OCA St. in Supp at 7, referring to Settlement III.15.B.1.a.

⁸⁵ OCA St. in Supp. at 8.

⁸⁶ I&E St. No. 1-R, at 3-4.

recovery would provide clarity to customers, constrain costs, enable quick implementation, and it would be consistent with Commission decisions allowing such cost recovery for a variety of situations.⁸⁷

I&E opposed PWSA's cost recovery proposal arguing that regulatory asset recovery was not appropriate for the Pilot Program because it failed the standard necessary to warrant such recovery. According to I&E, precedent demonstrates that deferred accounting treatment may be granted if the expense is (1) extraordinary; (2) unanticipated; (3) non-recurring; and (4) substantial.⁸⁸ I&E opined that PWSA's Pilot Program costs failed all prongs of the conjunctive standard necessary to establish regulatory asset treatment.⁸⁹ Additionally, I&E maintained that PWSA had access to rate stabilization funding that was more than sufficient to cover the Pilot Program costs, making regulatory asset recovery akin to double recovery.⁹⁰

In its Statement in Support, I&E supports the Settlement in which PWSA is no longer pursuing regulatory asset recovery for the Pilot Program costs. I&E submits that this outcome is in the public interest because it does not offend regulatory standards for cost recovery, it ensures that ratepayers do not pay the same costs twice, and it also ensures that PWSA has a path forward for recovering costs in the future if the Pilot Program is ever renewed or converted into a permanent program.⁹¹

⁸⁷ PWSA Statement No. 1 at 31.

⁸⁸ *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 (Opinion and Order Entered Dec. 5, 2012); I&E Answer at 5-7; I&E St. No. 1-R at 9-10.

⁸⁹ I&E St. No. 1-R at 10.

⁹⁰ I&E St. No. 1-R at 11-12.

⁹¹ I&E St. in Supp. at 11, 13.

Pittsburgh United

Although Pittsburgh United did not take a position on PWSA's proposed cost recovery, it believes that PWSA's commitment to update the not-to-exceed costs for repairs is a reasonable provision. In its Statement in Support, Pittsburgh United argues that, given the lingering effect of the COVID-19 pandemic and current inflationary pressures on the costs of supplies and labor, a frequent assessment of whether the budget allocated can accomplish the goals intended is prudent and in the public interest.⁹²

We find that the provisions of the Settlement regarding cost recovery are reasonable, just and serve the public interest. In particular, these provisions ensure that PWSA has an agreed-upon method for recovering costs if the Pilot Program is ever renewed or converted into a permanent program in the future, while guaranteeing that PWSA's ratepayers do not pay the same costs twice. As such, we recommend that the Commission approve these provisions without modification.

F. Timeframe for Commission Action (Settlement ¶ III.15.C)

PWSA

In an effort to clear the way for the Pilot Program to be implemented as soon as possible, Section III.15.C of the Settlement sets forth a proposed timeframe for Commission action with the goal of enabling PWSA to implement the Pilot Program in the summer of 2023. To support this goal, all parties waived their right to file briefs. Additionally, the Joint Petitioners have agreed to waive the filing of Exceptions if we recommend that the Commission adopt the Settlement without modification.⁹³

In its Statement in Support, PWSA explains that, initially, PWSA was hopeful that the Pilot Program could be presented to the Commission on a consensus basis to avoid

⁹² Pittsburgh United St. in Supp. at 12.

⁹³ Settlement IV.21.

litigation.⁹⁴ However, the Commission referred the matter to the OALJ through which the parties presented their views in written testimony and during settlement discussions. With the benefit of this information, the parties were able to work collaboratively to present a full settlement to the Commission for its consideration. According to PWSA, one driving factor of reaching full Settlement was the desire to implement the program on a faster track than would be available if issues remained open for litigation. To that end, PWSA considers the agreement to waive exceptions as an important component of the overall desire of the Settling Parties to implement the Pilot Program and begin the process of evaluating the program design and deliberate on a potential future program.⁹⁵

Additionally, the Joint Petition includes a proposed *pro forma* Tariff and requests that the Commission permit it to become effective on one day's notice of the subsequent issuance date.⁹⁶ PWSA maintains that by agreeing to the tariff language in advance and presenting it with the Joint Petition, the Settling Parties hope to decrease the amount of time necessary to finalize the Commission's action regarding the Pilot Program so that it can be implemented in the summer of 2023. According to PWSA, the proposal set forth in these settlement provisions are reasonable and in the public interest because they should enable PWSA to implement the Pilot Program sooner.⁹⁷

OCA

OCA agrees to the proposed timeframe. In its Statement in Support, OCA explains that the parties agreed PWSA should implement this program as soon as possible so that eligible low-income customers may begin receiving the benefits of the program and unnecessary waste of water can be avoided. Further, OCA argues that the sooner the program begins, the

⁹⁴ PWSA St. in Supp. at 18.

⁹⁵ *Id.*

⁹⁶ Settlement III.15.C.1.b.

⁹⁷ PWSA St. in Supp. at 18.

more data that can be collected to inform proposals for a permanent program, and evaluation of such proposals, in PWSA's next base rate case filing.⁹⁸

I&E

Like PWSA and OCA, I&E too supports the identified implementation timeline and request for Commission action by no later than April 20, 2023. According to I&E, these provisions are necessary to facilitate customers' ability to reap the programming benefits as soon as possible.⁹⁹

Pittsburgh United

Pittsburgh United joins PWSA, OCA and I&E in their support for the provisions of the Settlement related to the timeframe for Commission action. In its Statement in Support, Pittsburgh United urges the Commission's swift approval to ensure the Pilot Program is implemented in a prompt manner so that assistance can be timely delivered to customers currently in need of remediation.¹⁰⁰

Upon review, we find that the proposed schedule for Commission action in the Settlement, along with the submittal of the *pro forma* Tariff, will support PWSA's ability to implement the program in the summer of 2023. Ensuring timely implementation of the Pilot Program will maximize PWSA's ability to reduce water loss more expeditiously and cost-efficiently. As such, we find the provisions of Section III.15.C of the Settlement to be in the public interest and recommend that they be approved by the Commission without modification.

Recommendation

This Settlement was agreed to by the Settling Parties after review of PWSA's January 3, 2022, Petition and supporting testimony. In addition, the Settling Parties conducted

⁹⁸ OCA St. in Supp. at 8.

⁹⁹ I&E St. in Supp. at 13.

¹⁰⁰ Pittsburgh United St. in Supp. at 12-13.

discovery and engaged in in-depth discussions that focused on PWSA's proposed budget and structure for the Pilot Program.

The resulting Settlement focuses on achieving the Settling Parties' goal of assisting qualifying low-income customers, who are unable to afford the costs of repairing private line leaks, in a cost-effective manner and without unreasonably increasing costs to other ratepayers. Additionally, the implementation of the proposal on a pilot basis facilitates the gathering of valuable information about the Pilot that will be used to inform future program plans. Also, by agreeing to forgo future base rate cost recovery for the Pilot and limiting the budget to be utilized, the Settlement reasonably addresses concerns about the cost of the Pilot for other ratepayers and enables the Pilot to go forward sooner.

Upon review, we find that the provisions of the Settlement strike an appropriate balance of the many and varied interests of the Settling Parties. They allow the Settling Parties to amicably and expeditiously resolve important issues, such as cost recovery, program design, and methodology for evaluating the Pilot, all of which could have interfered with PWSA's ability to implement the Pilot Program. Through its provisions, the Settlement also enables PWSA to implement the Pilot on a quicker timeframe than would have been possible if the case were to be litigated. In this fashion, PWSA's low-income customers may benefit from the terms of the Pilot Program sooner, while PWSA and its ratepayers avoid the costs of litigation.

Furthermore, the Settlement is consistent with the Commission's rules and practices encouraging settlements, 52 Pa. Code §§ 5.231, 69.391, 69.401-406, and is supported by a substantial record. For these reasons and the ones listed in more detail above, we find that the Settlement is in the public interest and recommend its adoption without modification.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties to this proceeding. 66 Pa.C.S. §§ 501, 1308(d), 3202(a)(1).

2. The provisions in the Public Utility Code apply to PWSA in the “same manner as a public utility.” 66 Pa.C.S. § 3202(a)(1).

3. The Commission encourages parties in contested on-the-record proceedings to settle cases. *See* 52 Pa. Code § 5.231.

4. To determine whether a settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm’n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

5. Parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm’n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

6. The Joint Petition for Settlement is in the public interest.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the “Joint Petition for Full Settlement Regarding PWSA’s Pilot Private Service Line Leak Repair and Expanded Conservation Program for Low Income Customers” along with the pre-served testimony and exhibits described in Exhibit A of the Joint Petition be admitted into the record in this case.

2. That the “Joint Petition for Full Settlement Regarding PWSA’s Pilot Private Service Line Leak Repair and Expanded Conservation Program for Low Income

Customers” filed on December 1, 2022, by the Pittsburgh Water and Sewer Authority, the Office of Consumer Advocate, the Bureau of Investigation and Enforcement, and Pittsburgh United, at Docket No. P-2022-3030253, including all terms and conditions stated therein, be approved without modification.

3. That the Pittsburgh Water and Sewer Authority be permitted to file a compliance tariff supplement consistent with the *Pro Forma* Tariff set forth in Exhibit B to the Joint Petition, to become effective on one day’s notice after entry of the Commission’s order approving the Settlement.

4. That the Pittsburgh Water and Sewer Authority, the Office of Consumer Advocate, the Bureau of Investigation and Enforcement, and Pittsburgh United, shall comply with the terms of the Joint Petition for Settlement submitted in this proceeding as though each term therein were the subject of an individual ordering paragraph.

5. That the docket at Docket No. P-2022-3030253 be marked closed.

Date: January 25, 2023

_____/s/
Eranda Vero
Administrative Law Judge

_____/s/
Gail Chiodo
Administrative Law Judge