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File #: 203073

November 27, 2023

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Petition of Aqua Pennsylvania, Inc. For Approval of its Lead Service Line  
Replacement Program  
Docket No. P-2023-**

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Dear Secretary Chiavetta:

Attached for filing please find the Petition of Aqua Pennsylvania, Inc. (“Aqua”) For Approval of its Lead Service Line Replacement Program (“LSLR”) in the above-referenced proceeding.

On October 23, 2023, Aqua filed its Petition for Approval of its Third Long-Term Infrastructure Improvement Plan (“LTIIIP”) and Lead Service Line Replacement Program at Docket No. P-2023-3043755 (“Petition for Third LTIIIP”). In accordance with the provisions of 52 Pa. Code § 65.54(b), Aqua included with its Petition for Third LTIIIP, as Attachment A, its LSLR Plan as a separate and distinct component of its LTIIIP.

The Commission’s Bureau of Technical Utility Services (“TUS”) has expressed a concern that the LSLR Program should be filed at a separate docket from the Third LTIIIP. To avoid controversy, Aqua is hereby submitting this separate Petition for approval of its LSLR Program, and requests that a separate docket be assigned to this Petition for approval of the LSLR Program.

Copies will be provided as indicated on the Certificate of Service.

Rosemary Chiavetta, Secretary  
November 27, 2023  
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Respectfully submitted,

A handwritten signature in cursive script that reads "Michael W. Hassell".

Michael W. Hassell

MWH/kl  
Attachment

cc: Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), and the Prehearing Order dated October 19, 2021 (establishing the list of fully active parties in this proceeding).

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Date: November 27, 2023



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Michael W. Hassell

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Aqua Pennsylvania, Inc. :  
For Approval of its Lead Service Line : Docket No. P-2023-\_\_\_\_\_  
Replacement Program :  
:

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**PETITION OF AQUA PENNSYLVANIA, INC. FOR APPROVAL OF  
ITS LEAD SERVICE LINE REPLACEMENT PROGRAM**

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**To The Pennsylvania Public Utility Commission:**

Aqua Pennsylvania, Inc. (“Aqua” or the “Company”) hereby files this Petition seeking approval of the Company’s Lead Service Line Replacement (“LSLR”) Program in accordance with Section 1311(b) of the Pennsylvania Public Utility Code (“Public Utility Code” or the “Code”), 66 Pa. C.S. § 1311(b), Chapter 65 of the Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code §§ 65.51, et seq., and the Commission’s Final Rulemaking Order regarding Act 120 of 2018 (“Act 120”) entered on March 14, 2022 at Docket No. L-2020-301952.

As relevant to this Petition, Section 65.54(b) of the Commission’s regulations, 52 Pa. Code § 65.54(b), directs that “[a]n entity that has a Commission-approved LTIIIP shall include with its LSLR program petition a modified LTIIIP containing a LSLR plan as a separate and distinct component of the entity’s LTIIIP.” On October 23, 2023, Aqua filed its Petition for Approval of its Third Long-Term Infrastructure Improvement Plan (“LTIIIP”) and Lead Service Line Replacement Program at Docket No. P-2023-3043755 (“Petition for Third LTIIIP”). The Company’s proposed Third LTIIIP is for the five-year period 2023-2027 and was submitted pursuant to a commitment made by Aqua as a part of the Commission-approved Settlement at Docket No. A-2022-3034143. In addition, in accordance with the provisions of 52 Pa. Code §

65.54(b), Aqua included with its Petition for Third LTIP, as Attachment A, its LSLR Plan as a separate and distinct component of its LTIP. A complete copy of the Third LTIP, together with the supporting Exhibits and including the Company's proposed LSLR Plan, has been served on all the same persons that are being served with the instant Petition.

The Commission's Bureau of Technical Utility Services ("TUS") has expressed a concern that the LSLR Program should be filed at a separate docket from the Third LTIP. To avoid controversy, Aqua is hereby submitting this separate Petition for approval of its LSLR Program, and requests that a separate docket be assigned to this Petition for approval of the LSLR Program. Aqua reserves the right to seek consolidation of the Petition for Third LTIP and the docket assigned to this matter, to the extent such consolidation is or becomes necessary.

The Company requests that the Commission approve Aqua's proposed LSLR Program, which consists of the following three elements: (1) the LSLR Plan, which was included in the Company's Petition for Third LTIP as Attachment A to the LTIP at Docket No. P-2023-3043755 and is incorporated herein by reference; (2) the pro forma tariff supplement containing the proposed changes necessary to implement the entity's LSLR program, attached to this Petition as **Exhibit A**; and (3) the information required by the Commission under 52 Pa. Code § 53.52(a) (related to tariff revisions), attached to this Petition as **Exhibit B**.

## **I. INTRODUCTION**

1. Aqua is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and is a wholly-owned subsidiary of Essential Utilities, Inc. ("Essential"). Aqua is a public utility as defined by the Public Utility Code, 66 Pa. C.S. § 102, and is a utility authorized to continue to use a previously-approved DSIC mechanism.

2. Aqua owns and operates water treatment facilities including water treatment plants, wells, storage, distribution, and transmission systems throughout Pennsylvania serving

approximately 450,000 customers in 32 counties. Aqua's distribution system includes approximately 5,928 miles of pipe, 25,210 hydrants, 85,135 valves, and 449,298 customer meters.

3. The names, addresses and telephone numbers of Aqua's attorneys for this filing are as follows:

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Aqua's attorneys are authorized to receive all notices and communications regarding this filing.

4. On October 24, 2018, the Governor signed into law Act 120. Act 120, among other measures, amended Section 1311(b) of the Public Utility Code, 66 Pa.C.S. § 1311(b), to allow for public utilities to replace customer-owned lead service lines ("COLSL") and recover those costs through a utility's Distribution System Improvement Charge ("DSIC") if the utility has a DSIC mechanism.

5. On September 3, 2020, Aqua filed a Petition for approval of tariff changes authorizing replacement of COLSLs, in accordance with 66 Pa. C.S. § 1311(b) at Docket No. P-2020-3021766.

6. On July 15, 2021, the Commission approved Aqua's lead replacement petition at Docket No. P-2020-3021766.

7. On March 14, 2022, the Commission entered its Final Rulemaking Order at Docket No. L-2020-3019521, adopting new regulations to implement the lead service line ("LSL") provisions of Act 120 at Chapter 65 of the Commission's regulations, 52 Pa. Code §§ 65.51-65.62. The Final Rulemaking Order adopted the requirements set forth in Section 1311(b) of the Public Utility Code, instituted timelines for the removal and replacement of all LSLs within public utility service territories, and established the regulatory requirements for LSLR programs, LSLR plans, and tariff revisions implementing LSLR programs.

8. The final Commission regulations concerning LSLRs became effective on July 23, 2022. See 52 Pa. Code §§ 65.51-65.62; 52 Pa.B. 4096.

9. Pursuant to Section 65.61 of the Commission's LSLR regulations, Aqua and other entities that received prior Commission approval to perform LSLR activities must file a LSLR program in accordance with the Commission's LSLR regulations no later than the effective date of the rates established under the entity's next base rate case or within 2 years of the effective date of the regulations, whichever comes first. See 52 Pa. Code § 65.61.

10. Act 120 establishes a standard for COLSL replacements as well as the recovery of costs associated with those replacements. Public water utilities must file a LSLR program with the Commission that is consistent with the provisions of Sections 65.54 and 65.55 of the Commission's regulations. See 52 Pa. Code §§ 65.54 and 65.55.

11. Pursuant to Section 65.54 of the LSLR regulations, a petition seeking approval of a LSLR Program must: (1) be served upon the Commission, the Office of Consumer Advocate (“OCA”), the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Small Business Advocate (“OSBA”), and the parties of record in the Company’s most recent base rate case (52 Pa. Code § 65.54(a)); and (2) if the utility has a Commission-approved LTIP, include a modified LTIP containing a LSLR plan that is a separate and distinct component thereof (Id. § 65.54(b)).

12. Specifically, under Section 65.55(b) of the Commission’s regulations, a LSLR program must include the following elements:

(1) A LSLR plan as described in § 65.56 (relating to LSLR plan requirements).

(2) A pro forma tariff or tariff supplement containing the proposed changes necessary to implement the entity’s LSLR program as described in § 65.58 (relating to pro forma tariff or tariff supplement requirements).

(3) Information required by the Commission for filings under 66 Pa.C.S. § 1308 (relating to voluntary changes in rates), including statements required by § 53.52(a) (relating to applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies).

13. Under Section 65.56 of the Commission’s regulations, 52 Pa. Code § 65.56, an entity’s LSLR plan must contain:

(a) A service line inventory that complies with the U.S. Environmental Protection Agency’s [“U.S. EPA”] regulations at 40 CFR 141.1-143.20 as enforced by the Department of Environmental Protection [“DEP”].

(b) A section addressing LSLR planning and replacements.

(c) A section addressing communications, outreach, and education that complies with the U.S. EPA’s regulations at 40 CFR 141.85 (relating to public education and supplemental monitoring and mitigation requirements).

14. Under Section 65.58 of the Commission's regulations, 52 Pa. Code § 65.58, an entity's pro forma tariff or tariff supplement containing the proposed changes necessary to implement the entity's LSLR program must address:

- (a) The LSLR program's annual cap on the number of customer-owned LSLs that can be replaced annually;
- (b) The demarcation of service lines;
- (c) The specifications for, and prohibitions upon, partial LSLRs;
- (d) The provision of reimbursements to eligible customers or property owners who replaced their LSL within 1 year before or from LSLR project commencement; and
- (e) The provision of a warranty on LSLR work performed by the entity or its contractor of a term of not less than 2 years.

15. Under Section 53.52(a) of the Commission's regulations, 52 Pa. Code § 53.52(a), whenever a public utility files a tariff, revision or supplement effecting changes in the terms and conditions of service rendered or to be rendered, it shall submit all of the following:

- (1) The specific reasons for each change.
- (2) The total number of customers served by the utility.
- (3) A calculation of the number of customers, by tariff subdivision, whose bills will be affected by the change.
- (4) The effect of the change on the utility's customers.
- (5) The direct or indirect effect of the proposed change on the utility's revenue and expenses.
- (6) The effect of the change on the service rendered by the utility.
- (7) A list of factors considered by the utility in its determination to make the change. The list shall include a comprehensive statement about why these factors were chosen and the relative importance of each. This subsection does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308 (relating to voluntary changes in rates).

(8) Studies undertaken by the utility in order to draft its proposed change. This paragraph does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308.

(9) Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change. If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.

(10) Plans the utility has for introducing or implementing the changes with respect to its ratepayers.

(11) FCC, FERC or Commission orders or rulings applicable to the filing.

16. Aqua's LSLR Program contains all of the requirements enumerated in the Commission's regulations at 52 Pa. Code §§ 53.52(a), 65.55, and 65.56, as summarized in this Petition.

## **II. AQUA'S LEAD SERVICE LINE REPLACEMENT PROGRAM**

### **A. BACKGROUND**

17. Aqua has developed its LSLR Program in accordance with Chapter 65 of the Commission's regulations, 52 Pa. Code §§ 65.51 et seq., and the Commission's Final Implementation Order entered on March 14, 2022 at Docket No. L-2020-3019521. Included in the Company's LSLR Program are the Company's LSLR Plan, a pro forma tariff supplement containing the proposed changes necessary to implement the LSLR Program, and information required by the Commission under 52 Pa. Code § 53.52(a) (related to tariff revisions).

18. The Company received prior Commission approval of its LSLR petition on July 15, 2021, at Docket No. P-2020-3021766. Under the Company's existing plan, COLSL replacements are capped at 200 per year and at a budgeted amount of \$800,000. The Company's proposed LSLR Plan for 2023-2027 proposes a cap of 1,500 replacements per year, with a projected budget amount of approximately \$12 Million per year at a full run-rate. This replacement rate is expected to

enable the Company to replace all LSLs, Company-owned and Customer-owned, within 25 years, in accordance with the provisions of 52 Pa. Code §§ 65.53(a). This will allow the Company to continue to reduce and eliminate lead throughout the Company’s systems, which in turn will improve the overall distribution system integrity and the health of the Company’s customers and the Commonwealth overall.

**B. LSLR PLAN**

19. Aqua’s LSLR Plan contains the following elements and supporting documents as required by Section 65.56 of the Commission’s regulations, 66 Pa. C.S. § 65.56 and was included in the Company’s Petition for Third LTIP as Attachment A to the LTIP.

**1. Service Line Inventory**

20. Aqua’s current Service Line Inventory and inventory methodology is discussed on pages 4 through 5 of its LSLR Plan and the current Service Line Inventory summary is displayed in Table 1 of the LSLR Plan.

21. Aqua is currently developing its Service Line Inventory, consistent with the intent and guidance of the U.S. EPA’s Lead and Copper Rule Revisions.<sup>1</sup> To date, 90% of Company service line material has been identified and 73% of customer service line material has been identified using the methodologies described on pages 4 through 5 of the LSLR Plan.

22. In developing the Service Line Inventory, the Company has used a combination of evidence-based data, including field observations, tap cards, and as-built drawings. When evidence-based data is not available, the Company assigns material designations of “non-lead” based on its knowledge of when the use of lead was discontinued or banned in new construction for

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<sup>1</sup> On January 15, 2021, the U.S. EPA issued its Lead and Copper Rule Revisions (“LCRR”), which revised the National Primary Drinking Water Regulation for lead and copper pursuant to the Safe Drinking Water Act. The LCRR, among other things, required all water systems to create a publicly accessible LSL inventory and set forth replacement requirements. See 86 FR 4198. The compliance date for the LCRR is October 16, 2024. See 86 FR 31939.

certain geographic areas. In addition, for galvanized service lines which were downstream from LSLs and/or lines which the Company cannot prove were never downstream from an LSL or lead gooseneck, those lines are assigned a Galvanized Requiring Replacement (“GRR”) designation and are considered candidates for replacement.

23. Table 1 of the LSLR Plan shows total material type identification across Aqua’s service territory and is reproduced below:

Material Type	Company	Customer
Lead	43	389
GRR	920	10,380
Non-lead	391,334	307,126
Lead status unknown	42,613	117,015
<b>Total</b>	<b>434,910</b>	<b>434,910</b>

24. The Company will update its Service Line Inventory as progress is made on completing the inventory and as new water systems are acquired.

**2. LSLR Planning and Replacements**

**a. Aqua’s Projected Annual Investment and Sources of Financing**

25. The Company’s projected annual investment and sources of financing are provided on pages 5 through 6 of its LSLR Plan. The Company proposes a cap up to 1,500 replacements annually. Table 19 of the Company’s Third LTIP shows projected costs of up to the cap of 1,500 replacements per year.

26. Anticipated sources of financing for the replacements will include short term debt of the Company converted at a later time into long term debt and equity. The Company is also exploring low-cost/no cost financing through the Pennsylvania Infrastructure Investment Authority (“PENNVEST”) and other sources as they become available. As the Company identifies

systems requiring significant LSL replacement, the Company will explore funding opportunities to reduce costs to ratepayers.

**b. Aqua’s Projected LSLRs Per Calendar Year and Description of Projection Development**

27. The Company is projecting the following replacements during the term of the Third LTIP, as set forth in Table 2 of the LSLR Plan:

2023	2024	2025	2026	2027
500	1,200	1,500	1,500	1,500

28. As noted in Table 1 of the LSLR Plan, Aqua currently has approximately 434,910 company-owned service lines, of which 42,613 are lead status unknown and 117,015 customer side service lines that are lead status unknown. In addition to finding and replacing lead service lines, the addition of GRR eligible for replacement under Act 120 has increased the potential number of replacements needed throughout Aqua’s systems. Aqua believes 2% of the unknown customer side service lines, or 2,340 service lines, are potentially lead or GRR and will need to be replaced.

29. The projections for 2023-2027 are consistent with Aqua’s annual cap proposed in the LTIP and this LSLR Plan.

**c. Prioritization Criteria**

30. The Company’s prioritization criteria are explained on page 6 of its LSLR Plan.

31. For individual properties, Aqua considered the following prioritization criteria when developing the LSLR Plan: (1) emergency repairs revealing LSLs; (2) homes with elevated lead concentrations in tap samples; (3) schools and licensed day care facilities; (4) homeowners that request replacements; and (5) homeowners in systems that do not have widespread LSLs.

32. For systems, Aqua considered the following prioritization criteria when developing the LSLR Plan: (1) systems with higher projected lead or GRR replacements; (2) systems where

PENNVEST or other funding is available; and (3) systems with aging water mains that require replacement.

**d. Processes and Procedures to Address Emergency Repairs and Replacements Which Reveal LSLs**

33. The Company's processes and procedures to address emergency repairs and replacements which reveal LSLs are discussed on pages 6 through 7 of its LSLR Plan.

34. When the Company uncovers a COLSL while completing emergency repairs to its system, the Company contacts the customer/owner and provides them with the information and materials in Section II.B.6 of the LSLR Plan and prioritizes the replacement of the entire service line both Company and customer side.

35. When the Company uncovers a Company-owned LSL while completing emergency repairs to its system, the Company will replace its service line up to the curb stop, which will reveal the customer-side material. Upon verification that the customer's service line is not lead, the Company will complete the Company-side replacement and restore service to the property. The Company will provide the customer with information regarding lead, pitcher filters, and flushing instructions. If the customer's service line is lead, the Company will follow the procedures outlined in Paragraph 34, above.

**e. Processes and Procedures to Obtain Acceptance of a LSLR Prior to Project Commencement When the Customer Is and Is Not the Property Owner**

36. The Company's processes and procedures to obtain acceptance of a LSLR prior to project commencement when the customer is and is not the property owner are addressed on pages 7 through 8 of the LSLR Plan.

37. For areas deemed high-risk, the Company or its third-party representatives will send pre-investigative letters to customers in preparation for the commencement of a main

replacement project, requesting access to review the material type of the customer's service line. Aqua personnel or Aqua's third-party vendor will visit each customer premise within the scope of the project with an unknown service line material to identify material type of the customer service line.

38. If the Company uncovers a Company-owned LSL or a COLSL during maintenance or construction activities, the Company will provide a form to the customer if the customer is at the premise or will post the form if the customer is not at the premise and attempt to contact the customer via phone to follow up with further information.

39. If there is no response to the pre-investigation letter or form, Aqua personnel or its third-party vendor will visit the premises to obtain acceptance in-person. If there is no response to door knocks, a door hanger will be left at the premises providing an Aqua contact number and requesting access to the customer/property owner's property to identify the service line material. If there is no response to the in-person outreach, Aqua will call the customer.

40. If the Company still does not receive a response to any of the above measures, it will initiate the 10-day shut-off procedures to gain access to review the service line material. If there is still no contact, Aqua will commence with the shut-off of service and require access to review the service line material as a condition to restore service, in accordance with the Commission's LSLR regulations.

41. After making contact with the resident and identifying the presence of a COLSL, Aqua personnel will ask whether the resident is the owner or renter of the building.

42. If the customer is the owner, and they agree to participate in the replacement, then the Company will provide the information and materials in Section II.B.6 of the LSLR Plan. If

the customer is the owner and refuses to participate in the replacement the Company will follow the provisions of Section II.B.10 of the LSLR Plan.

43. If the customer is not the property owner, the Company will obtain the owner's contact information from the customer and attempt to reach the owner first via telephone call, next via letter, and finally by exploring all options to encourage property owners to participate, such as contacting the municipality and the local code enforcement in which the property is located. If the Company has not received acceptance after multiple efforts to contact the property owner and obtain acceptance, the Company will initiate the 10-day shut-off process.

44. In instances where the customer is not the owner of the property, the Company is proposing to use "Step In Rights" in limited circumstances and solely in the Company's discretion. The Step In Rights will be used when it will avoid termination of service to a customer when the property owner is unknown or has not responded to multiple attempts to contact and offer replacement of the COLSL under the program. The Step In Rights are to address circumstances that would result in termination of service to a property on no fault of the customer who is not the owner.

45. By obtaining agreement of the customer or property owner prior to commencing the main replacement project, the Company can more quickly and efficiently complete the main replacement and associated restoration. The Company will not be faced with having to delay a planned project or put an ongoing project on hold if the service line material cannot be identified or a LSL is discovered during a project. As such, there is less disruption to traffic, customers' daily lives, and reduced safety concerns of open construction.

**f. Processes and Procedures Based on Acceptance of a LSLR**

46. The Company's processes and procedures based on the acceptance of a LSLR are contained on pages 8 through 10 of the LSLR Plan.

47. If the customer or property owner expresses that they want to participate in Aqua's LSLR Program after their service line has been identified as lead, Aqua will provide pertinent information to the customer including: (1) the Customer Lead/Galvanized Service Line Replacement Agreement ("Replacement Agreement"); (2) the Lead Fact Sheet providing educational information about lead in drinking water; (3) Information Sheet explaining Aqua's Lead Service Line Replacement Program; (4) sample bottles with instructions (pre-and post-replacement sampling); (5) post-COLSL replacement flushing instructions; and (6) pitcher filter with six months of replacement cartridges.

48. The Replacement Agreement allows a third-party licensed professional to enter the property and complete the LSLR. The agreement authorizes the utility and the contractor performing the work to access the customer/property owner's property, confirms the ownership of the service line following installation, and provides a warranty on the work completed. Further, the Replacement Agreement requires that the contractor install the replacement service line and restore the property as reasonably as practicable to the condition that existed prior to the LSLR.

49. Following replacement, Aqua personnel will visit the customer's property within 5 business days after the COLSL replacement to reinstall or exchange the meter. The Company personnel will remind the customer to follow the post-replacement instructions and take samples for lead that Aqua personnel will pick up when customer notifies Aqua that samples are ready.

50. In closing out the project, the Company provides a letter to the customer 3-6 months post-replacement confirming that the newly installed customer service line has been transferred back to the customer/property owner and confirming the warranty for the completed work. The Company also provide instructions for post-replacement 5<sup>th</sup> liter lead sampling and testing.

**g. Lead/Material Recycling and Disposal Efforts**

51. Aqua's lead and material recycling and disposal efforts are discussed on page 10 of the LSLR Plan.

52. In most replacements of COLSLs, the Company does not excavate and remove the existing LSL. It is abandoned in place and a new service line is installed. When a third-party plumber is completing the service line replacement, and if the line is removable and removed, the third-party plumbers dispose of any lead materials they excavate.

**h. Industry Accepted Practices**

53. Aqua's commitment to adhere to industry accepted practices in the replacement of service lines, both Company- and customer-owned, is explained on page 10 of the LSLR Plan.

54. The Company will adhere to the provisions of its tariff regarding replacement of company-side service lines. In addition, the Company will require Company personnel and its contractors to comply with any applicable plumbing codes related to customer-side service line replacement. The Company will follow Commission regulations regarding LSLRs including prevention of partial service line replacements and termination of service provisions, as needed to prevent partial LSL replacements.

**i. Integration of Acquired Systems in the LSLR Plan**

55. Aqua's procedures to integrate acquired systems into the LSLR Plan are detailed on page 10 of the LSLR Plan.

56. Where the Company acquires a water system prior to the deadline for water systems to complete their Service Line Inventories, the Company will take over the water system's efforts, if any, to identify and incorporate the service line materials of the system into Aqua's overall Service Line Inventory.

57. For water systems acquired after the deadline for complete Service Line Inventories, the Company will incorporate the system's completed inventory into the Company's Service Line Inventory.

58. Some systems may not have completed a Service Line Inventory to the standards that the DEP and Commission regulations require, either due to lack of resources or other reasons. In these instances, during the acquisition process, the Company, to the extent feasible, will work with the selling entity to begin the steps necessary to develop a Service Line Inventory and will continue those efforts after closing on the system.

59. An incomplete Service Line Inventory by the selling entity should not hold up a closing on the system. The Company can more easily fold the acquired system into the Company's LSLR Program and complete the inventory post-closing where the Company can access the customers' meters and view service line material.

**j. Procedure Regarding Refusal of Offer to Replace a LSL**

60. The Company's procedure regarding refusal of the offer to replace a COLSL is detailed on page 11 of the LSLR Plan.

61. During a LSLR project, Aqua will initiate termination procedures in instances when: (1) the customer and/or property owner refuse to replace the COLSL; and (2) the customer and/or property owner are non-responsive to the Company's requests to replace the COLSL. Termination procedures include posting of 10-day shut off notices, and other required contacts under the Commission's regulations. The Company's representatives will include notes within its customer information system documenting the refusal or non-response and complete any termination procedures as needed if the customer/property owner continues to refuse to replace the COLSL or does not respond.

62. In addition, the Company will provide the customer and/or property owner with a Customer Refusal Letter, its lead fact sheet describing the health hazards of lead service lines, and the lead service line program information sheet, which explains the requirements for reimbursement and the potential for termination of service.

63. As described in Paragraph 44, the Company may use Step In Rights, where it is in the public interest and would avoid termination of service to a customer that is not the property owner.

### **3. Communications, Outreach, and Education.**

64. Aqua's communications activities listed and described in the following sections are in accordance with the U.S. EPA regulations at 40 C.F.R. § 141.85.

#### **a. Printed and Broadcast Materials**

65. A full list of all printed and broadcast materials the Company plans on distributing to further its COLSL replacement efforts are included in pages 11 through 12 of the LSLR Plan, and copies of the material are attached as Exhibits to the LSLR Plan. These materials may change, be updated from time to time, or new materials added as the LSLR Program evolves.

#### **b. Aqua's Website**

66. Information regarding the portion of the Company's website that houses information related to its LSLR Program<sup>2</sup> is located on pages 12 and 13 of the LSLR Plan.

67. Aqua's website provides information on sources of lead, the health effects of lead, the Company's compliance with lead requirements, how customers can protect against lead exposure, and a help line for customers requiring assistance in determining their service line material. The website also includes information on Aqua's LSLR Program including the status of

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<sup>2</sup> Available at <https://www.aquawater.com/about-water/water-quality/lead.php>.

current efforts to replace LSLs, a video on how customer/property owner can review their service line material and report it to Aqua through an online form, flushing instructions post-replacement, a video showing how to take a sample with the sample bottles provided by Aqua, and reimbursement requirements.

68. The Company is currently developing an online tool to show the replacement schedule by geographical location, six months into the future, and, through this same tool customers will be able to review their service line material, if known. This tool will be completed in accordance with the timeline set forth in the regulations.

69. Finally, the Company has established a section of its website that highlights upcoming community meetings and advisory committees hosted by the Company.

### **C. PRO FORMA TARIFF SUPPLEMENT**

70. Aqua's pro forma tariff supplement containing the proposed changes necessary to implement the LSLR Program contains the following elements as required by Section 65.58 of the Commission's regulations, 52 Pa. C.S. § 65.58 and is attached to this Petition as **Exhibit A**.

#### **1. The LSLR Program's Annual Cap On The Number Of Customer-Owned LSLs That Can Be Replaced Annually**

71. Aqua's pro forma tariff supplement states that Company will replace up to 1,500 COLSLs per year under the Company's LSLR Program.

#### **2. The Demarcation of Service Lines**

72. Aqua's pro forma tariff supplement specifies that the Customer's service line extends from the customer's property to the curb stop or curb line or such point as designated by the Company.

### **3. The Specifications For Partial LSLRs**

73. Aqua's pro forma tariff supplement specifies that no customer or property owner may install a partial LSL and that a partial LSL will result in termination of service until such time as the Company can replace the Company-owned LSL.

74. In addition, the supplement requires that a customer, or property owner where the customer is not the property owner, who elects to replace the COLSL themselves, must replace the COLSL concurrent with the Company replacing the Company-owned LSL, provided that the customer or property owner shall provide the Company at least 90 days' notice prior to replacing the COLSL.

### **4. The Provision Of Reimbursements To Eligible Customers Or Property Owners Who Replaced Their LSL Within 1 Year Before Or From LSLR Project Commencement**

75. Aqua's pro forma tariff supplement provides for the reimbursement of eligible customers or property owners, if the customer is not the property owner, who replaced their LSL within 1 year before or after the commencement of a LSLR Project. The online tool, described in Paragraph 68, above, will allow customers/property owners to determine if they are within the required radius of an LSLR Project.

### **5. The Provision Of A Warranty On LSLR Work Performed By The Entity Or Its Contractor Of A Term Of Not Less Than 2 Years**

76. Aqua's pro forma tariff supplement provides a two-year warranty to the customer or property owner, if the customer is not the property owner, on the workmanship and materials of the LSLR and the restoration of surfaces. The two-year warranty begins upon the re-establishment of water service to the property after the LSLR has occurred.

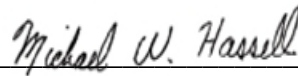
**D. REQUIREMENTS OF SECTION 53.52(a) OF THE COMMISSION'S REGULATIONS**

77. In addition, the Company has provided the information and supporting data required by 52 Pa. Code § 53.52(a), related to revisions and supplements to a utility's tariff, which is attached to this Petition as **Exhibit B**.

**III. CONCLUSION**

WHEREFORE, Aqua Pennsylvania, Inc. respectfully requests that the Pennsylvania Public Utility Commission approve the Company's Lead Service Line Replacement Program, finding that it contains all the necessary items identified in 52 Pa. Code §§ 53.52(a) and 65.51 et seq., and the Commission's Final Implementation Order entered on March 14, 2022 at Docket No. L-2020-3019521.

Respectfully submitted,



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Dated: November 27, 2023

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Counsel for Aqua Pennsylvania, Inc.

# EXHIBIT A

AQUA PENNSYLVANIA, INC.  
(hereinafter referred to as the "Company")

RATES, RULES, AND REGULATIONS

GOVERNING THE DISTRIBUTION AND SALE OF

WATER SERVICE

IN PORTIONS OF

ADAMS, BERKS, BRADFORD, BUCKS, CARBON, CHESTER, CLARION, CLEARFIELD,  
COLUMBIA, CRAWFORD, CUMBERLAND, DELAWARE, FOREST, JUNIATA,  
LACKAWANNA, LAWRENCE, LEHIGH, LUZERNE, MERCER, MCKEAN, MONROE,  
MONTGOMERY, NORTHHAMPTON, NORTHUMBERLAND, PIKE, SCHUYLKILL,  
SUSQUEHANNA, SNYDER, VENANGO, WARREN, WAYNE, AND WYOMING COUNTIES

IN THE COMMONWEALTH OF PENNSYLVANIA

ISSUED: xxxx xx, 202x

EFFECTIVE: xxxx xx, 202x

By:

Marc Lucca, President  
Aqua Pennsylvania, Inc.  
762 Lancaster Avenue  
Bryn Mawr, Pennsylvania 19010

## **NOTICE**

THIS TARIFF SUPPLEMNT MODIFIES THE EXISTING LEAD SERVICE LINE  
RULES IN COMPLIANCE WITH 52 PA. CODE § 65.51 ET SEQ.

AQUA PENNSYLVANIA, INC.

SUPPLEMENT NO. XX

TARIFF WATER-PA P.U.C. NO. 3

XXXX REVISED PAGE 2

CANCELING XXXX REVISED PAGE 2

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LIST OF CHANGES MADE BY THIS TARIFF

Changes: Supplement No. XX to Tariff Water-PA P.U.C. No. 3 modifies the lead service line rules (Rules 20.1 and 20.2) in compliance with 52 Pa. Code § 65.51 et seq. Refer to pages 1, 2, 3, 4, 48, 49, 50, and 51.

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RULES AND REGULATIONS**SERVICE CONNECTIONS****19. Company's Service Lines:**

Except for service connections made in accordance with Rule 65, the Company will make all connections to its mains and furnish, install and maintain the Company's service main to and including the Curb Stop, which under normal circumstances will be placed inside the curb-line. The Company's service line will be the property of the Company and under its control. The point of delivery and sale for any water service furnished to the Customer shall be at the Curb Stop.

The maximum Company investment per Company service line shall be calculated using the same formula set forth in the definition of Company Contribution in Rule 62.

The cost of any Company service line in excess of the applicable maximum Company investment shall be paid by the Customer, plus all applicable taxes including income taxes occasioned by the contract. The Company may require payment of the estimated amount of such excess cost in advance of the installation and will make a partial repayment of the extent the actual cost is determined to be less than the estimate.

Whenever it is necessary to install a service line in advance of the date on which the premises are occupied and a meter is set, a deposit may be required in an amount not to exceed the estimated cost of installation, which deposit will be refunded to the depositor when the service becomes active (i.e., the meter has been set and the premises occupied), provided that event occurs within five years from the date of deposit.

**20.1. Customer Service Line:** The Customer's service line shall extend from the Property to the Curb Stop or curb line or such point as designated by the Company. All connections, service lines and fixtures owned by the Customer shall be maintained by the Customer in good order, and all meters and appurtenances owned by the Company and located on the Property of the Customer shall be protected properly by the Customer. All leaks in or other deteriorated condition of the Customer's service line or any other pipe or fixture in or upon the premises supplied must be repaired immediately by the owner or occupant of the premises.

(C)

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RULES AND REGULATIONS**SERVICE CONNECTIONS (cont'd)****20.2. Customer Owned Lead Service Line Replacements:****(C)**

Notwithstanding Rules 20.1, 21, and 25, the Company (or contractors employed by the Company) shall replace Customer Owned Lead Service Lines ("COLSLs") pursuant to the Company's Lead Service Line Replacement Program ("Replacement Program"), provided the customer (or the property owner if the customer is not the property owner) provides consent through a signed agreement.

Lead Service Line – LSL – shall be defined as a service line made of lead that connects the water main to a building inlet and a lead pigtail, gooseneck or other fitting that is connected to the lead line. A galvanized service line (iron or steel piping that has been dipped in zinc to prevent corrosion and rusting) is considered a Lead Service Line if it ever was or is currently downstream of any lead service line or service line of unknown material.

The Company will replace up to 1,500 COLSLs per year under the Company's Replacement Program.

If no shutoff valve exists along a specific length of pipe within a structure, the Company may install a shutoff valve which will serve as the point of demarcation between the property's service line and the property's interior water distribution piping.

No customer or property owner may install a partial LSL. A partial LSL shall result in termination of service until such time as the Company can replace the Company-owned LSL. A customer, or property owner where the customer is not the property owner, that elects to replace the COLSL themselves, shall replace the COLSL concurrent with the Company replacing the Company-owned LSL, provided that the customer or property owner shall provide the Company at least 90 days' notice prior to replacing the COLSL.

The Company shall refuse to establish service to a property where a customer or property owner (if the customer is not the property owner) has previously refused or failed to accept the Company's offer to replace the COLSL until the applicant verifies the replacement of the COLSL by providing a paid invoice from a licensed contractor or verified statement from a licensed contractor attesting to the completion of the COLSL replacement. The customer or property owner may also request Aqua (or its contractor) complete the COLSL replacement. Upon completion, service will be established or restored to the property.

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RULES AND REGULATIONS**SERVICE CONNECTIONS (cont'd)****20.2. Customer Owned Lead Service Line Replacements (cont'd):****(C)**Step In Rights

The Company may utilize Step In Rights in the following circumstances where a customer or occupier of a premise is not the property owner. The Company is authorized to replace a COLSL when:

- a. The Company has attempted to contact the property owner with an offer to replace the COLSL in accordance with the Company's LSLR Plan.
- b. The Customer or the occupier of the Property is not the property owner.
- c. The Company has attempted to get authorization to replace the COLSL, the property owner cannot be identified, or the property owner has been notified and has not responded to the Company's offer to replace the COLSL.

In these circumstances, the Company may, in its discretion, replace the COLSL in accordance with the Company's LSLR Plan if such replacement would avoid the termination of water service to the Customer or the occupier of the property without obtaining the consent of the property owner. When the Company exercises Step In Rights, the Company, its officers, directors, employees and agents are released and held harmless from and against any and all liability, including liability to third parties and the property owner, for personal injury, including death, property damage, or other actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suit and actions (including reasonable attorney's fees), for personal injury, including death, property damage or other injury, to the extent caused by or arising out of the work performed by the Company or its agents in replacing the COLSL.

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RULES AND REGULATIONS**SERVICE CONNECTIONS (cont'd)****20.2. Customer Owned Lead Service Line Replacements (cont'd):****(C)**Reimbursements

The Company shall provide a reimbursement to an eligible customer or property owner, if the customer is not the property owner, who replaced their LSL within 1 year before or after the commencement of a Lead Service Line Replacement ("LSLR") Project. A LSLR Project shall be defined as a Company scheduled lead service line replacement activity either in conjunction with main replacements, or a specific delineated project area to replace LSLs. LSLR Project Commencement shall be defined as installation of the first lead service line replacement within a lead service line project area. LSLR Project Area shall be defined as the area encompassing the Company's scheduled lead service line replacement activities, which includes the area within a 1-mile radius of a LSLR Project, if that area is served by the Company.

Reimbursements to customers or property owners, if the customer is not the property owner, require that the customer or property owner provides the Company with a paid invoice, a certification from a certified plumber, and other documentation required by the Company, in its sole discretion, to verify the replacement. Failure to provide sufficient information will result in no reimbursement being paid. The Company shall reimburse eligible customers or property owners up to 125% of the average costs of Aqua's LSLRs, not to exceed the actual cost incurred by the customer to replace their LSL. The average cost of Aqua's LSLRs in any year will be determined by the average cost of Aqua LSLRs in the prior calendar year. Reimbursements will be provided to customers or property owners through check mailed to the customer or property owner. Customers or property owners that are outside the LSLR Project Area or seek reimbursement for a replacement that occurred greater than one year before or after the LSLR Project Commencement will be ineligible for reimbursement.

Warranty

The Company (or its contractor) shall provide a warranty to the customer or property owner, if the customer is not the property owner, for a period of two years on the workmanship and materials of the LSLR and the restoration of surfaces. The two year warranty shall commence upon the re-establishment of water service to the property after the LSLR has occurred.

The maximum coverage under the warranty shall be only to repair or replace the Customer side service line if the failure was due to the workmanship or materials of the LSLR, and restoration of surfaces which shall mean restoration as reasonably as practicable to the condition that existed prior to the LSLR.

The Company will not be liable for any damages beyond the maximum coverage of the two year warranty as described in this warranty section.

If a repair is required and qualifies under the warranty, the customer or property owner consents and grants license to Aqua or its contractor to access the property and complete the repair as needed.

# EXHIBIT B

Please find the following information submitted as supporting data in accordance with 52 Pa. Code §53.52(a):

**1. The specific reasons for each change.**

The Company is filing this proposed tariff change to comply with the Commission’s regulations under Act 120 of 2018 (“Act 120”) at 52 Pa. Code § 65.51 et seq. The Company is also requesting an increase in the annual cap that has previously been granted by the Commission for the Company’s pre-existing lead service line replacement (“LSLR”) activities. The increase requested is due to expanded replacement activities due to the inclusion of galvanized service lines in the definition of lead service lines (“LSL”), identifying more LSLs due to service line inventory work, and increased costs for replacement of LSLs.

**2. The total number of customers served by the utility.**

As of 12/31/2022, the Company served 450,618 customers.

**3. A calculation of the number of customers, by tariff subdivision, whose bill will be affected by the change:**

All Aqua customers that have the Distribution System Improvement Charge (“DSIC”) applied to their bill will be affected by the change.

**4. The effect of the change on the utility’s customers.**

Customers that have lead service lines will have the opportunity to have the Company, or its contractors, replace their customer lead service line at no direct cost to that customer. Additionally, customers that have replaced their LSLs, may be eligible for reimbursement of those costs.

**5. The direct or indirect effect of the proposed change on the utility’s revenue and expenses.**

Under Act 120, the costs associated with the LSLR Program will be recovered through the Company’s DSIC or base rates. Table 19 of the Company’s Long Term Infrastructure Improvement Plan (“LTIIIP”) shows projected costs of up to the cap of 1,500 replacements per year.

**6. The effect of the change on the service rendered by the utility.**

Through the Company's LSLR Program, the Company will be working to eliminate customer LSLs across its footprint and thereby reducing customer exposure to lead. The Company does not anticipate any other significant effect on the service rendered by the Company.

**7. All factors considered by the utility in its determination to make the change. The list shall include a comprehensive statement about why these factors were chosen and the relative importance of each.**

The Company considered the following factors in its determination to make the proposed change in the tariff, they are as follows:

- (a) The Company is required to comply with Act 120 and the Commission's regulations which require that the Company submit a LSLR Program in accordance with the Commission's regulations no later than the effective date of rates established under the entity's next base rate case filed following the effective date of the Commission's lead regulations or within two years of the effective date of the Commission's lead regulations, whichever comes first.
- (b) Reducing and eliminating lead service lines throughout the Company's systems.

These factors were chosen because they are regulatory requirements, and they will improve overall system integrity and the health of the Company's customers and the Commonwealth overall.

**8. Studies undertaken by the utility in order to specifically address the proposed changes.**

The Company did not undertake a study to specifically address the proposed changes.

**9. Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change. If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.**

While the Company has not taken a formal poll with respect to customer acceptance and desire for the proposed change, the Company has already been replacing customer-owned lead service lines in its service area and customers that have participated were generally supportive of this program.

**10. Plans the utility has for introducing or implementing the changes with respect to its ratepayers.**

The Company has included in its LSLR Program various communications and outreach documents as required by the Commission's regulations. Please see the LSLR Plan attached to the LTIP.

**11. FCC, FERC, or Commission orders or rulings applicable to the filing.**

Please refer to the Commission's Order entered March 14, 2022, at Docket No. L-2020-3019521 regarding the implementation of Act 120. Please also refer to the Commission's Order entered July 14, 2021, at Docket No. P-2020-3021766 regarding the Company's previously-approved LSLR activities.

## VERIFICATION

I, Michael Fili, Vice President, Capital Planning, Design & Construction of Aqua Pennsylvania, Inc., hereby state that the facts set forth in Aqua Pennsylvania, Inc.'s Lead Service Line Program and Lead Service Line Replacement Plan are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Michael Fili  
Vice President, Capital Planning, Design &  
Construction  
Aqua Pennsylvania, Inc.

Dated: November 27, 2023