

COMMONWEALTH OF PENNSYLVANIA



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December 8, 2023

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

Re: Pennsylvania Public Utility Commission
v.
Community Utilities of Pennsylvania, Inc.
Docket Nos. R-2023-3042804 (Water)
R-2023-3042805 (Wastewater)

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in this matter.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
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Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (email only)
Certificate of Service

*4888-4510-6065

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket Nos. R-2023-3042804 (Water)
: R-2023-3042805 (Wastewater)
Community Utilities of Pennsylvania, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Formal Complaint and Public Statement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission's electronic filing system.

Dated this 8th day of December 2023.

SERVICE BY E-MAIL ONLY

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Dated: December 8, 2023
*4895-2681-1537

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

1. CUSTOMER NAME (COMPLAINANT)

Patrick M. Cicero, Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

2. UTILITY NAME (RESPONDENT)

Community Utilities of Pennsylvania, Inc.
Docket No. R-2023-3042804 (water)
Docket No. R-2023-3042805 (wastewater)

3. TYPE OF UTILITY

Water and Wastewater

4. COMPLAINT

- A. On November 9, 2023, Community Utilities of Pennsylvania, Inc. (CUPA or the Company) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 13 to its Tariff Water – Pa. P.U.C. No. 1 (Supplement No. 13) at Docket No. R-2023-3042804 and Supplement No. 11 to its Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 11) at Docket No. R-2023-3042805.
- B. Through Supplement No. 13, the Company proposes a general increase in annual water revenues of \$1,449,638 per year, or 61%.¹ Through Supplement No. 11, the Company proposes a general increase in wastewater revenues of \$1,720,070 per year, or 50%.² The Company proposes that the water and wastewater rate increases become effective on January 9, 2024.
- C. CUPA is engaged in the business of providing water service to approximately 3,257 customers and wastewater service to 3,832 customers. The Company provides water service in Stroud and Pocono Townships in Monroe County (Penn

¹ Supplement No. 13 and the customer notices state a proposed water revenue increase of \$1,449,638. However, CUPA's testimony and schedules state a different amount: \$1,470,360. CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1-2.

² Supplement No. 14 and the customer notices state a proposed wastewater revenue increase of \$1,720,070. However, CUPA's testimony and schedules state a different amount: \$1,738,944. CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1, 3.

Estates), a portion of Hanover Township in Northampton County (Westgate), and Portions of Lehman Township in Pike County (Tamiment). CUPA purchases bulk water from the City of Bethlehem for a portion of its customers located in Hanover Township in Northampton County. The Company provides wastewater service in Stroud and Pocono Townships in Monroe County, a portion of West Bradford Township in Chester County (Utilities Inc. of Pennsylvania or UIP), and portions of Lehman Township in Pike County.

- D. In its base rate filing, the Company utilizes a fully projected future test year ending July 31, 2025.
- E. Under the Company's proposal, the typical monthly water bill for all residential customers except for Tamiment customers using 3,452 gallons per month would increase from \$63.90 to \$101.37 per month, or by 59%. The typical water bill for residential customers in the Tamiment service territory using 3,400 gallons of water per month would increase from \$44.18 to \$74.68 per month, or by 69%.
- F. Under the Company's proposal, the typical monthly wastewater bill for all residential customers except for Tamiment customers using 3,400 gallons per month would increase from \$74.73 to \$112.51 per month, or by 51%. The typical wastewater bill for residential customers in the Tamiment service territory using 2,225 gallons per month would increase from \$57.25 to \$91.48 per month, or by 60%.
- G. The proposed water and wastewater rate changes noted above do not reflect the changes that will be experienced by all customers; rather, they only reflect changes for customers using what CUPA has asserted to be the "typical" usage for residential customers. The increases reflected above (and on the notices sent to customers) may underestimate the impact of the rate increase for many customers.
- H. CUPA proposes to increase its water customer charge for most customers (5/8-inch meter) from \$17.25 to \$23.40 per month, which is an increase of 36%, in its former Penn Estates and Westgate service divisions. In those divisions, there are also residential customers with 1-inch, 1.5-inch and 2-inch service lines; monthly service charges for lines of those sizes are proposed to decrease from \$43.13 to \$41.25, \$86.25 to \$70.95, and \$138.00 to \$106.60, respectively.
- I. CUPA is also proposing to increase the water customer charge in its former Tamiment service division, which was \$18.18 per month regardless of water meter size, but is proposed to increase to \$23.40 per month, or by 29%, for customers with 5/8-inch water meters.
- J. CUPA has proposed initial metered rates for wastewater service in the former Penn Estates and Utilities Inc. of Pennsylvania divisions, which includes a \$51.65 monthly customer charge for most customers.

- K. CUPA has also proposed increasing the monthly wastewater customer charge for most customers in the former Tamiment service division from \$26.15 to \$51.65, or 98%. In addition, the metered consumption charge is proposed to increase from \$13.977 per 1000 gallons to \$17.90 per 1000 gallons, or 28%, for non low-income customers.
- L. The rates, charges, tariff changes, and other rules that CUPA seeks to implement would likely result in unjust and unreasonable rates in violation of the law, sound ratemaking principles, and public policy.
- M. CUPA proposes changes to its low-income volumetric rate for water customers and proposes a new low-income volumetric rate for wastewater customers. CUPA also proposes a new arrearage management program. The OCA will review these proposals to determine if they are just, reasonable and consistent with sound ratemaking principles.
- N. CUPA proposes to create a mechanism that would allow it to track and recover net costs resulting from a proposed merger at its corporate grandparent level.³ The proposed mechanism may be contrary to sound ratemaking principles and public policy and may be contrary to the provisions of prior Commission-approved settlements and orders.
- O. CUPA's proposed rate increase for water and wastewater, if approved, would produce an overall rate of return of 7.92% that includes a common equity cost rate of 10.6% and a cost of debt rate of 5.24%. The proposed rates of return are excessive and, if accepted, would result in rates that are unjust and unreasonable in violation of the law, sound ratemaking principles, and public policy.
- P. The Consumer Advocate is empowered to represent the interests of Pennsylvania consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the General Assembly, as amended, 71 P.S. §§ 309-1, *et seq.*
- Q. In reaching a decision on whether to grant CUPA's rate increase as well as its various rule and tariff changes, the Public Utility Commission must give "due consideration to the interests of consumers." 71 Pa. Stat. Ann. §309-5(2).
- R. The Consumer Advocate avers, based on a preliminary examination of CUPA's rate increase requests, proposed allocation of costs among customer classes, proposed tracking mechanism, and proposed rate design requests indicates that the Company's proposed charges, increases and changes in rates, rules, and regulations contained within the request are or are likely to be unjust, unreasonable, and in violation of law. In addition, these proposals will likely allow CUPA an opportunity to recover an excessive rate of return on its utility

³ The proposed merger was approved by the Pennsylvania Public Utility Commission at Docket Nos. A-2022-3036744 and A-2022-3036745 but, according to CUPA, it has not closed yet because it has not been approved by all jurisdictions in which it requires regulatory approval.

property investment, in violation of the Public Utility Code; will likely discriminate against certain customers; will or may compensate CUPA for providing inadequate service to some or all of its customers. They may also be contrary to the provisions of prior Commission-approved settlements and orders; and otherwise, may be contrary to sound ratemaking principles and public policy.

- S. The Consumer Advocate also avers that the Company's existing rates, rules, and regulations are or may not be just and reasonable or otherwise proper under the Pennsylvania Public Utility Code and applicable ratemaking principles..

5. RELIEF

The Consumer Advocate respectfully requests that the Commission take the following actions:

- A. Suspend and investigate the operation of the Company's proposed Supplement No. 13 and Supplement No. 11, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d);
- B. Consolidate all complaints filed against the proposed increases;
- C. Hold full evidentiary hearings examining the reasonableness of the CUPA's current rates and its proposed increases in rates;
- D. After providing the public with adequate notice, hold in-person and telephonic public input hearings, in order to provide its customers with an opportunity to be heard on the record, and hold those hearings as early in the case as feasible;
- E. Deny any charges or changes contained in the proposal which cannot be fully justified by the Company, or which otherwise are contrary to the Public Utility Code, sound ratemaking principles, and public policy; and
- F. Grant such other relief that the Commission may deem to be necessary and proper.

6. VERIFICATION AND SIGNATURE

Verification:

I, Patrick M. Cicero, Consumer Advocate, hereby state that the facts above set forth are true and correct (or 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).



Signature

12/8/23
Date

7. LEGAL REPRESENTATION

Erin L. Gannon, Senior Assistant Consumer Advocate, PA Attorney I.D. # 83487
Harrison W. Breitman, Assistant Consumer Advocate, PA Attorney I.D. # 320580
Jacob D. Guthrie, Assistant Consumer Advocate, PA Attorney I.D. # 334367

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**PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the proposed water and wastewater rate increases requested by Community Utilities of Pennsylvania, Inc. (CUPA or the Company).

The objective of the Consumer Advocate in filing a Formal Complaint in this matter is to protect the interests of CUPA's customers. The Consumer Advocate will seek to ensure that CUPA is permitted to implement only a level of rates that is fully justified and in accordance with sound ratemaking principles. The Consumer Advocate will strive to prevent CUPA from collecting from ratepayers all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise in violation of the Public Utility Code. The Consumer Advocate submits that the rates sought by CUPA may be unjustifiable and unlawful based upon information filed by CUPA in support of its claim.

The Consumer Advocate has filed this Formal Complaint and will, in the course of the proceeding, investigate CUPA's proposed annual water revenue increase of \$1,449,638 and proposed annual wastewater revenue increase of \$1,720,070⁴ and request that the Commission deny all proposed increases or changes that are not proven to be justified, reasonable, and in accordance with sound ratemaking principles. Under the proposed water rate increase, the typical monthly water bill for all residential customers except for Tamiment customers using 3,452

⁴ Supplement Nos. 13 and 14 and the customer notices state a proposed revenue increase of \$1,449,638 (water) and \$1,720,070 (wastewater). However, CUPA's testimony and schedules state different amounts: \$1,470,360 (water) and \$1,738,944 (wastewater). CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1-3.

gallons per month would increase from \$63.90 to \$101.37 per month, or by 59%. The typical water bill for residential customers in the Tamiment service territory using 3,400 gallons of water per month would increase from \$44.18 to \$74.68 per month, or by 69%. Under the proposed wastewater rate increase, the typical monthly wastewater bill for all residential customers except for Tamiment customers using 3,400 gallons per month would increase from \$74.73 to \$112.51 per month, or by 51%. The typical wastewater bill for residential customers in the Tamiment service territory using 2,225 gallons per month would increase from \$57.25 to \$91.48 per month, or by 60%.

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