



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

IN REPLY PLEASE
REFER TO OUR FILE

December 11, 2023

Docket No. P-2023-3041859

Utility Code 212070

THOMAS J WALSH III ESQUIRE
3655 ROUTE 202 SUITE 105
DOYLESTOWN PA 18902
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RE: Petition of Newtown Artesian Water Company for Approval of its Lead Service Line Replacement Program and related Tariff Changes at Docket No. P-2023-3041859

Dear Attorney Walsh:

On November 21, 2023, Newtown Artesian Water Company (NAWC) filed the above-captioned document (Petition) with the Pennsylvania Public Utility Commission (Commission). For the Commission to complete its analysis of the filing, please respond with the information requested in the attached document.

Please forward the information to the Secretary of the Commission **within ten (10) business days** from the date of this letter. All documents requiring notary stamps must have original signatures. The Commission strongly encourages submission through efilings with the Secretary of the Commission by opening an efilings account through the Commission website and accepting eservice at <https://efiling.puc.pa.gov>. The Commission is accepting all public documents through our efilings system at this time.

If your filing contains confidential material, you are required to either file by overnight delivery or submit to the Secretary's Share Point File system to ensure the timely filing of your submission. Filers should contact the Secretary's Bureau in advance to gain access to the Share Point File system. Make sure to reference the Docket Number listed above when filing your response. The overnight address for hard-copy or confidential responses is:

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

Please note your answers must be verified per 52 Pa. Code § 1.36. Accordingly, you must provide the following statement with your responses:

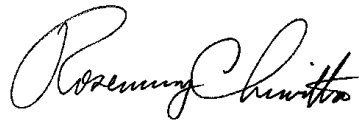
I, [print name of appropriate company representative], hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Signature _____
Title _____
Date _____

Please contact the below staff person if any problems should arise that prevent a full response within ten business days or if any clarification of these data requests is needed. Please mark the materials “CONFIDENTIAL” in bold or highlighted manner if any of the requested information is deemed to be of a confidential nature.

In addition, to expedite completion of the review, please send a copy of the response to Matthew T. Lamb, P.E. in the Water/Wastewater Section of the Bureau of Technical Utility Services via e-mail at mlamb@pa.gov. Please also direct any questions to Matthew Lamb at telephone number (717) 783-1001. Thank you in advance for your cooperation.

Sincerely,



Rosemary Chiavetta
Secretary

Enclosure: TUS Data Request Set 1

cc: Patrick Cicero, Office of Consumer Advocate (w/enclosure), ra-oca@paoca.org
Christine Hoover, Office of Consumer Advocate (w/enclosure), choover@paoca.org
NazAarah Sabree, Office of Small Business Advocate (w/enclosure), ra-sba@pa.gov
Richard Kanaskie, Bureau of Investigation & Enforcement (w/enclosure), rkanaskie@pa.gov

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Note: Please restate the data request prior to providing a response. In addition, provide the name and title of the person(s) providing the response and/or information for each data request.

- P-1. Section D.i.29. of Newtown Artesian Water Company, Inc.'s (NAWC's) Petition for a Lead Service Line Replacement Program (LSLR Program) indicated that when NAWC discovers a customer-owned LSL during a main replacement or other repair project, NAWC advises the customer and encourages the customer to replace the customer-owned lead service line (LSL). Further, NAWC indicated that it will continue this practice as part of its LSLR Program. However, the purpose of the LSLR Program is for an entity to provide an efficient means of replacing customer-owned LSLs. Please clarify whether NAWC will supplement its practice of encouraging the customer to replace customer-owned LSLs with the practice of informing a customer about NAWC's LSLR Program that offers a LSL replacement (LSLR) at no cost to the customer.
- P-2. Sections D.vi.57.(a)-(f) of NAWC's LSLR Program included several terms or provisions that were not included in or may not align with the provisions of NAWC's pro forma tariff supplement (Tariff Supplement), provided as the LSLR Program's Exhibit C, and may not comply with 52 Pa. Code § 65.58. Please revise either the LSLR Petition Sections D.vi.57.(a)-(f) or the Tariff Supplement to align and address the following:
- a. Explain if the provision requiring the property owner or customer to provide NAWC with a minimum of 72 hours advanced notice of the installation time is in addition to or in lieu of the requirement of 52 Pa. Code § 65.58(c)(2)(i) for the property owner or customer to provide 90 days notice prior to replacing the customer-owned LSL;
 - b. Explain how requiring a property owner or customer to present NAWC with the bill for reimbursement within thirty (30) days of the installation's completion is reasonable, when the property owner or customer may or may not have been billed or submitted payment to their contractor within thirty (30) days of the installation's completion;
 - c. Clarify as to whether the property owner or customer will be eligible for reimbursement up to 100% of NAWC's average LSLR cost as indicated in Section D.vi.57.(e) or for reimbursement of LSLR expenses up to 125% of the average cost NAWC would have incurred to perform the replacement of a similarly-sized service line, not to exceed the actual cost pursuant to 52 Pa. Code § 65.58(d)(1)(iii)(A) and the Tariff Supplement's Page 9B, Section 11S.(3); and
 - d. Identify the Tariff Supplement language that allows NAWC to impose reimbursement terms and conditions that are identified in the LSLR Petition but that are not identified in the Tariff Supplement pursuant to 52 Pa. Code § Section 65.58(d)(1).
- P-3. The Tariff Supplement does not include certain required information pursuant to 52 Pa. Code § 65.58. Please provide a revised Tariff Supplement that includes and

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addresses the following, and that is consistent with the requirements of 52 Pa. Code § 65.58:

- a. A definition of customer-owned lead service line;
 - b. A description of how NAWC will perfect its ownership of the portion of the service line located within the then-existing right-of-way in conformance with its Commission-approved tariff to ensure that NAWC can obtain necessary permits during the planning phase of a LSLR project, if necessary;
 - c. A prohibition of partial LSLRs;
 - d. A requirement that the customer or property owner, if the customer is not the property owner, shall provide NAWC at least 90 days notice prior to replacing the customer-owned LSL;
 - e. An explanation of NAWC's reimbursement methods, including the forms of payment to be used by NAWC to distribute reimbursements, and the defined number of days by which NAWC will issue a reimbursement for an eligible reimbursement request;
 - f. That if reimbursement would cause the NAWC to exceed its annual cap, NAWC must increase its current annual cap by the amount of the reimbursement and decrease its next annual cap by the same amount;
 - g. The terms of the warranty described in Section 3.16 of the Lead Service Line Replacement Plan (LSLR Plan), provided as the LSLR Program's Exhibit A; and
 - h. Any required terms or provisions to ensure NAWC's or its contractor's access to the property to correct any deficiencies and complete a LSLR.
- P-4. Section 11S.(1) of the Tariff Supplement requires that, for customer reimbursement, the company must be provided the opportunity to inspect the installation of a LSLR and must reimburse NAWC for the cost of the inspector, which will increase annually. Considering this provision of the Tariff Supplement, please address the following or provide a revised Tariff Supplement that removes the inspection costs:
- a. Explain how Section 11S.(1) aligns with Section 11S of the Tariff Supplement which indicates that the customer has already replaced the customer-owned LSL;
 - b. Provide a detailed justification of the \$76.78 per hour inspection cost;
 - c. Confirm that the customer's costs for NAWC to inspect a customer replaced LSL are recoverable under NAWC's proposed LSLR Program reimbursement for LSLR expenses up to 125% of the average cost NAWC would have incurred to perform the

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replacement a similarly-sized service line pursuant to 52 Pa. Code § 65.58(d)(1)(iii)(A);

- d. Explain why it is reasonable for NAWC to recover the cost to inspect customer-replaced LSLs through a separate inspection fee, rather than to incorporate those costs into its base rates and/or distribution system improvement charge; and
 - e. Verify that NAWC will provide 60 days notice to the Commission pursuant to Section 1308(a) of the Public Utility Code, 66 Pa.C.S. § 1308(a), and the information required for tariff supplement filings pursuant to 52 Pa. Code § 53.52 prior to changing the stated inspection rate.
- P-5. Section 11L.(2) of the Tariff Supplement indicated NAWC will replace a customer-owned LSL at a customer's request subject to the conditions that the time when the LSLR will occur will be determined by NAWC based on facts determined by NAWC and the annual budgetary and number caps identified in the Tariff Supplement's Section 11J. However, pursuant to 52 Pa. Code § 65.58(c)(2), where a customer or property owner, if the customer is not the property owner, elects to replace the customer-owned LSL, the customer or property owner shall replace the customer-owned LSL concurrent with the entity replacing the entity-owned LSL, subject to the customer or property owner providing the Class A public utility or authority at least 90 days notice prior to replacing the customer-owned LSL. The Commission notes that an entity is required to facilitate a customer or property owner to replace the customer-owned LSL with 90 days notice to the entity without additional conditions. Please submit a revised Tariff Supplement that complies with the requirements of 52 Pa. Code § 65.58(c)(2).
- P-6. In Sections 2.4 and 2.5 of the LSLR Plan, NAWC indicated it had completed the inventory of all company-owned service lines and determined those service lines contain no materials that qualify as LSLs. Additionally, NAWC identified it has 10,455 customer-owned service lines with approximately 10,234 of those lines with the service line material identified and has planned to inventory the remaining 244 customer-owned service lines of unknown material over the next 10 years at a rate of 10 percent per year. Please provide responses to the following:
- a. Pursuant to 52 Pa. Code § 65.56(a)(1), submit a current copy of NAWC's Service Line Inventory in a live electronic spreadsheet format; and
 - b. Quantify the projected annual expenditure to complete the Service Line Inventory.
- P-7. In Section 2.6, Service Line Inventory, of the LSLR Plan, NAWC indicated any assumptions used by NAWC to complete the service line inventory will be identified and provided with its annual LSLR Program Report. Pursuant to 52 Pa. Code § 65.56(a)(4), an entity's LSLR plan must contain, at a minimum, the entity's assumptions used in its service line inventory to the Commission (e.g., company-owned and customer-owned

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service lines in all structures built post January 6, 1991 are non-lead). Please submit a revised LSLR Plan that identifies NAWC's assumptions used in its service line inventory.

- P-8. In Section 3, Planning and Replacements, of the LSLR Plan, NAWC did not appear to provide an explanation of the entity's processes and procedures to address emergency repairs or replacements which reveal LSLs. Pursuant to 52 Pa. Code § 65.56(b)(4), an entity's LSLR plan is required to contain an explanation of the entity's processes and procedures to address emergency repairs or replacements which reveal LSLs. Additionally, pursuant to 52 Pa. Code § 65.62, the Commission notes that any repair of a known or discovered LSL would be considered a partial LSLR and is strictly prohibited. Correspondingly, the Commission also notes that a water main replacement or repair, regardless of whether the main replacement activities were planned or an emergency, that reveals a LSL would require a complete LSLR prior to the service line being placed back into service as the reconnection of a LSL to a new main segment or a new company-owned service line would be considered a partial LSLR. Please provide responses to the following:
- a. Clarify whether NAWC will maintain the proper equipment and tools necessary for its staff, or if it intends to maintain third party contracts, to complete emergency LSLRs; and
 - b. Submit a revised LSLR Plan that includes NAWC's processes and procedures to address emergency repairs or replacements which reveal LSLs that eliminates any partial LSLRs and that fully describes NAWC's procedures to fulfill its duty to communicate to customers and/or property owners that failure to allow NAWC to complete the LSLR or to replace the customer-owned LSL concurrent with NAWC replacing the main or company-owned service line will lead to termination of water service.
- P-9. In Section 3.5, Outreach to Customers, of the LSLR Plan, NAWC will reach out to all customers with known lead or unknown material service lines within thirty (30) days of submission of the service line inventory and annually thereafter. Please submit a revised LSLR Plan that clarifies NAWC's proposed methods of contact (e.g., door hangers, phone calls, in person meetings) and its proposed number of attempts of customer contact and timeline to obtain acceptance of a LSLR prior to project commencement.
- P-10. In Section 3.7, Coordination with Customer, of the LSLR Plan, NAWC indicated that once an LSLR project has been identified, NAWC staff will notify the affected customer when the replacement is scheduled to occur. Pursuant to 52 Pa. Code § 65.56(b)(5), NAWC is required to provide its processes and procedures to obtain acceptance of a LSLR prior to LSLR project commencement if the customer is the property owner, and its processes and procedures to obtain acceptance prior to LSLR project commencement if the customer is not the property owner. The LSLR plan does not appear to include

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separately defined processes and procedures to obtain acceptance of an LSLR if the customer is not the property owner. Please submit a revised LSLR plan that complies with the requirements of 52 Pa. Code § 65.56(b)(5).

- P-11. In Section 3.9, LSL Replacement Routine Procedures and Restoration, of the LSLR Plan, NAWC indicated that it intends to replace LSLs in a manner to minimize disturbance as much as possible. Pursuant to 52 Pa. Code § 65.56(b)(6)(ii), NAWC is required to provide a brief description of its process for LSLRs under normal conditions and under atypical conditions. The LSLR Plan appears to have described NAWC's process for LSLRs under normal conditions without including a clear description of LSLRs under atypical conditions. Please submit a revised LSLR Plan that complies with 52 Pa. Code § 65.56(b)(6)(ii).
- P-12. NAWC's LSLR Program included a copy of a Modification to its Long-Term Infrastructure Improvement Plan (Modified LTIIIP) as the LSLR Program's Exhibit B. Please submit a revised Exhibit B that includes updates to tables two, four, five, six and seven from NAWC's Second LTIIIP¹.

¹ See *Petition of Newtown Artesian Water Company for Approval of its Second Long-Term Infrastructure Improvement Plan*. Commission Order entered December 16, 2021, at Docket No. P-2021-3028377.