

COMMONWEALTH OF PENNSYLVANIA



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December 15, 2023

Chairman Stephen M. DeFrank
Vice Chair Kimberly M. Barrow
Commissioner Ralph V. Yanora
Commissioner Kathryn M. Zerfuss
Commissioner John F. Coleman
Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg PA 17105-3265

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

Dear Commissioners:

The Office of Consumer Advocate (OCA) requests that the Public Utility Commission exercise its discretion to designate the August 1, 2024 Public Meeting as the date for the issuance of a Commission order for purposes of setting a procedural schedule for the captioned Community Utilities of Pennsylvania, Inc. (CUPA) rate cases. The Commission's Bureau of Investigation & Enforcement joins in this request.¹

At the next Public Meeting scheduled for December 21, 2023, we anticipate that the Commission will suspend CUPA's filings for seven months, to August 9, 2024. Relative to that date, the Commission currently has Public Meetings scheduled on August 1, 2024 (eight days prior) and July 11, 2024 (29 days prior). We have heard from the ALJs who will be assigned to the rate cases upon suspension that they believe they must set a procedural schedule using the

¹ Counsel for CUPA authorized the OCA to represent that it does not oppose the OCA's request regarding which Public Meeting date is used for the purposes of establishing a procedural schedule.

July 11 Public Meeting date because it is the last reasonable Public Meeting prior to the end of the suspension period.²

As a practical matter, using the July 11 Public Meeting would unnecessarily compress the procedural schedule by three weeks. Using the August 1 Public Meeting instead would avoid prejudice to all non-Company litigants, while still providing Commission staff eight days to prepare and enter a revised Commission Opinion and Order following that public meeting.³

The Commission has the statutory authority and discretion under 66 Pa. C.S. § 1308(d) to decide key procedural questions that will impact the scheduling of hearings and the setting of a litigation schedule in this case. Moreover, where the procedural decisions to be made by the Commission can avoid prejudice to all litigants, the Commission should exercise its discretion at the earliest opportunity and provide appropriate direction to the Office of Administrative Law Judge and all parties in the proceeding.

This exercise of discretion is appropriate and particularly critical given the impact of CUPA's proposed base rate increases (50-70% increases for monthly residential bills, both water and wastewater, at CUPA's sample usage levels) and its proposals for rate consolidation, a new arrearage management program and a new deferral mechanism for rate impacts of its pending corporate merger. Given the magnitude of the proposed bill impacts and the number of formal complaints that have been filed, as well as requests for public input hearings received by the OCA, we will request that public input hearings be scheduled to provide opportunity for customers to speak on the record.

For these important reasons, the Commission should exercise its authority and discretion to protect the non-Company parties' ability to effectively participate in the case. We respectfully request that the Commission provide direction to the Presiding Officers and the parties that the August 1, 2024 Public Meeting date can be used for setting a procedural schedule in this matter. This direction could be as part of the upcoming Suspension Order issued at the December 21, 2023 Public Meeting; having that certainty as early in the process as possible will benefit all participants.

² Presumably, the August 1 Public Meeting date was not chosen because it would provide eight days between the public meeting and expiration of the suspension period rather than 10 to 14 days, which prior Commission orders have described as being "a reasonable time for preparation of a rewrite following the public meeting." See *Pa. PUC v. Columbia Gas of Pa., Inc.*, R-2020-3018835 at 21, n.10 (Order Aug. 20, 2020); see also *Pa. PUC v. Pennsylvania-American Water Co.*, R-2020-3019369 at 21, n.10 (Order Aug. 20, 2020). Both orders were issued during the emergency situation of the COVID-19 pandemic, which has since lifted.

³ Also, the Commission has tools available to balance the needs of its staff and the parties to the litigation by, for example, using notational voting on July 26 or 29, 2024 that could be ratified at the August 1, 2024 Public Meeting. This would serve to provide its staff with more than 11 to 14 days for preparation of a rewrite while mitigating the impact on the time available for development of the evidentiary record.

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Thank you for your consideration of this important procedural issue in advance of your consideration of the issuance of a Suspension Order.

Sincerely,



Patrick M. Cicero
Consumer Advocate

Enclosure: Certificate of Service

Cc: Secretary Rosemary Chiavetta (via eFiling)
Honorable Charles E. Rainey, Jr. (via email)
Honorable Stephen K. Haas (via email)
Honorable Alphonso Arnold III (via email)
Paul Diskin, Technical Utility Services (via email)
Kimberly A. Hafner, Office of Special Assistants (via email)
David E. Screven, Law Bureau (via email)
Parties of Record (via email)

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Letter Re: CUPA Rate Case Schedule, 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 15th day of December 2023.

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