



March 6, 2024

*Via Electronic Filing*

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

**Re: Petition of Pittsburgh Water and Sewer Authority for Approval of its Lead Service Line Replacement Program, Docket No. P-2024-3046468**

**Petition of the Pittsburgh Water and Sewer Authority for Waiver of Certain Regulations Regarding its Lead Service Line Replacement Program, Docket No. P-2024-3046465**

*Petition to Intervene and Answer of Pittsburgh United*

Dear Secretary Chiavetta,

Enclosed, please find the **Petition to Intervene and Answer of Pittsburgh United's Our Water Table** in the above-referenced matters. Pursuant to the Commission's Emergency Orders, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,



John W. Sweet, Esq.  
*Counsel for Pittsburgh United Our Water Table*

CC: Certificate of Service

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pittsburgh Water and Sewer Authority for :  
Approval of its Lead Service Line Replacement Program : Docket No. P-2024-3046468  
:  
:  
:  
Petition of the Pittsburgh Water and Sewer Authority for :  
Waiver of Certain Regulations Regarding its Lead : Docket No. P-2024-3046465  
Service Line Replacement Program :  
:  
:

---

**CERTIFICATE OF SERVICE**

I hereby certify that I have, on this day, served copies of the **Petition to Intervene and Answer of Pittsburgh United’s Our Water Table** in the above captioned matters upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54, and consistent with the Commission’s Emergency Orders at Docket M-2020-3019262.

**SERVICE VIA EMAIL ONLY**

Sarah C. Stoner, Esq.  
Deanne M. O’Dell, Esq.  
Daniel Clearfield, Esq.  
Lauren Burge, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)

Harrison W. Breitman, Esq.  
Gina Miller, Esq.  
Office of Consumer Advocate  
555 Walnut St., 5th Fl., Forum Place  
Harrisburg, PA 17101-1923  
[hbreitman@paoca.org](mailto:hbreitman@paoca.org)  
[gmiller@paoca.org](mailto:gmilller@paoca.org)

Sharon Webb, Esq.  
Office of Small Business Advocate Forum  
Place Building  
555 Walnut Street, 1st Floor  
Harrisburg, PA 17101  
[swebb@pa.gov](mailto:swebb@pa.gov)

Scott B. Granger, Esq.  
Michael A. Podskoch, Jr., Esq.  
Allison C. Kaster, Esq.  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North St., 2nd Floor West  
Harrisburg, PA 17120  
[sgranger@pa.gov](mailto:sgranger@pa.gov)  
[mpodskoch@pa.gov](mailto:mpodskoch@pa.gov)  
[akaster@pa.gov](mailto:akaster@pa.gov)

Thomas J. Sniscak, Esq.  
Kevin J. McKeon, Esq.  
Whitney E. Snyder, Esq.  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

Alan Michael Seltzer, Esq.  
John F. Povilaitis, Esq.  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101-1357  
[alan.seltzer@bipc.com](mailto:alan.seltzer@bipc.com)  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)

John F. Doherty, Esq.  
Krycia Kubiak, City Solicitor, The City of  
Pittsburgh Department of Law  
City-County Building, Suite 313  
414 Grant Street  
Pittsburgh, PA 15219  
[John.doherty@pittsburghpa.gov](mailto:John.doherty@pittsburghpa.gov)  
[krycia.kubiak@pittsburghpa.gov](mailto:krycia.kubiak@pittsburghpa.gov)

Cheryl R. McAbee, Esq.  
2005 Garrick Drive  
Pittsburgh, PA 15235  
[crm121@pitt.edu](mailto:crm121@pitt.edu)

Respectfully submitted,



John W. Sweet, Esq., PA ID: 320182  
*Counsel for Pittsburgh United Our Water Table*

Dated: March 6, 2024

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pittsburgh Water and Sewer Authority for :  
Approval of its Lead Service Line Replacement Program : Docket No. P-2024-3046468  
:  
:  
:  
Petition of the Pittsburgh Water and Sewer Authority for :  
Waiver of Certain Regulations Regarding its Lead : Docket No. P-2024-3046465  
Service Line Replacement Program :  
:  
:

---

**PETITION TO INTERVENE AND ANSWER OF  
PITTSBURGH UNITED OUR WATER TABLE**

---

**PENNSYLVANIA UTILITY LAW PROJECT**

*Counsel for Pittsburgh United Our Water Table*

Lauren N. Berman, Esq. PA ID: 310116  
John Sweet, Esq. PA ID: 320182  
Ria M. Pereira, Esq., PA ID: 316771  
Elizabeth R. Marx, Esq., PA ID: 309014  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@putilitylawproject.org](mailto:pulp@putilitylawproject.org)

**March 6, 2024**

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.76, Pittsburgh United's Our Water Table, through its counsel at the Pennsylvania Utility Law Project, hereby petitions the Pennsylvania Public Utility Commission (Commission) to intervene and files its Answer in the above-captioned proceedings. In support thereof, Pittsburgh United's Our Water Table states as follows:

1. On February 15, 2024, Pittsburgh Water and Sewer Authority (PWSA) filed a Petition seeking approval of its Lead Service Line Replacement (LSLR) Program in accordance with Section 1311(b) of the Public Utility Code and Chapter 65 of the PUC's regulations (herein, LSLR Petition). 66 Pa. C.S. § 1311(b), 52 Pa. Code §§ 65.51 et seq.
2. On the same day, PWSA filed a Petition seeking waiver of certain regulations in order to permit PWSA to continue operating its current LSLR reimbursement program, which was previously approved by the Commission prior to promulgation of the Commission's regulations (herein, Waiver Petition).
3. Pittsburgh United was a party to the underlying proceedings and associated settlements, including PWSA's recent rate proceedings, Long Term Infrastructure Improvement Plan (LTIIP), and Stage 1 and Stage 2 Compliance Plan proceedings, which led to the Commission's approval of various aspects of PWSA's current LSLR program. (see LSLR Petition at 6, para. 19).<sup>1</sup>

---

<sup>1</sup> *Pennsylvania Public Utility Commission, et al. v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2020-3017951 et al.; *Pennsylvania Public Utility Commission, et al. v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2018-3002645, et al.; *Implementation of Chapter 32 of the Public Utility Code RE: Pittsburgh Water and Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803; *Petition of the Pittsburgh Water and Sewer Authority for Approval of its Long-Term Infrastructure Improvement Plan*, Docket Nos. P-2018-3005037 and P-2018-3005039.

### **Petition to Intervene**

4. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).
5. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).
6. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members . . . as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing Trippls Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School Dist. of Phila., 646 A.2d 689 (Pa. Commw. Ct. 1994).
7. Pittsburgh United’s Our Water Table is an unincorporated coalition of community, labor, faith, and environmental organizations working collaboratively to improve access to safe and affordable water, wastewater, and stormwater services for low income households in the Pittsburgh region.
8. Pittsburgh United’s Our Water Table is located at 841 California Ave., Pittsburgh, PA 15212.

9. Pittsburgh United's Our Water Table has a significant interest, on behalf of its members, in the impact of PWSA's proposed LSLR Plan.
10. Pittsburgh United's Our Water Table, its member organizations, and the individuals and families that its member organizations serve are located within PWSA's service territory and will be directly affected by the outcome of this proceeding.<sup>2</sup>
11. Pittsburgh United's Our Water Table has standing to intervene because several of its members have or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476.
12. Pittsburgh United's Our Water Table is represented in this proceeding by counsel at the Pennsylvania Utility Law Project:

Lauren N. Berman, Esquire  
John W. Sweet, Esquire  
Ria M. Pereira, Esquire  
Elizabeth R. Marx, Esquire  
**Pennsylvania Utility Law Project**  
118 Locust Street  
Harrisburg, PA 17101  
Telephone: 717-236-9486  
Fax: 717-233-4088  
Email: [pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org)

13. Counsel for Pittsburgh United consents to the service of documents by electronic mail to [pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org) as provided in 52 Pa. Code § 1.54(b)(3).

---

<sup>2</sup> A list of Pittsburgh United's member organizations is available at <http://pittsburghunited.org/>. (Several member organizations are PWSA customers.)

**Answer**

14. Pittsburgh United's Our Water Table has preliminarily reviewed PWSA's LSLR Petition and is generally supportive of PWSA's proposal to continue its LSLR programming without substantial amendment to achieve its goal of replacing all remaining lead service lines in its system by 2026. (LSLR Petition at 6, para. 19).
15. Notwithstanding our general support, we are concerned that it appears PWSA's proposed LSLR Program may in fact differ more substantially from its current programs and the terms of prior Commission-approved Settlements than its Petition suggests. On this point, we have identified two specific areas of concern:
- a. First, Pittsburgh United's Our Water Table is concerned that PWSA appears to have amended its post-replacement testing procedures. In PWSA's prior-approved LSLR plan, PWSA indicated that it would leave a test kit at the property immediately following the replacement so that the initial tap sample could be collected within 72 hours days following the LSLR. (LSLR Petition, Append. A, LSLR Plan at 21-23). In PWSA's current Petition, it indicates that it has revised its Post-Construction sampling procedures and will mail the testing kit to the customer three to six months after the completion of the LSLR. (Id.). Pittsburgh United's Our Water Table seeks further information about whether PWSA's revised procedures will adequately protect customers from lead exposure in the time immediately following the LSLR and whether they are compliant with the terms of prior settlements on this issue.
  - b. Second, it also appears that PWSA is proposing a higher action level than previously agreed – indicating a lead action level of 15 parts per billion (ppb), compared to the 10 ppb agreed to in a Commission-approved settlement in PWSA's prior LTIP

proceeding.<sup>3</sup> Notably, the prior settlement was explicit that these provisions were effective through 2026.<sup>4</sup> Pittsburgh United's Our Water Table asserts that additional information is needed about this potential violation of the 2019 LTIP Settlement.

16. Pittsburgh United's Our Water Table has also preliminarily reviewed PWSA's Waiver Petition and, *at this time*, does not oppose PWSA's requests for waiver of certain regulatory requirements regarding PWSA's LSLR Reimbursement Program to the extent they do not conflict with the terms of prior Commission-approved Settlement agreements regarding PWSA's LSLR programs. (See Waiver Petition at 5-8, paras. 9-18).

a. First, Pittsburgh United's Our Water Table generally supports PWSA's proposal to maintain its current tiered reimbursement structure to ensure households with income at or below 300% FPL receive full reimbursement, without a cap on reimbursement level based on average replacement costs and without a time limit – even if the replacement is outside of a designated “LSLR project area”. (Waiver Petition at 9-10, paras. 20-23).

i. PWSA's tiered income-based reimbursement structure was developed through careful negotiation with multiple parties through the course of several successive litigated proceedings, and was of particular importance to Pittsburgh United's Our Water Table. Through this process, the parties balanced complex considerations of cost, program accessibility, and fundamental principles of equity to refine its tiered approach to reimbursement. Ultimately, the tiered process ensures that low income customers, who are most often without upfront

---

<sup>3</sup> Petition of PWSA for Approval of its Long-Term Infrastructure Improvement Plan, P-2018-3005037, P-2018-3005039, Joint Petition for Partial Settlement at p. 48 ¶ TT.3.b-c. (Submitted Sep. 13, 2019).

<sup>4</sup> *Id.* at ¶ PP.1.

capital or expendable income, are able to equitably access PWSA's reimbursement program without risk of shouldering unaffordable costs if the replacement ultimately exceeds 125% of the average replacement costs.

- ii. When coupled with PWSA's other LSLR program components, including its free Neighborhood, Emergency/Urgent, and Small Diameter Water Main Replacement (SDWMR) LSLR programs, a tiered reimbursement program structure supports PWSA's overarching goal to replace all lead service lines by 2026 while reasonably limiting costs recovered from other ratepayers.
- b. Pittsburgh United's Our Water Table is also generally supportive of PWSA's requested waiver requiring a *customer* to submit an estimate and paid invoice. (Waiver Petition at 10, para. 25).
- i. PWSA's current program permits a plumber to submit an estimate and final invoice. This provision was subject to extensive negotiation in PWSA's prior proceeding, and was a particular area of concern for Pittsburgh United's Our Water Table. PWSA's program was intentionally designed to ensure that low income households, which most often lack the expendable income or credit to expend up-front resources for replacement, can take full advantage of the program. (See Waiver Petition at 7-8, para. 17)
- c. Pittsburgh United's Our Water Table has concerns regarding PWSA's proposal to restrict its reimbursement to property owners. (Waiver Petition at 10, para. 24). However, based on informal discovery with PWSA, it is our understanding that PWSA's program permits eligible customers that are non-owners (e.g., tenant customers) to participate in the program with involvement of the property owner. Based

on this understanding, we are not opposed to PWSA's requested waiver at this time.

17. Given the substantial cost of further litigation, and the potential to detract from PWSA's ability to reach its goal of removing all residential lead service lines by 2026, we do not believe PWSA's LSLR Plan warrants full-scale litigation at this time. Nevertheless, the 20-day regulatory timeframe to file a formal Answer to PWSA's Petition did not provide adequate time to fully review PWSA's proposed LSLR Program in tandem with the complex terms of prior Commission-approved Settlement agreements to identify whether and to what extent PWSA amended its existing, Commission-approved program. As an interim step, and in an attempt to avoid protracted litigation of this matter, Pittsburgh United's Our Water Table recommends that the Commission refer the matter to mediation<sup>5</sup> to permit interested parties and stakeholders adequate time to further review PWSA's proposal, exchange informal discovery, and attempt to reach a resolution of the issues before referring the matter for full litigation.

18. Pittsburgh United's Our Water Table reserves the right to take a different position on these matters, including requesting that the matter be referred for further litigated proceedings, if it determines the issues in PWSA's LSLR and Waiver Petitions conflict with the terms of the settlement, if the matter is otherwise referred for litigation, and/or if other aspects of PWSA's LSLR programming are subject to further amendment.

WHEREFORE, Pittsburgh United's Our Water Table respectfully requests that the Commission enter an order approving its request for full status as an intervener in this proceeding with active

---

<sup>5</sup> 56 Pa. Code § 69.393.

party status and either issue this matter for comment or refer the matter to mediation for further review and resolution of the concerns raised above.

Respectfully submitted,

**PENNSYLVANIA UTILITY LAW PROJECT**  
*Counsel for Pittsburgh United*



---

John Sweet, Esq. PA ID: 320182  
Lauren N. Berman, Esq., PA ID: 310116  
Ria M. Pereira, Esq., PA ID: 316771  
Elizabeth R. Marx, Esq., PA ID: 309014  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org)

Dated: March 6, 2024

**Verification**

I, **Elizabeth R. Marx**, legal counsel for Pittsburgh United's Our Water Table, hereby states that the facts contained in the foregoing pleadings are true and correct to the best of my knowledge, information, and belief, that I am duly authorized to make this Verification, 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).



---

Elizabeth R. Marx, Esq.  
*On behalf of Pittsburgh United*

Dated: March 6, 2024