

COMMONWEALTH OF PENNSYLVANIA



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April 18, 2024

Via Electronic Filing

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

Re: Newtown Artesian Water Company Petition
for Approval of Lead Service Line
Replacement Program
Docket No. P-2023-3041859

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

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 F. Joseph Brady (**email only**)
Certificate of Service

CERTIFICATE OF SERVICE

Newtown Artesian Water Company Petition :
for Approval of Lead : Docket No. P-2023-3041859
Service Line Replacement Program :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 18th day of April 2024.

SERVICE BY E-MAIL ONLY

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Phone: (717) 783-5048

Dated: April 18, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Newtown Artesian :
Water Company For Approval of its : Docket No. P-2023-3041859
Lead Service Line Replacement Program :
: :
: :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On November 21, 2023, Newtown Artesian Water Company (Newtown or Company) filed with the Pennsylvania Public Utility Commission (Commission) a Petition (Petition) for Approval of its Lead Service Line Replacement Program (LSLR Program).¹ Through the Petition, Newtown seeks approval to replace customer-owned lead service lines (COLSL) in accordance with its proposed LSLR Program and to recover those costs as provided in Section 1311(b)(2) of the Public Utility Code. 66 Pa. C.S. § 1311(b)(2). The proposed LSLR program and plan will allow the Company to recover the costs for LSL replacements, both Company-owned and customer-owned, through its base rates and DSIC. 66 Pa. C.S. § 1311(b)(2). For customers, the LSLR Program has the potential to provide both financial and public health and safety benefits.

On January 5, 2024, the OCA filed a Notice of Intervention and Public Statement. In the Intervention, the OCA opposed the Company's Petition for an LSLR Program as filed and

¹ On July 21, 2023, the Newtown filed with the Commission a Petition seeking an extension of time by 120 days to file the LSLR Program and tariff revisions required under 52 Pa. Code § 65.1 et seq., until November 22, 2023. On August 10, 2023, the Office of Consumer Advocate (OCA) filed an Answer to the Company's Petition stating it was not opposed to the requested extension but that it would not support any further extensions.

requested that the matter be referred to the Office of Administrative Law Judge so that hearings can be held.

II. ISSUES

The OCA will address the following issues for the Commission's consideration in reviewing the Petition and reaching a determination of whether the proposed LSLR improvements are prudent and cost-effective and will maintain safe, reliable, and reasonable service as required by the Public Utility Code and the Commission's regulations (*See* 66 Pa. C.S. §§ 1301, 1311(b)(2), 1501; 52 Pa. Code §§ 65.51-65.62): (1) service line inventory; (2) prioritizing lead service line replacements; (3) emergency repairs and replacements; (4) process and procedures to obtain acceptance of a lead service line replacement; (5) publicly accessible website; (6) Newtown's proposed monetary and customer annual cap to limit lead service line replacements; (7) reimbursement to customers; and (8) customer outreach. The OCA reserves the right to address any other issue that is raised in the Petition based on any relevant evidence that is gathered during the discovery process.

III. WITNESSES

At this time, the OCA has not yet determined whether it will present a witness. Once the OCA determines that a witness is necessary for any portion of its case, it will notify all parties of record immediately.

IV. DISCOVERY

In order to effectively investigate and adequately develop a record in this proceeding, the OCA requests a modification to the Commission's procedural rules, 52 Pa. Code §5.321, et seq., on a going-forward basis, as set forth below:

1. Answers to interrogatories and responses to requests for document production, entry for inspection or other purposes shall be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production.

2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service to the propounding party; unresolved objections shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

4. Answer to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

5. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

6. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

7. Answers to on the Record Data requests will be provided within five (5) calendar days.

8. Rulings over discovery motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

V. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Harrison W. Breitman, Assistant Consumer Advocate, and Melanie Joy El Atieh, Deputy Consumer Advocate. The OCA requests that all documents should be served by email on the OCA attorneys and administrative support as follows:

Attorneys:

Harrison W. Breitman
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Office of Consumer Advocate
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Melanie Joy El Atieh
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Office of Consumer Advocate
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Administrative Support:

Ryan Marshall
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VI. PROPOSED SCHEDULE

The OCA will work with the parties to develop a litigation schedule that is acceptable to the Presiding Officer and the parties.

VII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VIII. LEAD ATTORNEY FOR PREHEARING CONFERENCE

As directed in the Prehearing Conference Order, Harrison W. Breitman, Assistant Consumer Advocate, will speak as the lead attorney for purposes of the prehearing conference.

Respectfully submitted,

/s/ Harrison W. Breitman

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DATED: April 18, 2024

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