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June 6, 2024

By Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

Re: Columbia Water Company; Petition of Columbia Water Company for Approval of a Lead Service Line Replacement Program, Related Tariff Changes, Modification of Long-Term Infrastructure Improvement Plan, and Waiver of Termination Regulations; Docket No. P-2023-3041845; **PREHEARING CONFERENCE MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Columbia Water Company's Prehearing Conference Memorandum in the above-captioned matter.

If you have any questions, please feel free to contact me at (717) 236-1300.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick Jr.

Counsel for Columbia Water Company

PDD/das
Enclosure

cc: Honorable Mary D. Long (by email, malong@pa.gov)
Honorable Charece Z. Collins (by email, charcollin@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Columbia Water Company for	:	
Approval of a Lead Service Line	:	
Replacement Program, Related Tariff	:	Docket No. P-2023-3041845
Changes, Modification of Long-Term	:	
Infrastructure Improvement Plan, and	:	
Waiver of Termination Regulations	:	

**PREHEARING CONFERENCE MEMORANDUM
OF COLUMBIA WATER COMPANY**

TO THE HONORABLE MARY D. LONG AND HONORABLE CHARECE Z. COLLINS:

Pursuant to Your Honors’ September 19, 2023 Prehearing Conference Order and 52 Pa. Code § 5.222(d), Columbia Water Company (“Columbia Water” or the “Company”) submits this Prehearing Conference Memorandum.

I. HISTORY OF THE PROCEEDING

On July 21, 2023, Columbia Water filed its Petition for Approval of a Lead Service Line Replacement Program, Related Tariff Changes, Modification of Long-Term Infrastructure Improvement Plan, and Waiver of Termination Regulations (“Petition”). By way of its Petition, the Company seeks approval from the Pennsylvania Public Utility Commission (“Commission”) regarding the Company’s proposed Lead Service Line Replacement Program (“LSLR Program”) to replace Company-owned and customer-owned lead service lines (“LSLs”) and to recover the associated costs related to those replacements as set forth in its Lead Service Line Replacement Plan (“LSLR Plan”). The Petition was docketed at Docket No. P-2023-3041845.

Collectively, the Petition seeks Commission approval of the Company’s LSLR Plan attached as Exhibit No. 1 to the Petition, approval of the Pro Forma Tariff Supplement containing terms and

conditions necessary to implement the LSLR Plan attached as Exhibit No. 3 to the Petition, to modify its existing Long-Term Infrastructure Improvement Plan (“LTIIIP”) to incorporate the LSLR Plan as a separate and distinct component of the Company’s existing LTIIIP attached as Exhibit No. 4 to the Petition, and any necessary waivers of the Commission’s termination regulations to allow for expedited termination procedures in the event of a customer refusing a lead service line replacement (“LSLR”) or a partial LSLR.

On August 10, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention, Public Statement, Verification, and Notice of Appearance.

On August 10, 2023, the Office of Consumer Advocate (“OCA”) filed an Answer and Verification responding to the Company’s Petition and requesting, among other things, that this matter be assigned to the Office of Administrative Law Judge (“OALJ”) for hearings.

This matter was subsequently assigned to the OALJ and further assigned to Administrative Law Judges Mary D. Long (“ALJ Long”) and Charece Z. Collins (“ALJ Collins”) (collectively, the “Presiding Officers”).

On September 19, 2023, an Initial Telephonic Prehearing Conference Notice was issued setting a Prehearing Conference for October 5 at 1:30 P.M. The Presiding Officers also issued a Prehearing Conference Order directing the parties to file Prehearing Memoranda by Tuesday, October 3, 2023.

On September 20, 2023, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

The Company hereby files the following Prehearing Memorandum in anticipation of the Prehearing Conference.

On October 3, 2023, prehearing conference memoranda were filed by the Company, I&E, the OCA, and OSBA.

On October 5, 2023, a telephonic prehearing conference was held as scheduled. The following parties were present at the prehearing conference: Columbia Water, I&E, OCA, and OSBA (collectively, the “Parties”). At the prehearing conference, the Parties requested that they be provided 90 days to discuss settlement prior to establishing a formal litigation schedule in this proceeding, subject to providing the Presiding Officers monthly status updates.

On October 5, 2023, the Presiding Officers issued Prehearing Order #1 providing the Parties until Monday, January 8, 2024, to discuss potential settlement of this matter prior to formal litigation. The Parties were also directed to e-mail monthly status reports to the Presiding Officers no later than November 9, 2023, December 11, 2023, and January 8, 2024, respectively.

On October 31, 2023, the Company responded to a set of informal discovery requests from the OCA.

On January 8, 2024, the Parties advised that they are continuing to engage in settlement negotiations. The Parties, therefore, requested an additional 90 days to discuss settlement prior to proceeding with formal litigation of this matter.

On January 8, 2024, the Presiding Officers issued Prehearing Order #2 providing the Parties until Monday, April 8, 2024, to discuss potential settlement of this matter prior to formal litigation. The Parties were also directed to e-mail monthly status reports to the Presiding Officers no later than February 7, 2024, March 8, 2024, and April 8, 2024, respectively.

On March 12, 2024, the Company responded to a second set of informal discovery requests from the OCA.

On April 9, 2024, the Company emailed the Presiding Officers proposing that it provide an update in the next 30 days concerning whether a procedural schedule should be set in this proceeding.

On April 11, 2024, a Further Telephonic Prehearing Conference Notice was issued setting a telephonic prehearing conference notice for June 6, 2024.

To date, the Parties have not been able to reach a settlement in this matter.

On June 5, 2024, the Company filed a Motion for Summary Judgement seeking approval of its Petition for Approval of a Lead Service Line Replacement Program, Related Tariff Changes, Modification of Long-Term Infrastructure Improvement Plan, and Waiver of Termination Regulations.

II. PRIMARY SPEAKER FOR THE PREHEARING CONFERENCE

Whitney Snyder will be the primary speaker for Columbia Water.

III. ISSUES

In October 2018, Governor Wolf signed into law Act 120 of 2018 (“Act 120”), which became effective on December 23, 2018. Act 120 amended Section 1311(b) of the Public Utility Code in order to, *inter alia*, authorize water utilities to pursue comprehensive replacement of LSLs that remain in service across Pennsylvania subject to Commission approval. Specifically, Act 120 provides that replacing a customer-owned LSL does not make the utility the owner of the new service line on the customer’s property. Act 120 also directed the Commission to establish standards to ensure a warranty on the utility’s replacement work and reimburse customers who replaced lead service lines at their own cost. Additionally, Act 120 established the accounting and ratemaking treatment of LSLR costs by providing that the customer-owned portion of LSLs may be included in a regulated utility’s rate base upon which it is authorized to earn a return.

Pursuant to Act 120, the Commission promulgated its LSLR regulations at 52 Pa. Code § 65.51, *et seq.* (“LSLR Regulations”), which became effective on July 23, 2022. 52 Pa. Code § 65.53 states that “[a]n entity...shall remove and replace all LSLs, whether entity-owned or customer-owned, within or connected to its water distribution systems within 25 years from the effective date of this section for a Class A public utility...” Moreover, pursuant to 52 Pa. Code § 65.55(a), a Class A public utility or authority shall file a LSLR Program within 1 year of the effective date of this section, or by July 23, 2023.

Through this Petition, the Company is requesting approval of its LSLR Program in compliance with the Commission’s LSLR Regulations to address the removal and replacement of lead service lines in its service territory. The Company submits that its Petition complies with the requirements of Act 120 and the Commission’s LSLR Regulations and should be approved.

IV. WITNESSES

As described below and consistent with the Company’s Motion for Summary Judgement, the Company does not believe presentation of testimony is necessary in this proceeding because there is no genuine issue of material fact. Should the Company need to present testimony in this proceeding, Columbia Water presently intends to offer the following witnesses to testify:

David T. Lewis
President and General Manager
Columbia Water Company
220 Locust Street, Columbia, PA 17512

Taz Keyser
Information Technology Supervisor
Columbia Water Company
220 Locust Street, Columbia, PA 17512

V. PROCEDURAL SCHEDULE

The Company submits the follow procedural schedule as a general outline for Your Honor's consideration:

June 25, 2024 - Answers to Motion for Summary Judgement (20 days, consistent with regulations). The Answer shall specifically identify each and every genuine issue of material fact the Answering party believes is necessary to address via hearing.

August 9, 2024 - (approximate, requested date for issuance) Order indicating:

- summary judgement will be granted and ordering the Company to submit a compliance tariff and plan, as well as proposed findings of fact and conclusions of law, within 15 days with a 15-day answering period for other parties to respond at which point your Honors would render an initial decision. **Or**
- what genuine issue(s) of material fact raised by answering parties will be set for hearing and setting a truncated testimony schedule where each party submits simultaneous direct testimony with the opportunity for rebuttal testimony, a hearing for cross examination and Company oral rejoinder if necessary, and a truncated briefing schedule. Your Honors could provide hearing date availability and reply brief deadline and the parties would reach a mutually agreeable schedule including discovery modifications at that point. The Company believes direct testimony to reply briefing should occur within a 3-month window given the limited scope of issues in this proceeding. If Your Honor's issued an Order on summary judgement August 9, 2024, the Company believes an appropriate reply brief deadline is on or about November 7, 2024.

VI. PROPOSED PLAN AND SCHEDULE OF DISCOVERY

The Company does not believe further discovery should be allowed at this time. The Petition was filed July 21, 2023 and thus discovery has been available for over 10 months. If summary judgment is not granted, discovery modifications can be mutually agreed upon by the parties.

VII. SETTLEMENT

Columbia Water is open to further settlement communications but is not willing to further delay this proceeding.

Respectfully submitted,

/s/ Whitney E. Snyder

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Counsel for Columbia Water Company

Dated: June 6, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

BY ELECTRONIC MAIL ONLY:

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Patrick M. Cicero, Esquire
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Allison C. Kaster, Esquire
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Bureau of Investigation and Enforcement
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/s/ Whitney E. Snyder

Whitney E. Snyder
Thomas J. Sniscak
Phillip D. Demanchick

Dated this 6th day of June, 2024