

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Application of 52 Pa. Code § 3.501 to
Certificated Water and Wastewater Utility
Acquisitions, Mergers, and Transfers

Public Meeting of October 10, 2024
3017232-LAW
Docket No. L-2020-3017232

MOTION OF CHAIRMAN STEPHEN M. DeFRANK

Before the Pennsylvania Public Utility Commission (Commission) is the rulemaking, in its final form, concerning applications of water and wastewater public utilities to obtain certificates of public convenience (CPC) in three distinct situations: (1) to become a certificated water or wastewater public utility; (2) to extend water distribution or wastewater collection mains beyond a certificated service territory; or (3) to acquire existing water or wastewater systems. The inherent goal of this rulemaking is to continue to refine our application review and approval process related to certain water and wastewater CPC applications. For example, the regulatory review needed for a proposed acquisition by an existing, certificated water or wastewater public utility may not necessitate the same documentation as that needed for a new water or wastewater public utility. Today's final form rulemaking recognizes the differences between the various types of water and wastewater application proceedings. It is also complementary to the Commission's recent efforts to promote and realize efficiencies in licensing, application, and certification procedures.¹

Rulemakings are among the more complex proceedings that the Commission undertakes and this rulemaking is no different. I commend the Law Bureau and the Bureau of Technical Utility Services for their work in proposing a sound package that streamlines filing requirements where it makes sense, without impeding the Commission's comprehensive review process for such applications. Nevertheless, I find it necessary to propose two enhancements to the final rulemaking order.

First, if an application includes a request to provide service in an area covered by a mandatory connection ordinance by the municipality, I propose that the notice publishing the application in the *Pennsylvania Bulletin* and in the newspaper of general circulation contain a conspicuous statement alerting customers of the applicability of the ordinance. Publishing a statement in the notice concerning the existence of a mandatory connection ordinance, when applicable, strikes a balance between the concerns raised by the various stakeholders with the costs associated with furnishing direct, individualized notice and not providing notice at all. Requiring such notice apprises the general public of the mandatory connection, if not already

¹ See *Building Efficiency in Commission Application and Certification Procedures*, Docket No. M-2024-3047172 (Joint Motion of Chairman Stephen M. DeFrank and Commissioner Ralph V. Yanora dated April 4, 2024). The Joint Motion is consistent with Governor Shapiro's Executive Order 2023-07 – Building Efficiency in the Commonwealth's Permitting, Licensing, and Certification Processes: <https://www.oa.pa.gov/Policies/eo/Documents/2023-07.pdf>.

known. Therefore, I would add the following sentence at the end of proposed Sections 3.513(d) (related to notice of an application for a new water or wastewater system), 3.514(f) (related to notice of extensions of water distribution or wastewater collection mains), and 3.515(h) (related to acquisitions of an existing water or wastewater system):

Notice. The application will be docketed by the Secretary of the Commission and thereafter forwarded for publication in the *Pennsylvania Bulletin*. The applicant shall also publish notice of application, as supplied by the Secretary, once a week for 2 consecutive weeks in one newspaper of general circulation located in the service territory or territories covered by the application and shall submit proof of publication to the Commission. **If the application includes a request to provide service in an area covered by a mandatory connection ordinance, the notice provided under this section shall include a conspicuous statement that such an ordinance applies.**

Second, for acquisition applications filed by certificated water and wastewater public utilities, I would require that the map of the proposed, acquired service territory contain detail to delineate the boundaries of the acquired service area, including the location or route of the existing water or wastewater system. I propose eliminating requirements for a map containing a description by bearing angles and distances, as well as elevations of major facilities and the service territory.

Information on bearing angles and distances designed to generate highly granular geospatial information is not necessary for every application. Two-dimensional maps provide the Commission with sufficient information to establish service territory boundaries in an application for an acquisition of an existing water or wastewater system. Should disputes arise at the time or after an application to acquire an existing water or wastewater system is filed, litigants may obtain bearing angles and distances information as may be applicable in each situation.

Additionally, the Commission does not require elevation information to determine service territory boundaries. Requirements to furnish detailed information about the system, including a water distribution map showing the location of major facilities, pipe sizes, fire flow, and pressure zones, and a wastewater collection map showing the location of major facilities, pipe sizes, gravity or force main designation, and direction of flow, is set forth in a separate subsection of the proposed final form regulation at Section 3.515(a)(2)(ii). Therefore, I would modify proposed Section 3.515(a)(2)(i) to state as follows:

Map of acquired service territory. A map or plan of suitable scale and detail delineating the boundaries of the new service area on an existing service area map or as a new service area map, including the location or route of the existing water or wastewater system.

I would like to thank all stakeholders for filing comments and providing feedback in this rulemaking proceeding. Your input has resulted in a final form regulation that recognizes the differences between the various water and wastewater CPC applications, and tailors filing requirements to address each distinct type of application. I believe we have achieved the appropriate balance between streamlining the Commission's existing regulations while preserving

the Commission's ability to comprehensively review such applications and determine whether they are in the public interest.

THEREFORE, I MOVE THAT:

1. The Law Bureau modify the Final Rulemaking Order, consisting of the Final-Form Preamble and Final-Form Annex, to include the resolutions outlined in this Motion.

October 10, 2024
Date



Stephen M. DeFrank
Chairman