

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held October 10, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Petition of Columbia Water Company for  
Approval of a Lead Service Line Replacement  
Program, Related Tariff Changes, Modification  
of a Long-Term Infrastructure Improvement Plan,  
and Waiver of Termination Regulations

P-2023-3041845

**TENTATIVE OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Mary D. Long, issued on September 11, 2024, relative to the above-captioned proceeding. Exceptions have not been filed. The Recommended Decision comes before the Commission for consideration from the Office of Administrative Law Judge in accordance with Commission procedure. In the Recommended Decision, ALJ Long recommended that the Commission approve the Joint Petition for Settlement (Joint Petition or Settlement), filed by Columbia Water Company (Columbia Water or the Company), the Office of Consumer Advocate (OCA), and the Office of Small Business

Advocate (OSBA) (collectively, the Joint Petitioners), on July 31, 2024. As mentioned previously, no Exceptions have been filed however, as noted in our determinations herein, we shall modify the ALJ's Recommended Decision, consistent with this Opinion and Order.

## I. Background<sup>1</sup>

### A. Lead Service Line Replacement (LSLR) Program

Lead is a heavy metal that commonly occurs in our environment. Humans can be exposed to lead through a variety of sources, including dust, soil, or paint chips, as well as through ingestion from drinking water. The deleterious health effects of lead are now well-recognized:

Exposure to lead in drinking water can cause serious health effects in all age groups. Infants and children can have decreases in IQ and attention span. Lead exposure can lead to new learning and behavior problems or exacerbate existing learning and behavior problems. The children of women who are exposed to lead before or during pregnancy can have increased risk of these adverse health effects. Adults can have increased risks of heart disease, high blood pressure, kidney or nervous system problems.<sup>[2]</sup>

In October 2018, then Governor Tom Wolf signed into law Act 120 of 2018, which became effective on December 23, 2018.<sup>3</sup> Act 120 of 2018 amended Section 1311(b) of the Public Utility Code (Code) in order to authorize water utilities to pursue comprehensive replacement of lead service lines that remain in service across

---

<sup>1</sup> See, Settlement ¶¶ 45-47 at 11-12.

<sup>2</sup> 40 C.F.R. § 141.85(a)(1)(ii).

<sup>3</sup> Act of October 24, 2018, P.L. 738, No. 120 (Act 120 of 2018).

Pennsylvania, subject to Commission approval.<sup>4</sup> Specifically, Act 120 of 2018 provides that replacing a customer-owned lead service line (LSL) does not make the utility the owner of the new service line on the customer's property.<sup>5</sup> Act 120 of 2018 also directs 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.<sup>6</sup> Additionally, Act 120 of 2018 establishes 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.<sup>7</sup>

As mandated by Act 120 of 2018, the Commission promulgated regulations at 52 Pa. Code §§ 65.51 – 65.62 (LSLR Regulations), which became effective on July 23, 2022. These LSLR Regulations require certain water utilities to remove and replace all lead service lines, regardless of whether those lines are customer-owned or utility-owned within 25 years<sup>8</sup> and to file a plan for LSL removal no later than July 23, 2023.<sup>9</sup>

## **II. History of the Proceeding**

On July 21, 2023, Columbia Water filed a Petition for Approval of a Lead Service Line Replacement Program, Related Tariff Changes, Modification of Long-Term Infrastructure Improvement Plan (LTIIIP), and Waiver of Termination Regulations. The Petition sought approval of Columbia Water's plan to replace

---

<sup>4</sup> 66 Pa.C.S. § 1311(b).

<sup>5</sup> 66 Pa.C.S. § 1311(b)(2)(i).

<sup>6</sup> 66 Pa.C.S. § 1311(b)(2)(vii).

<sup>7</sup> 66 Pa.C.S. § 1311(b)(2)(i)-(iii).

<sup>8</sup> 52 Pa. Code § 65.52(a).

<sup>9</sup> 52 Pa. Code § 65.53.

Company-owned and customer-owned lead service lines and to recover the costs associated with those replacements.

On August 10, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, and the Office of Consumer Advocate (OCA) filed an Answer to the Petition.

On September 19, 2023, the Commission issued a notice establishing an initial telephonic prehearing conference for October 5, 2023, assigned the matter to ALJs Mary Long and Charece Collins, and the ALJs served a prehearing conference order setting forth the rules and expectations for the conference.

On September 20, 2023, the I&E filed an entry of appearance.

The October 5, 2023, Prehearing Conference convened as scheduled. The Parties requested 90 days to discuss settlement prior to proceeding with the formal litigation of this matter. The Parties further indicated that they would send monthly status reports for the duration of the settlement period. On that same day, the ALJs, issued a Prehearing Order, which, *inter alia*, granted the Parties' request to continue the case until January 8, 2024.

The Parties emailed status reports, as directed by the October 5, 2023, Prehearing Order. On January 8, 2024, the Parties requested an additional 90 days to continue to negotiate a settlement prior to proceeding with the formal litigation of this matter and the ALJs granted the Parties' request.

The Parties provided a status report by email dated April 9, 2024, that stated that a settlement offer had been circulated and that they requested an additional continuance that was granted by the ALJs.

On June 5, 2024, Columbia Water filed a Motion for Summary Judgment.

The June 6, 2024, Prehearing Conference convened as scheduled with counsel for Columbia Water, the OCA, and the OSBA present at the conference. Columbia Water, the OCA, and the OSBA represented that they had reached an agreement in principle. Consequently, Columbia Water agreed to withdraw its Motion for Summary Judgment. By an order dated June 13, 2024, the ALJs granted Columbia Water's withdraw of its motion and directed the Parties to file a joint petition for settlement no later than July 31, 2024.

On July 31, 2024, the Columbia Water, the OSBA, and the OCA filed the Joint Petition. Columbia Water represented that I&E did not oppose the Settlement.<sup>10</sup> The Joint Petition included Exhibit 1 (Proposed Conclusions of Law), Exhibit 2 (Lead Service Line Replacement Plan), Exhibit 3 (Pro Forma Tariff Supplement), Exhibit 4 (Modified Long Term Infrastructure Improvement Plan) and Exhibits 5-7 (Statements in Support of the Company, the OCA, and the OSBA, respectively).

Also on July 31, 2024, Columbia Water, I&E, the OSBA, and the OCA (Stipulating Parties) filed a Joint Stipulation of Facts (Stipulation) in the above-captioned proceeding.<sup>11</sup> By Interim Order entered August 16, 2024, the Stipulation was admitted into the record and the record was closed.<sup>12</sup> R.D. at 1-4.

---

<sup>10</sup> See also, I&E Prehearing Conference Memorandum (stating that the purpose of its appearance was to monitor the proceeding to determine if it would pursue any issues). I&E did not appear at the June 6, 2024, Prehearing Conference.

<sup>11</sup> The Stipulation included stipulated facts as well as the LSLR Petition (Attachment 1), and revisions in response to a data request issued by the Bureau of Technical Utility Services (TUS) (Attachment 2).

<sup>12</sup> By an August 6, 2024, notice the Commission noted that ALJ Collins' was no longer assigned to this case in anticipation of her accepting another position at the Commission.

### **III. Discussion**

#### **A. Terms of the Settlement**

The Joint Petitioners agreed upon the following terms of settlement, which are set forth in Section A through H of the proposed Settlement, and are reprinted verbatim below:

##### **A. Approval of the Lead Service Line Replacement Petition**

23. The Joint Petitioners agree that the Commission should approve Columbia Water's LSLR Petition, as modified by the terms and conditions set forth in this Settlement.

##### **B. Approval of the Lead Service Line Replacement Plan**

24. In accordance with 52 Pa. Code §§ 65.55(b)(1) and 65.56, Columbia Water submitted a Lead Service Line Replacement Plan, including Appendices A-N and an Initial Lead Service Line Inventory. The Lead Service Line Replacement Plan, including Appendices A-N, was attached as Exhibit No. 1 to the LSLR Petition. The Initial Lead Service Line Inventory was separately attached as Exhibit No. 2 to the LSLR Petition. The Lead Service Line Replacement Plan and Appendix L were subsequently amended on September 13, 2023, in response to data requests from TUS (as amended, the "LSLR Plan").

25. The Joint Petitioners agree that the Company has modified its LSLR Plan, as shown in Exhibit 2, to reflect that the Company will:

a. Contact customers within an LSLR Project Area at least two times over the six-month period once an LSLR Project Area has been identified, or until the customer responds to the Company, whichever is sooner, to determine whether there are customer-owned lead service lines and to verify the

presence of the customer-owned lead service lines. Customers will initially receive a phone call to set up an appointment for an interior inspection of the service line. Door hangers and/or a mailed letter explaining the health effects of lead and documentation explaining the service line program will be used if the customer cannot be contacted via telephone.

b. Provide customer(s) affected by an LSLR with a pitcher filter, six months of replacement cartridges, and use instructions approximately thirty days prior to the scheduled LSLR, but no later than the day of the LSLR. The affected customer(s) will be provided a pitcher filter hand delivered by the Company. If there isn't a customer home at the time of delivery, the Company will use a door hanger indicating how a pitcher can be obtained. A followup phone call will also be made to the customer to determine whether they received the door hanger and that they should either pick their pitcher filter up at our main office of 220 Locust St, Columbia PA 17512, or schedule to have someone deliver the pitcher prior to the LSLR.

c. Offer a new customer applying for water service in a household that previously refused a LSLR replacement the option to have [Columbia Water] replace the customer portion of the LSL to reestablish service. Prior to offering the applicant an LSLR, the Company will verify that the applicant owns the property for which service is requested.

d. Ensure that the Company's LSLR website and all documentation regarding LSLRs will be available in both English and Spanish and, upon request, the Company will provide any/all documentation regarding LSLRs in other languages to customers directly. The Company will also make its translation services available to customers who call the Company's customer service and request translation of the written information into other languages.

e. Mail Appendix M of the LSLR Plan and a letter detailing eligibility for an LSLR reimbursement

and instructions on how to obtain the reimbursement to customers within the LSLR Project Area no later than 30 days after LSLR Project Commencement. Any handout necessary for a customer or owner to receive reimbursement shall be mailed physically and electronically mailed to customers and owners, along with the forms remaining available on the company's website, on a reasonable best-efforts basis where the Company has the customer or property owner's email address.

26. The Joint Petitioners agree that the Company will modify Appendix I of the LSLR Plan to include the following statement: "Columbia Water Company will contact you with the sample results. If a sample exceeds 15 ug/L of lead, notification will be no later than 3 calendar days of sample results. If a sample doesn't exceed 15 ug/L of lead, notification will be no later than 30 days of the sample results."

27. A redlined version of the Company's LSLR Plan, as further modified by this Settlement, is attached to this Joint Petition as Exhibit 2.

28. The Joint Petitioners agree that the Commission should approve the LSLR Plan, as modified by this Settlement.

#### C. Approval of Pro Forma Tariff Supplement

29. In accordance with 52 Pa. Code §§ 65.55(b)(2) and 65.58, Columbia Water submitted a pro forma tariff supplement containing the proposed changes to the Company's Tariff – Water Pa. P.U.C. No. 7 necessary to implement the LSLR Plan, which was attached as Exhibit No. 3 to the LSLR Petition. The pro forma tariff supplement was amended on September 13, 2023, in response to data requests from TUS (as amended, the "LSLR Tariff Supplement").

30. The Joint Petitioners agree that the Company has modified its LSLR Tariff Supplement to reflect that the Company will:

a. Post a 48-hour notice at the customer's premises prior to the date of termination for refusal to replace the customer-owned LSL.

b. Provide notice pursuant to the LSLR Tariff Supplement to every resident that lives at a multiresidential building that is affected by a termination as a result of an LSLR refusal.

31. A redlined version of the Company's LSLR Tariff Supplement, as further modified by this Settlement, is attached to this Joint Petition as Exhibit 3.

32. The Joint Petitioners agree that the Commission should direct Columbia Water, pursuant to 52 Pa. Code § 65.55(b)(3), to submit a compliance tariff to the Commission consistent with Exhibit 3 (the LSLR Tariff Supplement, as modified by this Settlement), effective after one day's notice.

D. Approval of the Modified Long-Term Infrastructure Improvement Plan

33. In accordance with 52 Pa. Code § 65.54(b), Columbia Water submitted a modified LTIIIP containing the LSLR Plan as a separate and distinct component of the LTIIIP, which was attached as Exhibit No. 4 to the LSLR Petition. The modified LTIIIP was amended on September 13, 2023, in response to data requests from TUS (as amended, the "Modified LTIIIP").

34. A redlined version of the Company's Modified LTIIIP is attached to this Joint Petition as Exhibit 4.

35. The Joint Petitioners agree that the Commission should approve the Modified LTIIIP.

E. Periodic Reviews of the LSLR Plan

36. Following Commission approval of the Petition, Columbia Water will submit lead service line replacement program reports in compliance with 52 Pa. Code § 65.59.

37. Following Commission approval of the Petition, Columbia Water will periodically update the LSLR Plan, in compliance with 52 Pa. Code § 65.57.

F. Lead Service Line Replacement Rate

38. The Company agrees to complete replacements of all Company-owned and customer-owned LSLs within ten program years if the Lead and Copper Rule Improvements (“LCRI”) rulemaking promulgated by the Environmental Protection Agency is finalized, codified, and becomes law, and requires that water systems complete replacements within ten years. See National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI), 88 Fed. Reg. 84878 (proposed Dec. 6, 2023).

G. Other Necessary Approvals

39. The Commission shall issue any other approvals or certificates appropriate, customary, or necessary under the Public Utility Code for Columbia Water to carry out the Lead Service Line Replacement Program contemplated in the LSLR Petition in a lawful manner.

H. Standard Settlement Terms

40. The Commission’s approval of the Settlement shall not be construed as approval of any Petitioner’s position on any issue, but rather as an agreed-to compromise of the Joint Petitioners’ competing positions. It is understood and agreed among the Joint Petitioners that the Settlement terms are the result of compromise and do not necessarily represent the position(s) that would be advanced by any Petitioner in this or any other proceeding, if it were fully litigated. Accordingly, the Settlement terms may not be cited as precedent in any future proceeding, except to the extent required to implement or enforce any Settlement term herein.

41. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

42. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and give and take of positions. As a result of that consideration, the Joint Petitioners believe that the settlement agreement meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

43. If the Presiding Officers, in the Recommended Decision, recommend that the Commission adopt the Settlement as herein proposed, without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the Presiding Officers in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

44. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint Petitioners and such counterparts shall be considered as one Document.

Settlement ¶¶ 23-44 at 5-11. The Joint Petitioners submitted that the Settlement is in the public interest and requested that it be approved. Settlement at 11-13.

## **B. Applicable Law**

### **1. Settlements Must Serve the Public Interest**

Commission policy promotes settlements. 52 Pa. Code §§ 5.231, 69.401. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant savings for the company's customers. This is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC, et al. v. The York Water Company*, Docket No. R-00049165 (Opinion and Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991).

### **2. LSLR Regulations**

Section 65.56 of the Commission's LSLR Regulations at 52 Pa. Code § 65.56 requires Columbia Water to file an LSLR Plan that includes: (1) a service line inventory that complies with United States Environmental Protection Agency (EPA) regulations at 40 CFR 141.1-143.20, and identifies all assumptions; (2) a planning and

replacements section explaining, among other things, anticipated sources of financing, the projected number of replacements per year, prioritization criteria, processes and procedures upon acceptance and refusal of a LSLR by a customer or property owner, and the utility's disposal and recycling efforts; and (3) a communications, outreach, and education section that includes copies of all LSLR documentation and the creation of a website that meets certain regulatory requirements. More specifically, our Regulations state, as follows:

**§ 65.56. LSLR plan requirements.**

An entity's LSLR plan must contain, at a minimum:

(a) *Service line inventory.*

(1) Entities subject to this chapter shall submit to the Commission a service line inventory that complies with United States Environmental Protection Agency regulation at 40 CFR 141.1—143.20 as enforced by the Department of Environmental Protection, inclusive of future changes as those regulations may be amended.

(2) An entity acquiring a water distribution system shall provide to the Commission a service line inventory for the acquired system upon completion of the acquisition or as part of the entity's service line inventory under paragraph (1), whichever is later. An entity may rely on a previously completed service line inventory for an acquired system if the entity updates the service line inventory to meet the requirements of paragraph (3).

(3) An entity's service line inventory must comply with the timing and direction of United States Environmental Protection Agency regulation[s] at 40 CFR 141.1—143.20 as enforced by the Department of Environmental Protection, inclusive of future changes as those regulations may be amended.

(4) An entity shall identify assumptions in its service line inventory to the Commission.

(5) Until the inventory is complete, an entity shall provide detailed information regarding the progress of its service line inventory as part of its annual LSLR program report under § 65.59 (relating to LSLR program reports).

(6) After an entity's service line inventory is complete, it must be incorporated into the entity's next LSLR plan update under § 65.57 (relating to periodic review of LSLR plan).

(b) *Planning and replacements.* The planning and replacements section of an entity's LSLR plan must include:

(1) The entity's projected annual investment in LSLRs with an explanation of the entity's anticipated sources of financing.

(2) The entity's projected number of LSLRs per calendar year with an explanation of how the entity's projection was determined and a statement that this number is consistent with the entity's annual cap on LSLRs.

(3) The prioritization criteria considered by the entity when developing its LSLR schedule.

(4) An explanation of the entity's processes and procedures to address emergency repairs or replacements which reveal LSLs.

(5) The entity's processes and procedures to obtain acceptance of a LSLR prior to LSLR project commencement if the customer is the property owner, and the entity's processes and procedures to obtain acceptance prior to LSLR project commencement if the customer is not the property owner.

(6) The entity's processes and procedures based upon acceptance of a LSLR, including:

(i) A consent agreement form by which the customer or property owner, if the customer is not the property owner, will authorize the LSLR.

(ii) A brief description of the entity's process for LSLRs under normal conditions and under atypical conditions.

(iii) An explanation of the entity's process for coordination with the customer, and property owner, if the customer is not the property owner, and the information the entity will provide to the customer and the property owner throughout the LSLR process.

(iv) The entity's process for addressing LSLR completion or closeout, or both, with the customer and property owner, if the customer is not the property owner.

(7) The entity's lead/material recycling and disposal efforts, including a description of what the entity will do with proceeds from recycling and disposal efforts.

(8) The industry-accepted practices that the entity plans to use to replace entity-owned and customer-owned LSLs.

(9) A detailed explanation of how the entity's acquisition of water distribution systems will be integrated into the entity's efforts to complete LSLRs throughout its water distribution systems.

(10) The procedure for documenting refusal of, or failure to accept, the offer by the entity to replace a LSL, including the entity's duty to:

(i) Provide the customer and property owner, if the customer is not the property owner, with a complete disclosure of the known health hazards from the continued use of a LSL.

(ii) Inform the customer or property owner, if the customer is not the property owner, that refusal or failure to accept will require replacement of the customer-owned LSL, at the customer or property owner's expense, within 1 year from LSLR project commencement for the customer or property owner, if the customer is not the property owner, to be eligible for reimbursement.

(iii) Communicate to the customer and property owner, if the customer is not the property owner, that failure to allow the entity to complete the LSLR or to replace the customer-owned LSL concurrent with the entity replacing the entity-owned LSL will lead to termination of water service under the provisions of the entity's tariff.

(c) *Communications, outreach and education.* An entity subject to this chapter shall demonstrate compliance with United States Environmental Protection Agency regulations at 40 CFR 141.85 (relating to public education and supplemental monitoring and mitigation requirements), inclusive of future changes as those regulations may be amended.

(1) The entity's LSLR plan must include copies of all printed and broadcast material to be distributed under the entity's LSLR program.

(2) A Class A public utility or an authority shall develop a LSLR section of its web site within 12 months of Commission approval of its LSLR program. The web site must contain, at a minimum:

(i) An online tool describing the replacement schedule by geographic location, at least 6 months into the future.

(ii) Information regarding the reimbursement requirements and a secure online tool that provides customers or property owners, if the customer is not the property owner,

the ability to determine whether the customer or property owner may be eligible for a reimbursement.

(iii) Information that provides the ability to determine whether a property may have a LSL, delineating the known or reasonably anticipated material types for the entity-owned and customer-owned portions of the service line and a method to request assistance to determine if a service line is a LSL.

(iv) Information and resources relating to health risks associated with lead and LSLs, the status of current efforts to replace LSLs and community meetings and advisory committees hosted by the entity.

52 Pa. Code § 65.56.

## **C. Statements of the Parties in Support of the Settlement**

### **1. Positions of the Parties**

Columbia Water provided that each of the elements of its LSLR Program, as modified by the Settlement, is consistent with applicable law and is in the public interest because it provides, *inter alia*, an initial inventory of service lines in Columbia Water's systems, provides a process for the prompt replacement of Columbia Water-owned and customer-owned LSLs, includes a LSLR Tariff Supplement that establishes rules and requirements for such replacements, and a Modified LTIP incorporating the LSLR Program. Settlement Exh. 5 - Columbia Water Statement in Support at 4; 4-17.

The OCA submitted that the adoption of the Settlement would result in an LSLR Program with enhanced communications, an accelerated replacement schedule, and greater transparency compared to what was originally proposed by Columbia Water. Settlement Exh. 6 – OCA Statement in Support at 2-6.

The OSBA explained that its primary focus was to ensure that LSLRs proceed at a prudent pace to limit the rate impact of LSLRs on Columbia's ratepayers. The OSBA submitted that the Joint Petition has addressed this issue in a just and reasonable manner. Settlement Exh. 7 – OSBA Statement in Support at 2-3.

#### **D. ALJ's Recommended Decision**

The ALJ included eight Stipulated Facts and reached five Conclusions of Law. R.D. at 4-5, 28-29. We shall adopt and incorporate herein by reference the ALJ's Stipulated Facts and Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implications.

The ALJ noted that: (1) the Commission encourages parties in contested on-the-record proceedings to settle cases; (2) parties to settled cases are afforded flexibility in reaching amicable resolutions as long as the settlement is in the public interest; (3) the Commission must first determine that the proposed terms and conditions are in the public interest to approve a settlement; and (4) settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion. R.D. at 27.

The ALJ further noted that the threat to human health posed by lead exposure is well-known and that the Commission's mandate regarding LSLR Programs is relatively new and recognizes the need to remove exposure to lead in lead service lines for drinking water. The ALJ continued that Columbia's proposed LSLR plan, as modified by the Settlement, will allow Columbia to recover costs for lead service line replacement, replace lines at a reasonable pace, and will provide both financial and public health benefits, and, therefore, are in the public interest. R.D. at 27. In addition, the ALJ found that the waiver of certain regulations regarding termination along with the procedures set forth in the Settlement are also in the public interest. Therefore, the ALJ

recommended that the Commission approve the Settlement, without modification.  
*Id.* at 28.

## **E. Disposition**

Based upon our review of the record, we concur with the ALJ's finding that the proposed Settlement is in the public interest and should be approved. Columbia Water has agreed to complete replacements of all Company-owned and customer-owned lead service lines within ten years. This timeline is consistent with the United States EPA's recently finalized Lead and Copper Rule Improvements Rulemaking.<sup>13</sup> This component, along with all other pertinent settlement terms are enumerated, in the presiding ALJ's Recommended Decision approving the Settlement. We too support approval of the Settlement as it is in the public interest.

However, we believe that consistent with Commission previous practice for LSLR Program proceedings, the Recommended Decision should be modified to clearly articulate the compliance steps necessary to close this proceeding. Specifically, in our September 12, 2024 Order approving Veolia Water's Pennsylvania, Inc.'s (Veolia Water) LSLR Program, the Commission directed, via Ordering paragraphs 12, 13, and 14, the three compliance requirements exhibited verbatim below.<sup>14</sup>

*12. That within thirty days of the entry date of the Commission 's Final Order in this matter, Veolia Water Pennsylvania, Inc. shall file an amended Lead Service Line Replacement Plan, modified Long-Term Infrastructure Improvement Plan, and tariff supplement at Docket No. P-2023-304210 7, that incorporates any modifications thereto consistent with these proceedings and findings herein with the*

---

<sup>13</sup> See, 40 CFR Parts 141 and 142 – [www.epa.gov/system/files/documents/2024-0/prepublicationfrn\\_national-primary-drinking-water-regulations-for-lead-and-copper\\_improvement.pdf](https://www.epa.gov/system/files/documents/2024-0/prepublicationfrn_national-primary-drinking-water-regulations-for-lead-and-copper_improvement.pdf).

<sup>14</sup> See, Docket No. P-2023-3042107.

*Secretary 's Bureau, and serve a copy upon the Bureau of Technical Utility Services and all active parties in this proceeding.*

*13. That the Bureau of Technical Utility Services shall complete its review of the amended Lead Service Line Replacement Plan, modified Long-Term Infrastructure improvement Plan, and tariff supplement subject to the schedule in place at the time the proceeding was assigned to the Office of Administrative Law Judge for hearings in this matter and submit an order for Commission consideration.*

*14. That, the proceeding at Docket No. P-2023-3042107 shall remain open pending completion of the Bureau of Technical Utility Services' review as ordered in Ordering Paragraph No. 13 above.*

Upon review, ordering paragraphs with similar directives for Columbia do not appear in the Recommended Decision approving this Settlement. We submit that such ordering paragraphs should be included to foster regulatory consistency and to ensure the prudent review of all relevant documentation before closing this proceeding. As such, we believe a Commission Order approving the instant Settlement should include ordering paragraphs similar and consistent to those referenced above from the Veolia Water LSLR Program.

#### **IV. CONCLUSION**

Based on our review of the ALJ's Recommended Decision, the pleadings, and the applicable law, we shall modify the ALJ's Recommended Decision consistent with this Tentative Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Settlement Agreement filed by the Columbia Water Company, the Office of Small Business Advocate and the Office of Consumer Advocate, on July 31, 2024, at Docket No. P-2023-3041845, is approved consistent with this Opinion and Order.

2. That the Recommended Decision of Administrative Law Judge Mary D. Long, issued on September 11, 2024, is adopted, as modified, consistent with this Opinion and Order.

3. That the Bureau of Investigation and Enforcement, Columbia Water Company, the Office of Small Business Advocate and the Office of Consumer Advocate, shall have ten (10) days from the entry date of this Tentative Opinion and Order to file comments.

4. That if any adverse comments are filed, the Commission shall address such comments in a Final Opinion and Order.

5. That a copy of this Tentative Opinion and Order shall be served upon the Parties to this proceeding.

6. That if no adverse comments are filed in accordance with Ordering Paragraph 3 above, the Tentative Opinion and Order shall become final.

7. That within thirty (30) days of the Commission’s Final Order in this matter, Columbia Water Company shall file an amended Lead Service Line Replacement Program, modified Long-Term Infrastructure Improvement Plan, and tariff supplement at P-2023-3041845, that incorporates any modifications thereto consistent with these proceedings and findings herein with the Secretary’s Bureau and serve a copy upon the Bureau of Technical Utility Service and all active parties in this proceeding.

8. That the Bureau of Technical Utility Services shall complete its review of the amended Lead Service Line Replacement Program, modified Long-Term Infrastructure Improvement Plan, and tariff supplement subject to the schedule in place at the time the proceeding as assigned to the Office of Administrative Law Judge for hearings in this matter and submit an order for Commission consideration.

9. That, the proceeding at Docket P-2023-3041845 shall remain open pending completion of the Bureau of Technical Utility Services’ review as ordered in Ordering Paragraph No. 8 above.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: October 10, 2024

ORDER ENTERED: November 1, 2024