

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of The City of Lancaster – Water Bureau :
For Approval of a Lead Service Line Replacement : P-2023-3041043
and Related Tariff Changes :

INTERIM ORDER

On May 31, 2023, Petitioner City of Lancaster – Water Bureau (Petitioner, Lancaster or City) filed a Petition with the Pennsylvania Public Utility Commission (Commission) seeking approval of a Lead Service Line (LSL) Replacement Program and related tariff changes which would allow Lancaster to replace customer owned lead service lines (COLSL). The Petition was filed as a result of a Settlement which was reached in Lancaster’s Distribution System Improvement Charge (DISC) and Long-Term Infrastructure Improvement Plan (LTIIP) proceeding filed at Docket No. P-2022-3035591.

On June 7, 2023, the Commission’s Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in this proceeding. On June 20, 2023, the Office of Consumer Advocate (OCA) filed an Answer to the Petition. On June 30, 2023, OCA filed Comments in this proceeding.

Lancaster’s Petition was referred to the Office of Administrative Law Judge (OALJ) for establishment of an evidentiary record culminating in a Recommended Decision for the Commission’s consideration. Afterwards, the proceeding was assigned to Administrative Law Judge Conrad A. Johnson (ALJ Johnson).

By Initial Call-In Telephonic Prehearing Conference Notice dated July 13, 2023, the Parties were informed that a prehearing conference was scheduled in this proceeding before ALJ Johnson for August 15, 2023, at 10:00 a.m. On July 13, 2023, a Prehearing Conference

Order was entered which directed the parties to file Prehearing Memorandums by August 11, 2023.

On July 26, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance and Notice of Intervention in this proceeding.

By email dated August 7, 2023, Petitioner and OCA submitted a request to cancel the prehearing conference in order to permit the parties to continue to negotiate in good faith with the aim of reaching a complete or near-complete settlement. By email dated August 10, 2023, Petitioner represented that OSBA did not object to the cancellation.

In response to the cancellation request, on August 10, 2023, ALJ Johnson sent an email stating an order would issue shortly canceling the prehearing conference and the rescheduling of the Prehearing Hearing Conference would be held in abeyance pending further settlement negotiations.

On August 11, 2023, I&E filed its Prehearing Conference Memorandum. Also on August 11, 2023, a Notice was issued to the parties cancelling the prehearing conference.

On November 13, 2023 an Interim Order was entered requiring that Petitioner submit a status report, no later than November 30, 2023, that: (1) set forth the parties' progress in achieving a settlement in this proceeding; (2) advised whether additional time is needed to achieve settlement and if so the amount of time needed; and (3) indicated whether this matter should be scheduled for a prehearing conference.

Status Reports were filed by Petitioner on November 30, 2023, February 1, 2024, and April 12, 2024.

On March 4, 2025, the undersigned presiding officer was assigned to preside over this proceeding.

On March 17, 2025, Petitioner filed a letter advising that the Parties reached a settlement.

On March 26, 2025 the undersigned presiding officer provided an email to the Parties, in response to the March 17, 2025 letter, advising the Parties to make certain that the Settlement Petition included: (1) findings of fact stipulated to by all parties that supported the settlement, including supporting citations to the record evidence, (2) proposed conclusions of law, (3) proposed ordering paragraphs, and (4) a procedural history, with specific citations to the record, where applicable. In addition, the Parties were directed to confer and establish a list of common (outline) issues which the Parties would utilize in the organization of the Settlement Petition and all Statements in Support of Settlement so that the same issues were addressed in the Settlement and each Statement in Support of Settlement. The email provided that the common outline for the Settlement Petition and Statements in Support of Settlement should apply to headings and subheadings and that each party need not address every issue, but the same headings and subheadings should be presented in the same order. The undersigned also asked the parties to use common acronyms, which were to be identified in the Settlement/Statements in Support, and to use them consistently in the Settlement documents.

On April 9, 2025, the City of Lancaster – Water Bureau, the Office of Consumer Advocate, I&E, and OSBA (collectively, the Joint Petitioners)), by and through their respective counsel, filed a Joint Petition for Settlement (Settlement or Joint Petition) and requested that the Settlement be approved without modification.

Attached to the Joint Petition were Exhibit 1, Appendix A, Appendix B, Exhibit C, and Statements in Support of Settlement A – D. The Joint Petition and Statements in Support of Settlement also referenced “Exhibit 3,” however no Exhibit 3 was attached to the Joint Petition or Statements in Support of Settlement, nor to the City’s Petition, filed on May 31, 2023, or the Direct Testimony of Christine Volkay-Hilditch, P.E., BCEE, Deputy Director of Public Works of the City of Lancaster. In addition, there was no Exhibit 3 attached to the Motion For Admission of Testimony and Exhibits filed on April 9, 2025.

On April 9, 2025, the Joint Petitioners also filed a Motion For Admission of Testimony and Exhibits, requesting admission into the evidentiary record of the stipulation and exhibits attached to the Motion as Appendix A. Appendix A is entitled, “Stipulation For Admission Of Testimony And Exhibits” and provides that the Parties stipulate to the authenticity of the testimony and exhibits (Listed Statements and Exhibits), as follows:

- a. The City’s Petition, filed on May 31, 2023, with accompanying exhibits; and
- b. The Direct Testimony of Christine Volkay-Hilditch, P.E., BCEE, Deputy Director of Public Works of the City of Lancaster.

Additionally, the Joint Petitioners agreed to waive cross examination with respect to the Listed Statements and Exhibits, subject to the exception stated in Paragraph Nos. 63 and 64 of the Joint Petition (if the Commission were to reject the Settlement) and further stipulated that the Listed Statements and Exhibits should be admitted into the record in this case by Motion.

The City’s Statement in Support of Settlement is attached to the Joint Petition as Statement A. OCA’s Statement in Support is attached as Statement B. I&E’s Statement in Support is attached as Statement C, and OSBA’s Statement in Support is attached to the Joint Petition as Statement D.

Although the Parties utilized a common outline of issues addressed in the Settlement Petition and Statements in Support of Settlement, the Statements in Support of Settlement filed in this proceeding do not substantively address any of the Settlement issues and the Statement in Support of Settlement filed by the City simply repeated the Settlement terms organized with common headings for each settlement issue addressed in the Settlement Petition.¹

Settling parties almost always avoid expending additional resources that would have been required to fully litigate proceedings and permit the Commission and parties to avoid

¹ The Statement in Support of Settlement filed by OCA properly addressed each Settlement issue, addressed specific terms requested by the City in the Petition and how the Settlement differed from the relief requested in the Petition, and otherwise properly addressed why OCA represented that the Settlement is appropriate and in the public interest.

incurring the additional time, expense, and uncertainty of further current litigation in a proceeding. However, to meet the burden of proof and allow for a proper determination of whether a settlement is appropriate and should be approved without modification due to being in the public interest, more than general boiler plate language is required in statements in support of settlement. Generally, the parties to a settlement should include in the statement in support of settlement, a substantive discussion of the original petition, how the settlement differs from the original filing, how the settlement terms impact or affect the customers and ratepayers and a substantive explanation regarding how and why the settlement is in the public interest. Although all parties are not required to address each issue in their statement in support of settlement, City of Lancaster – Water Bureau, at a minimum, must provide an appropriate explanation and analysis to establish why the Settlement should be approved. Absent a full evidentiary record established by a hearing or adequate Statements that support the various issues settled by the Parties, the presiding officer is without sufficient information to determine whether approval of the Settlement is in the public interest.

For the reason set forth above, the following order will be entered.

THEREFORE,

IT IS ORDERED:

1. That, on or before July 31, 2025, the Parties may file amended Statements in Support of Settlement, consistent with the provisions set forth above and Commission precedent.

2. That, on or before July 31, 2025, the Parties may file an amended Joint Petition for Settlement to include the document identified in the Joint Petition and Statements in Support identified as “Exhibit 3,” which was referenced but not attached to the Joint Petition or Statements in Support of Settlement of Settlement.

3. That on or before July 31, 2025, the Parties may file an amended Motion For Admission of Testimony and Exhibits, filed on April 9, 2025, in order to include the document identified as “Exhibit 3”, which was referenced but not attached to the Motion.

4. That in the event that the Parties do not intend to provide amendments to the documents referenced in these Ordering paragraphs, on or before July 31, 2025, the Parties shall file a joint status report or individual status reports identifying dates in August of 2025 in which the Parties are available for a prehearing conference to address a proposed litigation schedule and any other appropriate issues.

Date: May 15, 2025

/s/

Jeffrey A. Watson
Administrative Law Judge

P-2023-3041043 - PETITION OF CITY OF LANCASTER - WATER BUREAU FOR APPROVAL OF A LEAD SERVICE LINE REPLACEMENT PROGRAM AND RELATED TARIFF CHANGES

Revised: March 4, 2025

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