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COMMONWEALTH OF PENNSYLVANIA



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June 24, 2025

Via Hand Delivery

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

P-2025-3055650 (Water)
P-2025-3055652 (Wastewater)

Re: Pennsylvania Public Utility Commission

v.

Pittsburgh Water's Petition for Authorization
To Increase DSIC Water and Wastewater
Docket Nos. ~~P-2025-3055650 (Water)~~
~~P-2025-3055652 (Wastewater)~~

Dear Secretary Homsher:

Enclosed for filing, please find the Answer of the Office of Consumer Advocate to the Petition of Pittsburgh Water and Sewer Authority for Waiver of Provisions of Act 11 to Increase to DSIC Cap in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
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Enclosures

cc: The Honorable Charles E. Rainey, Jr. (Email Only: crainey@pa.gov)
Office of Special Assistants (Email Only: ra-osa@pa.gov)
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 24 2025

Pennsylvania Public Utility Commission,	:	PA PUBLIC UTILITY COMMISSION
	:	SECRETARY'S BUREAU
v.	:	Docket Nos. P-2025-3056550
	:	P-2025-3056552
Pittsburgh Water's Petition for Authorization	:	P-2025-3055650 (Water)
To Increase DSIC Water and Wastewater	:	P-2025-3055652 (Wastewater)

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
TO THE PETITION OF THE
PITTSBURGH WATER AND SEWER AUTHORITY
FOR WAIVER OF PROVISIONS OF ACT 11 TO INCREASE THE DSIC CAP

Before the Honorable Pennsylvania Public Utility Commission (Commission), and pursuant to Section 5.61 of the Pennsylvania Code, 52 Pa. Code Section 5.61, the Office of Consumer Advocate (OCA) provides the following Answer to the Petition of the Pittsburgh Water and Sewer Authority d/b/a Pittsburgh Water (Pittsburgh Water or Authority) for Waiver of Provisions of Act 11 to increase the Distribution System Improvement Charge Cap (DSIC Petition).

I. INTRODUCTION

On June 4, 2025, Pittsburgh Water filed a Petition seeking Commission approval to increase Pittsburgh Water's current water and wastewater DSIC caps from 5% to 7.5%. Petition at 1. Through its Petition, Pittsburgh Water seeks approval to increase the water DSIC to 7.5% and for statutory waiver and approval to increase the wastewater DSIC cap to 7.5%. 66 Pa.C.S. §§ 1358(a)(1)-(2). *Id.*; 66 Pa. C.S. § 1358(a)(1), (2). Through the Petition, Pittsburgh Water also seeks waiver or suspension of the requirements of Section 1358 and any other section of the Public

Utility Code as necessary to implement its requests. Petition at 1 (citing 66 Pa. C.S. §§ 1358, 3201). Pittsburgh Water also requests approval to continue to be allowed to charge the water and wastewater DSICs on a levelized basis. *Id.*

Pursuant to the Public Utility Code, the Commission can grant a petition of a public utility to implement a DSIC, which would “provide for the timely recovery of the reasonable and prudent costs incurred to repair, improve or replace eligible property in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1358(a). The statute includes important consumer protections. 66 Pa. C.S. § 1358(a)(1)-(2). Specifically, for water customers, the DSIC may not exceed 7.5% of amounts billed to customers for water service. 66 Pa. C.S. § 1358(a)(2). For wastewater customers, the DSIC may not exceed 5% of amounts billed to customers for wastewater service. 66 Pa. C.S. § 1358(a)(1). However, the Commission can grant a waiver of the 5% limit for wastewater customers “in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” *Id.*

On September 28, 2018, Pittsburgh Water filed its original Long Term Infrastructure Improvement Plan (LTIIIP) in Docket Nos. P-2018-3005037 (water) and P-2018-3005039 (wastewater), and the Commission approved the LTIIIP on August 27, 2020. Petition at ¶ 12. Pittsburgh Water was subsequently permitted to implement a levelized 5% DSIC for both water and wastewater customers pursuant to Commission Order of the Settlement in its 2020 Rate Proceedings. Petition at ¶¶ 13-14; *Pa PUC v. PWSA*, Docket Nos. R-2020-3017957, R-2020-3017970, P-2020-3019019, Order (Dec. 3, 2020) (*2020 Rate Order*). Pittsburgh Water’s Second LTIIIP was approved by the Commission on January 12, 2023, at Docket Nos. P-2022-3035953 (water) and P-2022-3035956 (wastewater) for the period of 2023 to 2027. Petition at ¶ 15. Pittsburgh Water states that its Second LTIIIP described the Authority’s Plans to replace a number

of categories of water and wastewater distribution plan, and the Capital Investment Plan which included for water service the replacement of lead service lines, small diameter water mains, water relay equipment, and transmission and distribution valves. *Id.* For wastewater, the Second LTIP included small diameter sewer rehabilitation and sewer reconstruction. Petition at ¶ 15.

In the Settlement of Pittsburgh Water's 2020 base rate proceeding, the Authority was permitted to implement a levelized, 5% DSIC for both the water and wastewater utilities. Petition at ¶¶ 1, 14; *2020 Rate Order*. Pittsburgh Water's Petition summarizes the terms of the DSIC portion of the Settlement of the 2020 base rate proceeding as follows:

- (i) Pittsburgh Water could establish a water and wastewater DSIC with a cap of 5% beginning January 1, 2021 (with any request for a cap increase coming at a subsequent base rate increase filing);
- (ii) initially, Pittsburgh Water will utilize DSIC revenue only for PAYGO funding of DSIC-eligible projects, with the right subject to certain conditions, to use the DSIC to recover bond-financed capital expenditures that were included in Pittsburgh Water's LTIP; and
- (iii) the DSIC shall be levelized at the DSIC cap amount over 12 months.

Petition at ¶ 14; *Id.*

Pittsburgh Water states that it has used its water and wastewater DSIC to finance a portion of its LTIP. Petition at ¶ 2. The Authority states that it has then been able to use its PAY-GO¹ funding to finance a portion of its capital improvements and that it "has reduced Pittsburgh Water's reliance on long-term debt financing, reduced costs to ratepayers, and helped to support Pittsburgh Water's current bond rating." Petition at ¶ 2. Pittsburgh Water alleges that the DSIC cap increase would permit Pittsburgh Water to increase the amount of PAY-GO financing from its DSIC that it will be able to "apply to implementing the DSIC eligible portion of its Capital Improvement Program ("CIP")" and "will offset somewhat the effects of inflation and other factors, such as trade

¹ In its Petition, Pittsburgh Water describes its Pay-GO funding as "funding that supplements Pittsburgh Water's financing by issuance of long-term bonds, PENNVEST loans and grants, and other governmental grants or loans. Petition at ¶ 24. Pittsburgh Water states "PAY-GO financing is dollars from rates actually expended in the DSIC period to acquire and install DSIC-eligible facilities." Petition at ¶ 24.

tariffs, that have increased the cost of all construction.” Petition at ¶ 3. Pittsburgh Water argues that the increase to the DSIC will ultimately reduce the costs for ratepayers and help the Authority to “deleverage” its capital structure so that it is not as dependent upon long-term debt. Petition at ¶ 3.

Under its Second LTIP, Pittsburgh Water states that it plans to “implement a program to rehabilitate, improve, and replace aging water and wastewater distribution infrastructure at an accelerated pace for the five-year period from 2023-2027.” Petition at ¶ 21. Pittsburgh Water states that under the Second LTIP, the Authority continues to prioritize the acceleration of the Lead Service Line Replacement (LSLR) program and the Small Diameter Water Main Replacement (SDWMR) Program. Petition at ¶ 21. Pittsburgh Water proposes to spend approximately \$286.7 million on water-eligible projects and \$27 million on sewer-eligible projects. Petition at ¶ 23. Pittsburgh Water anticipates that in 2026 the current water DSIC will provide enough funding to rehabilitate an additional two and a half miles of small diameter main per year. Petition at ¶ 25. Pittsburgh Water anticipates that the wastewater DSIC will produce approximately \$2.7 million in 2026 which will be sufficient to rehabilitate an additional several thousand linear feet of sewer main. Petition at ¶ 25. If approved, Pittsburgh Water argues that an additional \$6.5 million in the FPFTY for the water DSIC and \$986,051 in 2027 to rehabilitate an additional 5,400 linear feet of small diameter water main in the FPFTY and 820 linear feet of small diameter water main in FY2027. Petition at ¶ 26. Pittsburgh Water argues that the 7.5% cap for the sewer DSIC would generate an additional \$2.3 million in the FPFTY and \$386,485 in the FY 2027. Petition at ¶ 27. Pittsburgh Water anticipates that with the additional revenues, the Authority would replace an additional 13,300 linear feet of sewer main in FPFTY and 2,250 in FY 2027. Petition at ¶ 27.

Pittsburgh Water lists five “salutary effects” of increasing the cap: (1) “provide cost savings to ratepayers, as well as bring Pittsburgh Water closer to its goal of funding at least 10% of capital improvements with internally generated funds – as measured on a five-year basis”; (2) provide a cash infusion to make up for the increases in inflation that have led to a loss of purchasing power; (3) reduce its financial leverage or debt ratio to below 85% by the end of FY 2027; (4) use of the reconcilable surcharge will ensure that the Authority will only collect in rates those amounts that are actually expended- unexpended amounts will be refunded in the next year; and (5) PAY-GO method is less expensive to ratepayers than long-term debt. Petition at ¶¶ 28-33. Pittsburgh Water claims that the proposed increase will allow for greater opportunities for review and comment upon the capital addition plan, and increasing the cap will allow the Authority to implement its capital improvements in a more cost-effective manner that is better for ratepayers and the financial health of Pittsburgh Water. Petition at ¶¶ 32, 34.

II. ANSWER

The 5% cap on the DSIC was established in the statute to provide a limit on the amount of non-base rate revenue that a utility can collect as a means of protecting consumers. 66 Pa. C.S. § 1358. Although the Commission has statutory authority to waive the 5% cap for wastewater utilities, a waiver is only to be granted “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1358(a)(1). Moreover, the increased rates must be shown to be just and reasonable for the purposes of Section 1301. 66 Pa. C.S. § 1301. Under the DSIC mechanism approved for Pittsburgh Water, investment is recovered in rates before it has even been placed into service, as well as there being no prior prudence review. This makes the current cap on DSIC recovery even more critical for Pittsburgh Water.

As discussed further below, the OCA submits that Pittsburgh Water has not provided sufficient information to demonstrate that an increase in the water and wastewater caps to 7.5% is necessary and just and reasonable, particularly where there has been no change to Pittsburgh Water's cost projections under its LTIIP. The OCA requests that the Commission deny Pittsburgh Water's Petition. If the Petition is not denied, the OCA recommends that the matter be consolidated with Pittsburgh Water's pending base rate proceeding at Docket Nos. R-2025-3055010 (water), R-2025-3055011 (wastewater), R-2025-3055012 (stormwater)² and sent to the Office of Administrative Law Judge for the scheduling of an evidentiary hearing and further proceedings, as appropriate.

Pittsburgh Water's proposed DSIC will increase rates for essential utility services and the Authority has the burden to show that the requested increase is necessary to "ensure and maintain adequate, efficient, safe, reliable and reasonable service" and is otherwise just and reasonable. 66 Pa. C.S. §§ 1358(a)(1), 1301. The OCA would note that absent from the Petition is any discussion on the effects that this increase in the DSIC rate would have on consumers.

While the OCA continues to review Pittsburgh Water's Petition and related DSIC Petition testimony with its base rate filings, the OCA has identified the following preliminary concerns:

1. The Authority has not shown that a higher DSIC rate is necessary to recover its planned infrastructure investment to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

The Commission can approve the requested wastewater DSIC cap increase only where the utility has demonstrated the increase to be necessary "to ensure and maintain adequate, efficient,

² The OCA notes that in the 2023 base rate proceedings, Pittsburgh Water filed a separate Petition to Consolidate the DSIC Petition with its base rate proceedings and the matter was consolidated with the base rate proceeding. On June 4, 2025, Pittsburgh Water also has filed a Petition for Consolidation of Water, Wastewater and Stormwater Revenue Requirements, but the instant Petition was not included in the request to consolidate.

safe, reliable and reasonable service” and otherwise “just and reasonable”. 66 Pa. C.S. §§ 1358(a)(1), 1301. Pittsburgh Water also states that Chapter 32 of the Public Utility Code permits the Commission, upon request of Pittsburgh Water, to “suspend or waive” any provision of the Public Utility Code in order to take account of Pittsburgh Water’s special circumstances as the only Commission-regulated municipal authority in the Commonwealth. 66 Pa. C.S. § 3202(b). Pittsburgh Water has not met these standards.

In its Petition, Pittsburgh Water has only averred illusory benefits of raising the DSIC from 5% to 7.5% without providing detailed support for the proposed rates in its Petition. In particular, Pittsburgh Water claims that the PAY-GO method of financing will be less expensive to ratepayers over time. Petition at ¶ 33. The Authority states that “[t]he combination of the debt service and debt service coverage and the fact that Pittsburgh Water must regularly issue new debt to fund construction projects results in the PAYGO funding method being cheaper for customers after the first several bond issuance [sic].” Petition at ¶ 33. Pittsburgh Water states that it is “planning to use borrowed funds, either PENNVEST loans or publicly issued Revenue Bonds each year for the foreseeable future.” Petition at ¶ 33. Pittsburgh Water also includes a chart showing the annual escalation of debt service coverage payments at 1.25x coverage. Petition at ¶ 33. The OCA submits, however, that the chart appears to show that it is not for 13 years, until 2039, that the cost of additional debt issuances exceeds the cost of the DSIC. Petition at ¶ 33.

Pittsburgh Water does not provide specific details about the proposed increase. The only information that the Authority provides is that Pittsburgh Water proposes to increase the DSIC by an additional \$6.5 million in the FPPTY for the water DSIC and \$986,051 in 2027 to rehabilitate an additional 5,400 linear feet of small diameter water main in the FPPTY and 820 linear feet of small diameter water main in FY2027. Petition at ¶ 26. Pittsburgh Water argues that the 7.5% cap

for the sewer DSIC would generate an additional \$ 2.3 million in the FPFTY and \$386,485 in the FY 2027. Petition at ¶ 27. Pittsburgh Water anticipates that with the additional revenue, the Authority would replace an additional 13,300 linear feet of sewer main in FPFTY and 2,250 in FY 2027. Petition at ¶ 27. The details provided are not sufficient to meet the requirements for an increase. Moreover, Pittsburgh Water avers a financial impact to the Authority without the increase, but in support Pittsburgh Water only provides two tables regarding the estimated impacts of the current DSIC on the debt service coverage and the annual escalation of debt service coverage payments at 1.25x debt service coverage. Petition at ¶¶ 30, 33.

The OCA submits that it is necessary for Pittsburgh Water to provide more information to demonstrate that the increase in the cap to 7.5% is necessary for purposes of Section 1358(a)(1), particularly without the benefit of an updated LTIP. Pittsburgh Water has not provided a sufficient basis in its Petition for increasing the cap by 2.5% as required by the statute. When the Authority petitioned for approval of the Second LTIP, Pittsburgh Water provided specific details regarding the specific types of water and wastewater property to be improved. *See e.g., Second Water LTIP Order* at 8-9. Although Pittsburgh Water identifies that it plans to accelerate investment, the Authority has not filed a revised LTIP to detail its proposed further accelerated spending. Nor does Pittsburgh Water's Petition provide specific details regarding by how much the Authority would "accelerate" its replacements with the additional dollars.

Another concern with raising the DSIC cap to 7.5% is the impact on customers. While Pittsburgh Water states that the increase will be cost-effective, the Authority does not provide any specific details about the cost impact for ratepayers. Pittsburgh Water does not include any information in the Petition regarding what a 2.5% increase would mean to the average water or wastewater bill. With the exception of PGW, PWSA's DSIC is unlike any other DSIC. The cap

functions as both a floor and a ceiling. If Pittsburgh Water has a 7.5% cap, regardless of how much investment Pittsburgh Water actually makes in a quarter, the DSIC rate will always be 7.5%. Moreover, for customers who are both Pittsburgh water and wastewater customers, their total home bill for both services will be increasing by 5% (2.5% for the water and 2.5% for wastewater).

2. Pittsburgh Water's Petition lacks supporting details and testimony to meet Pittsburgh Water's burden of proof for its requested rate relief to increase the DSIC from 5% to 7.5%.

In its Petition, Pittsburgh Water did not provide testimony in support of its DSIC increase request. Pittsburgh Water has presented testimony regarding the proposed DSIC in its pending water, wastewater and stormwater rate filings that were filed on the same day as this DSIC Petition, but the Petition itself does not contain any details, supporting testimony attached or any reference to the DSIC testimony filed in the base rate proceedings. The Petition does not provide the cost impact for either water or wastewater customers or any details regarding the revenue impact.

Pittsburgh Water's Petition also avers a financial impact to the Authority without the increase but only provides in support two tables regarding the estimated impacts of the current DSIC on the debt service coverage ratio and the annual escalation of debt service payments at 1.25x debt service coverage. Petition at ¶¶ 30, 33. This is insufficient detail to support the averment made.

Pittsburgh Water separately filed on June 4, 2025 a request to consolidate the base rate filings at Docket Nos. R-2025-3055010 (water), R-2025-3055011 (wastewater), and R-2025-3055012 (stormwater) and references in the Petition for Consolidation that the rate request is inclusive of an increase of the DSIC cap to 7.5% and expansion of the PENNVEST charge.³

³ The Petition for Consolidation is docketed at Docket Nos. P-2025-3055587, P-2025-3055588, P-2025-3055588.

Petition for Consolidation at ¶ 5. However, it is not clear from the Petition to Consolidate or from the instant Petition whether the Authority intends to consolidate the Petition with the base rate proceedings. If this DSIC Petition is not denied, the OCA does not oppose consolidation with the rate proceedings. Currently, however, the separately docketed DSIC testimony is not within this docket or Petition, and thus there is no evidentiary basis upon which the Commission can act to grant Pittsburgh Water's Petition.

For the reasons set forth above, the OCA submits that Pittsburgh Water's proposal should be denied because it lacks the requisite support. If it is not denied, then the OCA recommends that Pittsburgh Water's Petition be consolidated with the Authority's pending rate case filings for a full hearing and development of an evidentiary record or separately referred to the Office of Administrative Law Judge for hearings and the development of an evidentiary record.

III. CONCLUSION

The DSIC rate increase proposed by Pittsburgh Water will increase rates for water and wastewater service and, for wastewater, requires waiver of material provisions of the statute authorizing recovery of the costs at issue. For the reasons stated herein, the Office of Consumer Advocate respectfully requests that the Petition be denied as filed, or, in the alternative, that the Petition be consolidated with the Authority's pending general rate increase filings and sent to the Office of Administrative Law Judge for the scheduling of appropriate hearings and development of an evidentiary record or, in the further alternative, separately referred to the Office of Administrative Law Judge for the development of a record and hearings.

Respectfully Submitted,

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DATED: June 24, 2025

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, :

v. :

Pittsburgh Water's Petition for Authorization
To Increase DSIC Water and Wastewater :

Docket Nos. ~~P-2025-3056550~~
~~P-2025-3056552~~

P-2025-3055650 (Water)

P-2025-3055652 (Wastewater)

VERIFICATION

I, Darryl Lawrence, Consumer Advocate, hereby state that the facts set forth in my Answer, are true and correct to the best of my knowledge, information, and belief, and that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: June 24, 2025

Signature: /s/ Darryl A. Lawrence
Darryl A. Lawrence

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Dated: June 24, 2025

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