

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of City of Lock Haven Water	:	
Department for a Lead Service Line	:	P-2024-3050183
Replacement Program	:	

RECOMMENDED DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Pennsylvania Public Utility Commission (Commission) approve, without modification, a Joint Petition for Settlement (Joint Petition or Settlement) between the City of Lock Haven Water Department (Lock Haven or City) and the Office of Consumer Advocate (OCA) (collectively, Joint Petitioners). The Settlement requests withdrawal of the City’s Petition for Approval of a Lead Service Line Replacement Program as filed with the Commission on July 19, 2024, due to the City completing an updated service line inventory which reflects that no known lead service lines are present in the City’s Commission jurisdictional areas.

HISTORY OF THE PROCEEDING

On July 19, 2024, Lock Haven filed its Petition for a Lead Service Line Replacement Program (LSLR Petition), in accordance with Section 1311(b) of the Public Utility Code, 66 Pa.C.S. § 1311(b), Chapter 65 of the Commission’s regulations, 52 Pa.

Code §§ 65.51 *et seq.*, and the Commission's March 14, 2022 Final Rulemaking Order Implementing Act 120 of 2018 at Docket No. L-2020-3019521.

On August 1, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance. On August 8, 2024, the OSBA filed a Notice of Intervention. On August 21, 2024, the OCA filed a Notice of Intervention and Public Statement. On September 25, 2024, the OCA filed an Amended Notice of Intervention.

On August 2, 2024, the Commission issued a notice setting an Initial Teams Virtual Mediation Session for August 14, 2024. Since the initial mediation session, parties have extensively engaged in the Office of Administrative Law Judge's Mediation Unit's alternative dispute resolution process, including a total of eight mediation sessions.

On April 11, 2025, OSBA filed a Letter In Lieu of a Petition to Withdraw its intervention pursuant to 52 Pa. Code § 5.94, noting that the proposed transaction encompasses no small business pipelines that are made of lead.

On September 9, 2025, Lock Haven and the OCA filed a Joint Petition for Settlement and requested that it be approved without modification.

On September 10, 2025, this proceeding was reassigned from the Office of Administrative Law Judge's Mediation Unit to the undersigned for disposition of the Joint Petition.

For the reasons discussed below, I recommend that the Commission approve the Settlement without modification.

SETTLEMENT TERMS

The Joint Petitioners have agreed to the following terms and conditions, which are set forth below verbatim, including headings and paragraph numbers, from the Joint Petition:

III. SETTLEMENT TERMS

10. The Joint Petitioners support approval of the terms and conditions that follow.

11. The Parties request and support the withdrawal of the City's Petition for Approval of a Lead Service Line Replacement Program as filed with the Commission on July 19, 2024, due to the City completing an updated service line inventory which reflects that no known lead service lines are present in the City's PUC jurisdictional areas.

12. The Parties agree that the City has fully complied with the Commission's regulation requiring the filing of a lead service line replacement program petition.

13. The City will file an updated lead service line inventory with the Commission which reflects that no lead service lines have been identified in the City's PUC jurisdictional areas.

- a. This filing will include a verified statement reflecting that the City is not aware of any lead service lines in its PUC jurisdictional areas.
- b. In its filing, the City will note the number of lead service lines that currently remain in the non-PUC jurisdictional areas of the City.

14. The City agrees to file a Petition for Approval of a Lead Service Line Replacement Program with the Commission within ninety (90) days of the discovery of a lead service line in its PUC jurisdictional areas.

IV. ADDITIONAL TERMS AND CONDITIONS

15. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement.

16. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

17. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable to the Joint Petitioners and consistent with the public interest. The Settlement represents a carefully balanced compromise of the interests of the Joint Petitioners in this proceeding. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

18. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions contained herein, Lock

Haven or OCA may withdraw from the Settlement, upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order and, in such event, the Settlement shall be of no force and effect. In the event that the Commission disapproves the Settlement or Lock Haven or OCA elects to withdraw from the Settlement as provided above, each of the Joint Petitioners reserves their respective rights to fully litigate this case including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Testimony, Briefs, Exceptions and Replies to Exceptions.

19. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated the issues resolved by the Settlement and will result in the establishment of terms and conditions that – until changed on a going-forward basis as provided in the Public Utility Code – are in accordance with the law and in the public interest.

20. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to: (a) any modifications to the terms and conditions of this Settlement; or (b) any additional matters proposed by the ALJ in the Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

21. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

V. SETTLEMENT IS IN THE PUBLIC INTEREST

22. This Settlement was achieved by the Joint Petitioners after an investigation the City's Petition, as informed by Lock Haven's completed lead service line inventory. The Settlement recognizes that Lock Haven has not identified any lead service lines in its PUC jurisdictional areas to date.

23. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

a. **The Settlement provides a reasonable resolution.** The Settlement represents a balanced compromise of the issues raised by the active parties in this proceeding.

b. **Substantial litigation and associated costs will be avoided.** The Settlement amicably and expeditiously resolves the issues in this proceeding.

c. **The Settlement is consistent with Commission policies promoting negotiated settlements.** The Joint Petitioners arrived at the Settlement after in-depth investigation of Lock Haven's Petition and lead service line inventory. The Settlement contains reasonably negotiated compromises on the issues addressed. Thus, the Settlement is consistent with the Commission's rules and practices encouraging settlements (52 Pa. Code §§ 5.231, 69.391, 69.401-69.406) and is supported by substantial evidence of record.

Joint Petition at 2-6 (emphasis in original).

DISCUSSION

Legal Standards

Lead Service Line Replacement Regulations

In October 2018, then Governor Wolf signed into law Act 120 of 2018, which became effective on December 23, 2018. Act of October 24, 2018, P.L. 738, No. 120 (Act 120 of 2018). Act 120 of 2018 amended Section 1311(b) of the Code in order to authorize water utilities to pursue comprehensive replacement of lead service lines that remain in service across Pennsylvania, subject to Commission approval. 66 Pa.C.S. § 1311(b). 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. 66 Pa.C.S. § 1311(b)(2)(i). 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 LSLs at their own cost. 66 Pa.C.S. § 1311(b)(2)(vii)(B). Additionally, Act 120 of 2018 establishes the accounting and ratemaking treatment of LSL replacement 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. 66 Pa.C.S. § 1311(b)(2)(i)-(iii).

As mandated by Act 120 of 2018, the Commission promulgated lead service line replacement (LSLR) regulations that require certain water utilities to remove and replace all LSLs, regardless of whether those lines are customer-owned or utility-owned, within 25 or 30 years and to file a plan for LSL removal no later than July 23, 2023. 52 Pa. Code §§ 65.53(a), 65.55(a). Said LSLR Plan must include: (1) a service line inventory that complies with 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 an 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. 52 Pa. Code § 65.56.

A public utility's pro forma tariff containing proposed changes necessary to implement the entity's LSLR program must address: (1) an annual cap for the replacement of customer-owned LSLs; (2) service line demarcation; (3) partial LSLRs; (4) reimbursements; and (5) warranties. 52 Pa. Code § 65.58.

Settlements

The Joint Petitioners achieved a settlement of this proceeding. The only other party to this proceeding was the OSBA, which withdrew its intervention by letter filed April 10, 2025. *See* Joint Petition at 1, n.1.¹

Commission policy promotes settlements. 52 Pa. Code § 5.231. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative resources. The Commission recognizes that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Duquesne Light Co.*, Docket No. M-2023-3037937 (Opinion and Order entered Dec. 7, 2023); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, Docket No. R-881147 (Opinion and Order entered Jul. 22, 1991). In

¹ The Joint Petition additionally notes that I&E does not oppose the Settlement. I&E did not formally intervene in this proceeding.

addition, the Commission has held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

Public Interest

Lock Haven and the OCA both provided Statements in Support of the Settlement. I will address whether the Settlement terms are in the public interest after reviewing the Statements in Support.

A. Lock Haven Statement in Support

Lock Haven asserts that the Settlement represents a full resolution of all issues by all parties in this proceeding. Lock Haven believes the Settlement is in the best interests of its customers and the City. The Settlement recognizes that Lock Haven has not identified any LSLs in the Commission jurisdictional areas of its service territory and provides a process for the City to submit an LSLR Plan in the event that it does identify an LSL in its Commission jurisdictional area in the future. Lock Haven states that the Settlement avoids the unnecessary expense of litigating the details of an LSLR Plan given that no LSLs have been identified in the jurisdictional areas, while still protecting public health by requiring an LSLR Plan to be filed if an LSL is discovered in the future. Lock Haven therefore submits that the Settlement represents a reasonable resolution of this proceeding, is in the public interest, and should be approved without modification. Lock Haven Statement in Support (SIS) at 1-2.

Lock Haven states that the parties engaged in discovery and participated in settlement discussions to try to achieve a settlement of some or all of the issues in this

case. As a result of these settlement negotiations, the Joint Petitioners were able to reach a settlement on all issues as set forth in the Joint Petition. Lock Haven SIS at 2.

The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. Lock Haven contends that the focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. Lock Haven SIS at 3.

The Settlement requests and supports the withdrawal of Lock Haven’s LSLR Petition. The City has completed an updated service line inventory that did not identify any known LSLs in Lock Haven’s Commission jurisdictional areas. The Settlement reflects that there are no jurisdictional LSLs to be replaced and therefore the proposed LSLR Plan should be withdrawn. The Parties further agreed that the City has complied with the Commission’s regulations by filing an LSLR Petition as required. Lock Haven SIS at 4.

Through the Settlement, Lock Haven has agreed to file certain information with the Commission which reflects that no LSLs have been identified in the City’s Commission jurisdictional areas. Specifically, Lock Haven will file an updated service line inventory, accompanied by a verified statement, establishing that the City is not aware of any LSLs in its Commission jurisdictional areas. In addition, Lock Haven has agreed to note in its filing the number of LSLs that currently remain in place in the non-Commission jurisdictional areas of the City. While such LSLs are outside the Commission’s jurisdiction, Lock Haven will provide the number of remaining LSLs in non-jurisdictional areas for informational purposes. Lock Haven SIS at 4.

In the event that Lock Haven were to discover an LSL in its Commission jurisdictional areas in the future, the Settlement provides that Lock Haven will file a new LSLR Petition with the Commission within 90 days of identifying such an LSL. Lock Haven avers that this term ensures that if a LSLR program becomes necessary in the future, Lock Haven will file a Petition to propose a program to address the identified lead service line(s) in a timely manner. Lock Haven SIS at 4-5.

Lock Haven concludes that the Settlement represents a reasonable resolution of all issues raised by all parties in this proceeding. Its terms are in the public interest as they recognize that Lock Haven's current service line inventory has not identified any LSLs in Commission jurisdictional areas of its system, while also providing a process for Lock Haven to file a new LSLR Petition if it were to identify lead service line(s) in its PUC jurisdictional areas in the future. Accordingly, Lock Haven submits that the Settlement is in the public interest and should be approved without modification. Lock Haven SIS at 5.

B. OCA Statement in Support

The OCA avers that, in addition to formal discovery, the parties engaged in informal discovery and held settlement discussions regarding Lock Haven's LSLR Petition. Lock Haven informed the OCA that it completed its service line inventory for its jurisdictional service territory and that, based on its current service line inventory, Lock Haven did not identify any LSLs within the jurisdictional area of its system. As the City did not identify any LSLs in the jurisdictional area, the City informed the OCA that there were no LSLs to be addressed by an LSLR program. OCA SIS at 1.

The OCA states that LSLs pose a direct health risk to customers and an LSLR program can protect public health by helping to ensure the timely removal of the customer-owned LSL. However, the OCA also states that as there are no LSLs in the

City's jurisdictional service territory, the Settlement requests and supports the withdrawal of the City's LSLR Petition, due to the City completing an updated service line inventory which reflects that no known LSLs are present in the City's jurisdictional areas. Under the Settlement, the parties agree that the City has fully complied with the Commission's regulation requiring the filing of an LSLR program petition given that no LSLs were discovered in the City's jurisdictional service territory. OCA SIS at 2.

The OCA highlights that, additionally, under the Settlement, the City will file an updated LSL inventory with the Commission which reflects that no LSLs have been identified in the City's Commission jurisdictional areas. This filing will include a verified statement reflecting that the City is not aware of any LSLs in its Commission jurisdictional areas. In its filing, the City will note the number of LSLs that currently remain in the non-Commission jurisdictional areas of the City. The City agrees to file a Petition for Approval of a Lead Service Line Replacement Program with the Commission within 90 days of the discovery of an LSL in its PUC jurisdictional areas. OCA SIS at 2-3.

The OCA notes that, under the Settlement, while the City is not required to provide the number of LSLs that currently remain in the non-Commission jurisdictional service territory, the City agreed to publish the number of LSLs that currently remain in the non-Commission jurisdictional areas of the City. The OCA avers that the Settlement enhances transparency regarding this important public health issue. The OCA concludes that the Settlement is in the public interest and should be approved. OCA SIS at 3.

C. Recommendation

The Joint Petitioners have arrived at the instant resolution that Lock Haven should be permitted to withdraw its LSLR Petition because no LSLs exist in the Commission jurisdictional areas of its service territory. I find that this is a reasonable

approach to a unique situation where the Joint Petitioners, through extensive investigation and discussions, have identified no LSLs in the City's Commission jurisdictional areas. Accordingly, there are no LSLs for the City to take action to replace and recover the associated costs through an LSLR program.

Under the Settlement, the City will file an updated LSL inventory with the Commission that no LSLs have been identified in the City's Commission jurisdictional areas. This is important to provide further confirmation of the unique situation where no LSLs exist in the City's Commission jurisdictional areas. It is notable that, although Lock Haven's LSL inventory was not complete at the time of filing of its LSLR Petition, Lock Haven identified no LSLs at that time. LSLR Petition, Appendix B. The City will also file a new LSLR Petition within 90 days if an LSL is discovered in its Commission jurisdictional area. This will provide further security that, in the event an LSL is discovered, Lock Haven will file a new LSLR Petition promptly.

Critically, the above terms are the product of extensive negotiations between Lock Haven and the OCA. The OCA, which is tasked with representing the interests of consumers before the Commission, recognizes the health risks presented by LSLs and the importance of an LSLR program. OCA SIS at 2. However, the OCA states that it conducted both formal and informal discovery, as well as settlement discussions, and confirms that there are no LSLs in the City's Commission jurisdictional area. OCA SIS at 1-2. These assertions provide an independent check on Lock Haven's claims and further confirmation that the proposed Settlement is in the public interest because no LSLs have been identified. As cited above, Commission policy encourages settlement, and parties are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. Given the unique circumstances of this case where no LSLs have been identified after thorough vetting by the Joint Petitioners, I believe the proposed Settlement is both flexible and in the public interest.

The Settlement also presents additional terms and conditions often contained in most settlements before the Commission. Settlement ¶¶ 15-23. Among those terms, the Joint Petition is conditioned upon the Commission's approval of the terms and conditions contained in the Joint Petition without modification. If the Commission disapproves or modifies the Joint Petition, any party may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be of no force and effect. Additionally, the Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings. These standard additional terms and conditions are reasonable and in the public interest because they help clarify the parties' expectations in presenting the Joint Petition and the parties' commitments under the Settlement.

For all the above reasons, I find that the Settlement is reasonable and in the public interest. Accordingly, I recommend that the Commission approve the Joint Petition without modification.

CONCLUSIONS OF LAW

1. The Pennsylvania Public Utility Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 1311(b)(2); 52 Pa. Code § 65.54.

2. It is the Commission's policy to promote settlements. 52 Pa. Code § 5.231.

3. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative

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.

4. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n, v. Duquesne Light Co.*, Docket No. M-2023-3037937 (Opinion and Order entered Dec. 7, 2023); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, Docket No. R-881147 (Opinion and Order entered Jul. 22, 1991).

5. The settlement and its proposed terms and conditions are in the public interest and, therefore, should be approved without modification. *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, Docket No. R-881147 (Opinion and Order entered Jul. 22, 1991).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement filed September 9, 2025, by the City of Lock Haven Water Department and the Office of Consumer Advocate at Docket No. P-2024-3050183 is granted, and the Settlement is approved in its entirety without modification.

2. That Lock Haven's Lead Service Line Replacement Plan is withdrawn, consistent with the Joint Petition for Settlement.

