

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

Public Meeting held April 16, 2026

Commissioners Present:

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

Petition of Evitts Creek Water Company for
Approval of its Lead Service Line
Replacement Program

Docket No.
P-2024-3050185

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition (Petition) of Evitts Creek Water Company (Evitts Creek or the Company), Utility Code 210885, for Commission approval of Evitts Creek's Lead Service Line Replacement Program (LSLR Program) filed on July 19, 2024, as finally amended on June 18, 2025. Evitts Creek's LSLR Program would allow it to replace customer-owned lead service lines (COLSL) and to recover those costs as provided in Section 1311(b)(2)(i) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 1311(b)(2)(i). For the reasons outlined herein, we approve Evitts Creek's Petition and LSLR Program.

BACKGROUND

On October 24, 2018, Governor Wolf signed Act 120 of 2018 (Act 120) into law, thereby amending the Code at 66 Pa.C.S. § 1311(b) to address the accelerated replacement of COLSLs and damaged wastewater sewer laterals (DWSLs). Act 120 set forth a uniform, minimum standard under which jurisdictional water or wastewater utilities, or "entities," may seek to replace Lead Service Lines (LSLs) and DWSLs and

recover costs associated with replacement. Additionally, Act 120 provided for lead service line replacements (LSLRs) under a Commission-approved program and directed the Commission to establish certain standards, processes, and procedures by regulation. *See* 66 Pa.C.S. §§ 1311(b)(2)(i)-(vii).

The Commission promulgated regulations relating to COLSLs, DWSLs, and LSLRs at 52 Pa. Code §§ 65.51 – 65.62 (relating to LSLRs) and 66.1 – 66.42 (relating to DWSLs) that became effective July 23, 2022.

PROCEDURAL HISTORY

On July 19, 2024, Evitts Creek filed the Petition with the Commission. On August 1, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance and, on August 8, 2024, OSBA filed a Notice of Intervention (NOI). In its NOI, OSBA requested that the Petition be denied or subject to investigation and evidentiary hearings before the Commission. On August 21, 2024, the Commission, by Secretarial Letter, served the Bureau of Technical Utility Services (TUS) Data Request Set 1. On August 30, 2024, Evitts Creek filed a revised Petition that included a revised LSLR plan, a revised *pro forma* tariff supplement, and revised Data Responses to 52 Pa. Code § 53.52 in response to TUS Data Request Set 1. The proceeding was assigned to the Office of Administrative Law Judge (OALJ) and, on September 23, 2024, Chief Administrative Law Judge (ALJ) Charles E. Rainey, Jr. issued an Interim Order that directed Evitts Creek and OSBA to hold a conference to discuss resolving the matter by October 21, 2024.

On October 25, 2024, OSBA filed a letter (Withdrawal Letter) in lieu of a petition for leave to withdraw its NOI pursuant to 52 Pa. Code § 5.94. In the Withdrawal Letter, OSBA indicated it had engaged in informal discovery and discussions with Evitts Creek wherein it was discovered that the Petition encompasses no small business customers. Further, OSBA averred that Evitts Creek had no objection to the request to withdraw its

NOI. On November 1, 2024, ALJ Eranda Vero entered an Order reassigning the Petition to TUS for further action.

On June 11, 2025, the Commission, by Secretarial Letter, served a copy of TUS Data Request Set 2 upon Evitts Creek. On June 18, 2025, Evitts Creek filed responses to TUS Data Request Set 2 with the Commission that again included a revised LSLR plan (LSLR Plan), a revised *pro forma* tariff supplement (Pro Forma Tariff), and revised Data Responses to 52 Pa. Code § 53.52 (53.52 Data Responses). The Petition, LSLR Plan, Pro Forma Tariff, and 53.52 Data Responses collectively represent Evitts Creek's proposed LSLR Program.

Evitts Creek submitted proof of service to the appropriate entities. Except as discussed above, no other answers or comments were filed, and no additional hearings were held.

LEGAL STANDARDS

The Commission's regulation at 52 Pa. Code § 5.41 governs Petitions generally and provides that petitions for relief must be in writing, state clearly and concisely the interest of the petitioner in the subject matters, the facts and the law and the relief sought. Petitions for relief must also comply with 52 Pa. Code § 1.51.

In accordance with the Commission's regulations at 52 Pa. Code § 65.54, an entity shall file an LSLR program petition in accordance with 52 Pa. Code § 65.55(a). An entity that has a Commission-approved LTIP shall include with its LSLR program petition a modified LTIP containing an LSLR plan as a separate and distinct component of the entity's LTIP pursuant to 52 Pa. Code § 65.54(b). An entity that does not have a Commission-approved LTIP when filing its LSLR program petition shall include an LSLR plan meeting the requirements of 52 Pa. Code § 121.3.

Additionally, under Section 65.55 of the Commission’s regulations, an entity’s LSLR program must include an LSLR plan as described in 52 Pa. Code § 65.56, a *pro forma* tariff or tariff supplement containing the proposed changes necessary to implement the entity’s LSLR program as described in 52 Pa. Code § 65.58, and information required by the Commission for filings under 66 Pa.C.S. § 1308 (Section 1308), including statements required by 52 Pa. Code § 53.52(a). A final Commission Order approving an entity’s LSLR program will direct the entity to make any necessary revisions to the *pro forma* tariff or tariff supplement and resubmit the tariff or tariff supplement under Section 1308.

DISCUSSION

I. INTRODUCTION

Evitts Creek is a regulated public utility company, duly organized and existing under the laws of the Commonwealth with a mailing address of 1032 Lake Gordon Road, Bedford, Pennsylvania 15522. Evitts Creek provides water service to approximately 53 customers in a portion of Cumberland Valley Township, Bedford County. Evitts Creek averred it is a subsidiary of the City of Cumberland, Maryland (City).

II. PETITION

In accordance with 52 Pa. Code §§ 65.55(b), Evitts Creek’s LSLR Program included a *pro forma* tariff supplement as Appendix 1, Data Responses to 52 Pa. Code § 53.52 as Appendix 2, an LSLR Plan as Appendix 3, a working electronic copy of its service line inventory (SLI) as Appendix 6, and a hard copy of its SLI as Appendix 7. Evitts Creek’s LSLR Program was amended on August 30, 2024, in response to TUS Data Request Set 1, and subsequently further revised on June 18, 2025, in response to TUS Data Request Set 2. Evitts Creek’s LSLR Program, as modified in response to TUS data requests, is discussed below.

III. LSLR PLAN

An LSLR Plan must contain, at a minimum, the components specified in 52 Pa. Code § 65.56 including a SLI, a description of planning and replacements, and communication, outreach, and customer education materials. We find that Evitts Creek’s LSLR Plan, as modified in supplemental information filed with the Commission, contains adequate provisions that comply with these requirements, consistent with the following discussion.

1. SERVICE LINE INVENTORY

An entity’s LSLR Plan must include a SLI that complies with United States Environmental Protection Agency (EPA) regulation at 40 CFR §§ 141.1-143.20 as monitored by the Pennsylvania Department of Environmental Protection (DEP), inclusive of future changes as those regulations may be amended. Additionally, an entity shall identify any assumptions relied on to compile its SLI and, until the SLI is complete, provide detailed information regarding the progress of its SLI as part of its annual LSLR program report. 52 Pa. Code §§ 65.56(a)(1), (4) and (5).

In its LSLR Plan, Evitts Creek indicated that its SLI is complete in Pennsylvania and that it physically visited each address and opened meter boxes to determine the pipe materials that comprise the service lines for the utility and customer owned portions. In supplemental information filed with the Commission, Evitts Creek clarified that its SLI was prepared in compliance with EPA and DEP guidelines. Evitts Creek also averred that it is reasonable for it to assume all homes built during or after 1970 contained only “non-lead” service line materials because the State of Maryland banned the installation of lead water service lines in 1972, and Evitts Creek is operated by the City which is governed by Maryland laws and regulations. As such, Evitts Creek’s operator would have used the same non-lead materials in Pennsylvania as it did in Maryland.

Evitts Creek also clarified that it would assume that all customer-owned galvanized service lines identified in its SLI may have, at some point, been downstream of an LSL. Pursuant to 52 Pa. Code § 65.52, the Commission notes that an LSL is defined as a service line made of lead that connects the water main to a building inlet and a lead pigtail, gooseneck or other fitting that is connected to the lead line. A galvanized service line is considered an LSL if it ever was or is currently downstream of any LSL or service line of unknown material. In the LSLR Plan, Evitts Creek averred that it has completed its SLI for all customers in its certificated service territory, and that the SLI identified three customer-owned service lines as galvanized requiring replacement (GRR) that require LSLRs. Additionally, Evitts Creek specified that it does not foresee any opportunities to acquire any water systems in the State of Pennsylvania.

2. PLANNING AND REPLACEMENTS

Evitts Creek indicated that it plans to invest approximately \$3,000 towards the replacement of the three GRR service lines identified in its SLI, which will be funded through Evitts Creek's annual water operation budget. In supplemental information filed with the Commission, Evitts Creek averred that it will remove all three GRR service lines in the first year following Commission approval of its LSLR Program and upon approval by the landowners. Thereafter, Evitts Creek projected that no additional replacements will be required in the proceeding years.

In its LSLR Plan, Evitt Creek indicated that upon identification of a LSL, it would contact the property owner via certified mail, phone call, email (if available), and an in-person visit to provide them with notice of the issue and advise them on their options. Evitts Creek would provide the property owner with a consent agreement form via certified mail. A copy of Evitts Creek's Consent Agreement Form was provided as the LSLR Plan's Appendix 8.

Evitts Creek noted that any LSL will be replaced with either copper or plastic pipe, fittings which are rated for drinking water application, and that the specific products will comply with the City's standards. Evitts Creek provided a copy of the City's Approved Water Line Materials document as the LSLR Plan's Appendix 12. Any pipe material removed as part of an LSLR project will not be recycled and will be disposed of in accordance with local, state and federal requirements. To close out an LSLR, Evitts Creek indicated that it would take pictures of the new service line prior to backfilling and issue a letter to the customer, or the property owner if the customer is not the property owner, of completion via certified mail.

A copy of Evitts Creek's LSLR Refusal and Non-Acceptance Procedure (LSLR Refusal Procedure) was provided as the LSLR Plan's Appendix 9. The LSLR Refusal Procedure appears to comply with 52 Pa. Code § 65.56(b)(10)(i)-(iii) (relating to LSLR refusal).

3. COMMUNICATIONS, OUTREACH AND EDUCATION

The LSLR Plan's Appendix 10 included a copy of an LSLR consumer notification (LSLR Notification). In supplemental information filed with the Commission, Evitts Creek clarified that education and outreach materials such as the LSLR Notification would only be provided to the three customers identified to have LSLs. As discussed above in Section III.1, Evitts Creek has completed its SLI and indicated that no communication materials were made available to customers due to the service lines being physically inspected by Evitts Creek.

IV. PRO FORMA TARIFF

Evitts Creek submitted its Pro Forma Tariff containing the proposed changes necessary to implement its LSLR Plan. Evitts Creek's *pro forma* tariff or tariff supplement must address, at a minimum, the components specified in 52 Pa. Code § 65.58. We find that Evitts Creek's Pro Forma Tariff, with the revisions

directed by the Commission below in Section IV.1., meets these requirements, consistent with the following discussion.

1. LSLR PROGRAM ANNUAL CAP

The Pro Forma Tariff included Evitts Creek's proposed cap of three COLSL replacements in the first year and none in the proceeding years, subject to certain adjustments for customer reimbursements or an emergency LSLR that causes Evitts Creek to exceed its annual cap. Specifically, Evitts Creek's Pro Forma Tariff Section (4) states:

“The Company will cap LSLR Projects at three (3) customer-owned LSLRs in the first year and **none in the proceeding years** [emphasis added]. If a customer reimbursement provided pursuant to this tariff or an emergency LSLR causes the Company to exceed its annual cap, the Company will increase its current annual cap by the number of emergency repairs and/or reimbursements and decrease its annual cap by the same amount for the following year only.”

We note here that the language of the Pro Forma Tariff does not include provisions to complete any additional LSLRs after the three COLSL replacements in the first year following Commission approval of its LSLR Program. Evitts Creek had previously proposed its LSLR annual cap be one COLSL replacement on annual basis in a previous version of the *pro forma* tariff supplement provided in supplemental information filed with the Commission on August 30, 2024.

We support Evitts Creek's plan to complete the known LSLRs in an expeditious manner in the first year following Commission approval of its LSLR Program. Despite Evitts Creek's averment that it has completed its SLI, the Commission is concerned with Evitts Creek's proposal to disallow any further LSLRs in subsequent years in the Pro Forma Tariff. Evitts Creek's LSLR Plan already contemplates that it is not planning the completion of any LSLRs following the three LSLRs discussed above in Section III.2.

However, we find that it is in the public interest that the Pro Forma Tariff should prudently provide for the replacement of any future unknown LSLs that may be discovered in the Evitts Creek water system. The Pro Forma Tariff’s annual cap for LSLRs does not require a water public utility to complete that number of replacements but rather serves as the maximum number of LSLRs that may be completed by an entity on an annual basis, subject to any other Commission-approved adjustment provisions. As such, pursuant to 52 Pa. Code § 65.55(c), we direct Evitts Creek to file a tariff supplement that replaces the previously proposed language with the following language:

“The Company will cap LSLR Projects at three (3) customer-owned LSLRs in the first year and at one (1) customer-owned LSLR on an annual basis thereafter. If a customer reimbursement provided pursuant to this tariff or an emergency LSLR causes the Company to exceed its annual cap, the Company will increase its current annual cap by the number of emergency repairs and/or reimbursements and decrease its annual cap by the same amount for the following year only.”¹

2. SERVICE LINE DEMARCATION

The Pro Forma Tariff included a definition for COLSL that is consistent with 52 Pa. Code § 65.52 and provisions for Evitts Creek to perfect its ownership of the portion of the service line located within the then-existing right-of-way. Evitts Creek may install a shutoff valve to serve as a point of demarcation between the property’s service line and the property’s interior water distribution piping if a shutoff valve is not located within 12 inches of a structure.

3. PARTIAL LSLRS

The Pro Forma Tariff included appropriate provisions to address partial LSLRs. A partial LSLR must result in termination of service under Evitts Creek’s tariff. Also,

¹ See. Ordering Paragraph 2.

where a property owner elects to replace the COLSL, the property owner must replace the COLSL concurrent with Evitts Creek replacing the Evitts Creek-owned LSL, subject to the property owner providing Evitts Creek at least 180 days' notice prior to replacing the COLSL.

4. REIMBURSEMENTS

The Pro Forma Tariff included the appropriate provisions for customer or property owner reimbursement for customers or property owners that replaced their own COLSL including the statement that if the reimbursement would cause Evitts Creek to exceed its current annual cap, Evitts Creek will increase its current annual cap by the number of reimbursements and decrease its next annual cap by the same amount.

5. WARRANTY

The Pro Forma Tariff included appropriate warranty provisions. Evitts Creek will provide a two-year warranty for workmanship, materials, and the restoration of surfaces of any COLSL that the Company or its contractor replaces limited to 125% of Evitts Creek's cost for the LSLR work, so long as the customer allows access to the property for repairs.

V. OTHER CONSIDERATIONS

We note that Evitts Creek's Commission-approved LSLR Program will remain effective indefinitely and cannot be terminated or modified except by Commission Order. *See* 52 Pa. Code §§ 65.55(d) and 65.57. The Commission may release Evitts Creek from Commission-imposed LSLR Plan requirements if Evitts Creek demonstrates the absence of LSLs through its SLI and proposes a reasonable tariffed process to address any LSLs that may be discovered thereafter. Otherwise, Evitts Creek shall update its LSLR Plan for Commission review at least once every five years.² Pursuant to 52 Pa. Code §

² *See*, Ordering Paragraph 3.

65.57(b), the Commission will review Evitts Creek’s updates and related public input to determine, among other things, if changes are necessary to maintain and improve the efficiency, safety, adequacy and reliability of Evitts Creek’s LSLR Program.

Additionally, Evitts Creek provided adequate statements to address the changes proposed by the Pro Forma Tariff as required by the Commission for filings under Section 1308, including statements required by 52 Pa. Code § 53.52(a).

As described in Ordering Paragraph 2, we will direct Evitts Creek to file its tariff supplement with the Commission, including the tariff changes directed by the Commission in Section IV.1., above, which will be reviewed by Commission staff for the required form and content of tariffs and tariff changes pursuant to 52 Pa. Code §§ 53.1-53.26, and for compliance with Section IV.1. Commission staff will address any necessary ministerial tariff changes with Evitts Creek, such as page numbering and table of contents changes, and will take appropriate action to ensure that the filed tariff complies with the tariff changes directed by the Commission in Section IV.1.

VI. CONCLUSION

Investigation and analysis of Evitts Creek’s LSLR Program indicates that Commission approval of Evitts Creek’s LSLR Program appears to be lawful, just, reasonable, and consistent with the public interest. As such, we approve Evitts Creek’s LSLR Program and direct Evitts Creek to file its LSLR Program tariff supplement with the Commission under Section 1308 and consistent with this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Petition of Evitts Creek Water Company at Docket No. P-2024-3050185, as supplemented, is approved, consistent with this Opinion and Order.

2. That within ten (10) days following the entry date of this Opinion and Order, Evitts Creek Water Company shall file a tariff supplement with the Secretary's Bureau at Docket No. P-2024-3050185, consistent with this Opinion and Order, the revised *pro forma* tariff supplement filed with the Commission on June 18, 2025, in response to the Bureau of Technical Utility Services Data Request Set 2 as Appendix 1, as modified by the Commission's directed tariff change in Section IV.1 of this Opinion and Order, and Commission regulations for the required form and content of tariffs and tariff changes pursuant to 52 Pa. Code §§ 53.1-53.26, to become effective upon at least ten (10) days' notice, and which shall demonstrate to the Commission's satisfaction that the filed tariff changes comply with this Opinion and Order.

3. That Evitts Creek Water Company shall file a copy of its updated Lead Service Line Replacement Plan with the Commission at least once every five years, until further Order of the Commission.

4. That Evitts Creek Water Company shall file a copy of its Lead Service Line Replacement Program Report with the Commission by March 1 of each year, until further Order of the Commission.

5. That a copy of this Opinion and Order be served upon Evitts Creek Water Company, the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

6. That a copy of this Opinion and Order be served upon the Commission's Bureau of Technical Utility Services, Finance/Tariff and Water/Wastewater Sections, for monitoring and compliance.

7. That upon acceptance by the Commission of the tariff supplement filed by Evitts Creek Water Company pursuant to Ordering Paragraph 2, the proceeding at Docket No. P-2024-3050185 be closed.

BY THE COMMISSION,

A handwritten signature in cursive script, reading "Matthew L. Homsher".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: April 16, 2026

ORDER ENTERED: April 17, 2026