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| PUC logo | COMMONWEALTH OF PENNSYLVANIA  PENNSYLVANIA PUBLIC UTILITY COMMISSION  P.O. BOX 3265, HARRISBURG, PA 17105-3265 | **IN REPLY PLEASE REFER TO OUR FILE**  Docket Nos.  M-2018-2640802  (Water)  M-2018-2640803  (Wastewater) |

***May 15, 2019***

**GRANT OF EXPEDITED MOTION FOR**

**EXTENSION OF DEADLINES**

TO ALL PARTIES:

On March 15, 2018, the Commission entered its Final Implementation Order (FIO) at Docket Nos. M-2018-2640802 (Water) and M-2018-2640803 (Wastewater) in a consolidated proceeding to establish the procedures by which the Commission would implement Chapter 32 of the Public Utility Code commencing on April 1, 2018 for the Pittsburgh Water and Sewer Authority (PWSA). That Chapter provides for Commission oversight of PWSA as if it were a public utility and requires that PWSA file a Compliance Plan detailing how PWSA will achieve the goals outlined in Chapter 32.

The Commission issued a Secretarial Letter on September 26, 2018, establishing a procedure for Commission review of the PWSA Compliance Plan and Long Term Infrastructure Improvement Plan (LTIIP) filings, and providing that the Office of Administrative Law Judge (OALJ) will issue appropriate orders on the filings no later than November 30, 2019. On September 28, 2018, PWSA filed its Compliance Plan and LTIIP at the above-referenced docket numbers.

On November 28, 2018, an additional Secretarial Letter was issued that assigned the Compliance Plan to the OALJ and established a two-stage Compliance Plan litigation and review process. Stage 1 litigation was to commence on November 28, 2018. Stage 1 was to involve urgent infrastructure remediation and improvement, and the revenue and financing requirements of maintaining service that supports public health and safety while Stage 2 was to address PWSA billing issues and the development of a proposed PWSA stormwater tariff. The November Secretarial Letter provided that OALJ would issue a recommended decision regarding Stage 1 no later than eight (8) months following the issuance of the letter, directed the Bureau of Consumer Services (BCS) to conduct quarterly workshops regarding various Stage 2 customer service and billing issues, and was filed with a Technical Staff Initial Report and Directed Questions – Stage 1 (Stage 1 Initial Report).[[1]](#footnote-2)

On December 27, 2018, the ALJ issued a Prehearing Order to establish, among other matters, a litigation schedule to accommodate the Commission-established deadline that an ALJ issue a recommended decision by July 29, 2019. Under that litigation schedule, Parties have served direct and rebuttal testimony with surrebuttal testimony due on May 17, 2019. Evidentiary hearings are set for May 21-24, 2019.

On May 13, 2019, the Parties filed a joint Expedited Motion for Extension of Commission-Created Deadlines (Motion or Petition) requesting that the Commission grant a three (3) month extension to provide them with additional time to engage in settlement discussions. The Motion states that the Parties have engaged in productive settlement discussions and, if granted an extension, intend to file a Joint Petition for Partial Settlement on or before June 14, 2019. Motion at 5. The Motion requests Commission action on the Motion on or before Friday, May 17, 2019. Motion at 2.

Furthermore, the Motion provides that the Parties intend to continue settlement discussions prior to evidentiary hearings and the issuance of a recommended decision. Motion at 5. The Motion also requests that the following consumer-related issues be moved from Stage 1 to Stage 2 of the proceedings so that the Parties may discuss them in BCS-led workshops: (1) residential service termination and collections issues, and (2) issues related to PWSA’s compliance with the Discontinuance of Service to Leased Premises Act. Motion at 9-11. The Motion asserts that participating Parties agree to the requested extension. Motion at 1. For the sake of brevity, this Secretarial Letter will not reiterate the entire contents of the Motion here.[[2]](#footnote-3)

The Prehearing Order identifies the following as Parties to the proceeding: PWSA, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania American Water Company, and Pittsburgh UNITED. While Ms. Chapkis of the Mayor’s Blue Ribbon Panel on Restructuring the PWSA Care of Women for a Healthy Environment filed comments, attended the Prehearing Conference, and is listed on the service list, it does not appear that Ms. Chapkis entered a notice of appearance for the Blue Ribbon Panel pursuant to 52 Pa. Code §§ 1.21-1.23. Additionally, while attorneys for the National Resources Defense Council entered appearances, they did so on behalf of Pittsburgh UNITED and not as an independent party of record. It therefore appears that the Motion is unanimous.

While the Parties identify the request as a Motion, the Parties seek to proceed under 52 Pa. Code § 5.41, Petitions generally. The Commission will therefore treat the filing as a Petition before the Commission rather than as a motion requiring action on the part of the OALJ presiding officer. Given that the Petition is unanimous among the Parties, the Commission may proceed to dispose of the request without delay.

Chapter 32 provides the Commission with flexibility regarding its review of the PWSA Compliance Plan, including the ability to direct PWSA to file new or revised compliance plans. 66 Pa. C.S. § 3204. Specifically, Chapter 32 does not contain statutory deadlines regarding Commission approval of a PWSA Compliance Plan. Rather, Chapter 32 focuses on the qualitative aspects of PWSA proposals. Given this flexibility, the Commission may consider extending its previously established deadlines.

After consideration of the various justifications and substantive content of the Petition, the Commission will grant the requested relief. While the Commission will not specifically enumerate here the conditions which the Parties offer in support of the extension, the Commission directs the Parties to comply with the Lead Service Line, Clearwell, and Customer Service Issues outlined at pages 6-9 of the Petition.

Also, as described in the Petition, the OALJ will submit a recommended decision no later than Tuesday, October 29, 2019. Thereafter, Parties may submit exceptions within twenty (20) days and reply exceptions no later than fifteen (15) days thereafter. The Commission will thereafter issue appropriate orders on the filings no later than Friday, February 28, 2020. Petition at 6.

Finally, the Commission grants the request to address the issues identified at pages 9 through 11 of the Petition in Stage 2 of the Compliance Plan litigation for the reasons identified in the Petition.

This Secretarial Letter shall be served on all Parties of record, commenters, and monitoring stakeholders in the above-referenced proceedings.

 Sincerely,

# Rosemary Chiavetta

Secretary

1. The Motion indicates that BCS has already held two billing workshops associated with Stage 2 of these proceedings. Motion at 4 ¶ 5. [↑](#footnote-ref-2)
2. We note that the Motion / Petition contains certain stipulations that will be followed if “the Commission agrees to delay the proceedings” in these matters ensuring that “health and safety issues are prioritized” (e.g., lead service line replacement, PWSA’s Aspinwall Clearwell facility, and customer issues). Motion at 6-9 ¶¶ 15-16. [↑](#footnote-ref-3)