

COMMONWEALTH OF PENNSYLVANIA



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September 30, 2019

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Implementation of Chapter 32 of the Public  
Utility Code Regarding Pittsburgh Water and  
Sewer Authority – Stage 1  
Docket Nos. M-2018-2640802  
M-2018-2640803

Petition of The Pittsburgh Water and Sewer  
Authority for Approval of Its Long-Term  
Infrastructure Improvement Plan  
Docket Nos. P-2018-3005037  
P-2018-3005039

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink that reads "Lauren M. Burge".

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Enclosures:

cc: Honorable Mark A. Hoyer  
Honorable Conrad A. Johnson  
Certificate of Service  
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CERTIFICATE OF SERVICE

Re: Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1 : Docket Nos. M-2018-2640802  
: M-2018-2640803  
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Petition of The Pittsburgh Water and Sewer Authority for Approval of Its Long-Term Infrastructure Improvement Plan : Docket Nos. P-2018-3005037  
: P-2018-3005039

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 30<sup>th</sup> day of September 2019.

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water And Sewer Authority – Stage 1	:	Docket Nos.	M-2018-2640802 M-2018-2640803
	:		
Petition of The Pittsburgh Water and Sewer Authority for Approval of Its Long-Term Infrastructure Improvement Plan	:	Docket Nos.	P-2018-3005037 P-2018-3005039
	:		

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**REPLY BRIEF  
OF THE OFFICE OF CONSUMER ADVOCATE**

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## **I. INTRODUCTION**

The Office of Consumer Advocate (OCA) filed its Main Brief in this proceeding on September 19, 2019. The OCA submits this Reply Brief in response to the Main Brief of the Pittsburgh Water and Sewer Authority (PWSA or the Authority). PWSA's brief addressed only the specific issues reserved for litigation in this proceeding. In this Reply Brief, the OCA responds to PWSA's proposed plan for billing currently unmetered and/or unbilled municipal properties within the City of Pittsburgh, and certain aspects of PWSA's plan to replace lead service lines within its service territory.

As discussed in detail in the OCA's Main Brief and below, the OCA submits that the Commission should: (1) require PWSA to begin charging a flat rate to unmetered and/or unbilled municipal properties and non-profits which "ramps up" during a five-year transition period; and (2) reject PWSA's income-based reimbursement policy and direct PWSA to develop a comprehensive plan to replace all lead service lines, both public and private, in the system at no direct cost to customers.

## **II. REPLY ARGUMENT**

### **A. Billing Plan for Unmetered and/or Unbilled Municipal Properties Within the City of Pittsburgh**

As addressed in the OCA's Main Brief, PWSA does not charge water and wastewater rates to the municipal properties that it serves, even though some of those properties already have meters. OCA M.B. at 10-14. In its Main Brief, PWSA argues that moving to recovering costs from the City related to City meter installations, usage, and public fire hydrants presents a unique challenge. PWSA M.B. at 21-29. PWSA acknowledges that this historical situation of not charging the City needs to change. PWSA M.B. at 22. However, PWSA's proposal, to bill nothing until a meter is installed during a five-year metering project, is not reasonable or consistent with the requirements of the Public Utility Code and basic ratemaking principles. The OCA's proposal, to have a flat rate ramp up until a meter is installed for each property mirrors PWSA's proposed metered rate ramp up, and is a reasonable way to address the "unique challenge". See OCA M.B. at 10-14.

PWSA argues that it has made a "significant step forward" regarding metering issues but that other parties have taken the position that the City must make full payment immediately. PWSA M.B. at 23. That is not the OCA's position. The OCA's position is that PWSA's five year ramp up of metered rates to be implemented as meters are installed at each City and non-profit property is acceptable **if** it is tied to a flat rate charge that also would ramp up during the five-year transition period for properties that remain unmetered. OCA M.B. at 13-14; OCA St. 2 at 7-8. PWSA also argues that its proposals provide "an appropriate transition timeframe during which the City can become knowledgeable about and incorporate into its budgeting process what will be significant new charges...." PWSA M.B. at 24. The OCA's proposed flat rate charge ramp up

has the same benefits as the metered rate ramp up because it allows the City and non-profits to plan for the rates and incorporate the known annual changes in flat rates in the budgets.

Next, PWSA argues that it needs “the space to negotiate a mutually agreeable solution with the City” so that the City will make payments once billed. PWSA M.B. at 24. The OCA submits that the Public Utility Code obligates PWSA to charge rates based on its Commission-approved tariff (66 Pa. C.S. § 1303), and PWSA’s current tariff already includes a flat rate. OCA M.B. at 14; Tariff Water Pa. P.U.C. No. 1, Original page 9 (effective March 1, 2019). In addition, the City’s obligation to pay for service received is not a new issue that arose after Commission jurisdiction started in 2018. See OCA M.B. at 11-12; OCA St. 2 at 5-6. Specifically, the Municipality Authorities Act (MAA) requires every municipal authority to charge non-discriminatory rates and prohibits the provision of free service, except in very limited situations. Id. Moreover, the MAA was amended in 2012 to specifically prohibit a water or sewer authority from providing free service or reduced price service to municipalities or non-profit organizations, except in limited circumstances. Id.; 53 Pa. C.S. § 5612(a.1). Thus, PWSA’s argument must be rejected.

Next, PWSA argues that Section 3204(b) which required PWSA to file the Compliance Plan only requires a plan with steps towards compliance with the requirements applicable to other jurisdictional water and wastewater utilities, not actual compliance. PWSA M.B. at 24-25. The OCA submits that a five-year ramp up plan for a flat rate charge, along with PWSA’s proposed five-year ramp up plan for metered rates is a reasonable plan towards compliance and does not require immediate compliance regarding billing for municipal and non-profit entities. The OCA’s proposed flat rate ramp up does not speed up the time frame proposed by PWSA for the metered

rate ramp up. The OCA's proposal recognizes that a flat rate exists in PWSA's tariff and it can be used, to bridge the gap, in a gradual manner, between no charges and metered charges.

The OCA's proposed ramp-up of flat rate charges for City-owned and non-profit accounts is reasonable and consistent with the requirements of the Public Utility Code and should be adopted.

**B. Lead Remediation Issues**

1. The Commission has Jurisdiction to Require Lead Service Line Replacements.

In its Main Brief, PWSA argues that the Commission lacks jurisdiction to require PWSA to take further action to address lead service lines in the water system. See PWSA M.B. at 55-56, 65-75. PWSA's argument is an inaccurate and incomplete statement of the law that ignores decades of precedent. As will be explained in detail below, the Commission has jurisdiction to address whether PWSA is providing adequate, safe, and reasonable service as required by Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. The applicable standard is that water must be suitable for "household purposes"; including drinking, cooking, bathing, and laundry. This standard is measured at the taps in the home. The Commission clearly has jurisdiction to require PWSA to address lead service lines in the system given the quality of service issues those lines create, and should do so as discussed in the OCA's Main Brief. OCA M.B. at 15-28.

The Commission is authorized to determine whether a public utility is meeting the requirements set forth in the Public Utility Code. The Commission has plenary authority under Section 501 of the Public Utility Code to carry out and enforce the Public Utility Code and any rules, regulations, orders, or other requirements. 66 Pa. C.S. § 501. One such requirement is that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes,

alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa. C.S. § 1501. The Code, therefore, places upon every public utility the obligation to remedy any deficiencies in the system to ensure that its customers receive “adequate, efficient, safe, and reasonable service.” Id.

The Commission’s standard for determining that water service is safe and adequate for purposes of 66 Pa. C.S. § 1501 was set forth in Pa. P.U.C. v. Pennsylvania Gas and Water Co., which states that “every customer is entitled to water that is fit for the basic, domestic purposes (e.g. cooking, drinking, washing and bathing).” 61 Pa. PUC 409, 416, 74 PUR4th 238, 245 (1986) (PG&W 1986); see also Pa. P.U.C. v. Pennsylvania-American Water Co., 71 Pa. PUC 210, 218-19 (1989). The Commission defines basic household purposes as including “drinking, washing, bathing and cooking.” Pa. P.U.C. v. National Utilities, Inc., 87 Pa. PUC 1, 5 (1997).

In PG&W 1986, the Commission stated in more detail what is necessary to support claims of inadequate and unreasonable water service:

In reaching a determination as to whether a utility has provided adequate and reasonable service, we note that *every* customer is entitled to water that is fit for the basic, domestic purposes (e.g., cooking, drinking, washing and bathing). Although a few isolated or sporadic instances or complaints of water received by customers . . . that is unfit for the aforementioned basic, domestic purposes would not warrant a finding that a utility has failed in its provision of adequate and reasonable service, we believe that probative evidence in a particular case showing a *significant* failure on the part of a utility to provide adequate and reasonable service would provide a basis for a conclusion that a utility has provided inadequate service. Finally, we point out that customers are entitled to adequate and reasonable service at the time they are paying their bills, not some optimistic point in the future.

61 Pa. PUC at 416. These statements were made in the context of a base rate proceeding, but the description of “adequate and reasonable service” is no less applicable in this compliance

proceeding. Further, the Commission has stated that:

It is our opinion that in exchange for the utility's provision of safe, adequate, and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return to the utility's investors. Thus, as the OCA contends, a quid pro quo relationship exists between the utility and its ratepayers.

PG&W 1986, 61 Pa. PUC at 415-16.

Water does not need to be a public health risk in order to be unsuitable for all domestic purposes. Pa. P.U.C. v. Lake Latonka Water Co., 71 Pa. PUC 507, 522 (1989) (holding that a utility provides inadequate water even when the water “has non-health, aesthetic quality problems”); see Kessler v. Shickshinny Water Co., 64 Pa. PUC 290, 296-97 (1987) (holding that ground debris in pipes resulting in “dirty, smelly water which was unsatisfactory for virtually every purpose except toilet flushing” violated 66 Pa. C.S. §1501). In Ashbaugh v. Fitz Henry Water Co., 51 Pa. PUC 287 (1977), the Commission held that water was inadequate despite being safe to drink. 51 Pa. PUC at 291. Customers of Fitz Henry testified to the discoloration of their water and produced filters with sediment. Id. at 288. Testing by the Pennsylvania Department of Environmental Resources determined that, although the water was somewhat acidic, it was mostly within the recommended public health limits for drinking water that were in place at the time. Id. at 289. However, the Commission ruled that the water was inadequate because of the water's “unpleasant taste, sediment, and unsuitability for laundry purposes” and held that the utility had violated its statutory obligation. Id. at 291.

These long-standing legal standards establish the Commission's authority and obligation to require a utility to take the necessary actions to effect improvements in quality of service. As will be discussed below, the case law PWSA cites is focused specifically on water quality, not quality of service, and thus is not instructive. Further, the cases discussed above demonstrate that

there is overlap between “water quality” and “quality of service.” Just because an issue touches on water quality does not necessarily mean that the Commission lacks jurisdiction to require action to address those concerns. By its nature, the “household purposes” standard is measured at the tap and thus is related to water quality. The Commission has stated, and PWSA has agreed, that “the Commission and PADEP are State agencies jointly charged with protection of fundamental aspects of public health and safety.” November 28, 2018 Corrected Secretarial Letter, at 3; PWSA M.B. at 69. Lead service lines raise significant public health and safety concerns, from the perspective of water quality as regulated by the Pennsylvania Department of Environmental Protection (DEP), as well as the quality of water service provided by water utilities as regulated by the Commission.

PWSA attempts to characterize the OCA’s and other parties’ concerns about lead service lines as relating to water quality rather than quality of service. PWSA M.B. at 55; see also PWSA M.B. at 65, 66. PWSA then argues that the Commission does not have jurisdiction to address these issues because water quality is under the purview of the Pennsylvania Department of Environmental Protection (DEP). This argument mischaracterizes both the nature of the OCA’s concerns as well as the legal precedent on this issue.

PWSA points to a number of cases in support of this position. However, these cases present very different factual situations than those involved in this case and, as such, are not instructive. PWSA relies heavily on two cases: Rovin, D.D.S. v. PUC, 502 A.2d 785 (Pa. Cmwlth. 1986) (Rovin) and Pickford v. PUC, 4 A.3d 707 (Pa. Cmwlth. 2010) (Pickford). In both Rovin and Pickford, the petitioners challenged “the substances used in the treatment of the water and the resultant impact on the health of the public.” Pickford, 4 A.3d at 714. The petitioner in Rovin challenged a water utility’s practices for adding fluoride to its water supply. 502 A.2d at 786. Similarly, the petitioners in Pickford challenged a water utility’s switch from treating its water

with chlorine (chlorinated water) to treatment with chlorine and ammonia (chloraminated water). 4 A.3d at 708-709. In these cases, the Commonwealth Court found that the complaints concerned water quality which is under DEP jurisdiction, and that the complaints were actually a “collateral attack on the DEP permitting process.” See Pickford at 714.

In the instant proceeding, the OCA and other parties are not challenging PWSA’s DEP-approved discretionary water treatment methods, as was the case in Rovin and Pickford. Rather, the parties’ concerns relate to PWSA’s infrastructure and whether the quality of service provided to customers meets the “adequate, efficient, safe, and reasonable service and facilities” standard under Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501. PWSA explained that “[t]here is no detectable lead in PWSA’s water when it leaves the treatment plant and travels through PWSA’s water mains. However, lead can enter drinking water through lead service lines.” PWSA M.B. at 51 (citations omitted). Thus, lead is leaching from the lead service lines into drinking water, resulting in service and facilities that are not “adequate, efficient, safe and reasonable” as required by Section 1501 of the Public Utility Code.

PWSA raises concerns that any direction from the Commission regarding lead service line replacements would conflict with DEP’s requirements under the Lead and Copper Rule. PWSA M.B. at 68-69. The OCA is not specifically seeking to enforce the Lead and Copper Rule under the Pennsylvania Safe Drinking Water Act, 25 Pa. Code § 109.1101 *et seq.*, which would clearly be under DEP jurisdiction. DEP’s enforcement of the Lead and Copper Rule is reflected in the 2017 Consent Order and Agreement with PWSA, which requires PWSA to inventory and replace lead service lines and to implement a corrosion control program. The OCA, on the other hand, is seeking to address serious deficiencies in the water provided to customers because the water at the customers’ taps, when there are public and private lead service lines, puts customers at risk of lead

exposure, which the OCA submits constitutes unsafe, unreasonable, and inadequate service in violation of Section 1501 of the Public Utility Code. None of the recommendations made by the OCA or other parties in this proceeding would conflict in any way with the directives that DEP has given PWSA regarding lead remediation. These are quality of service issues that fall squarely within the Commission's jurisdiction as established by the long-standing precedent discussed above.

As discussed in the OCA's Main Brief, recent changes in Pennsylvania law allows and encourages water utilities to replace private side lead service lines. OCA M.B. at 18-19. The Pennsylvania General Assembly has recognized the significant public health issue created by lead service lines and has taken action to encourage water utilities to replace customer-owned lead service lines. As of December 2018, the amended Section 1311(b) of the Public Utility Code, 66 Pa. C.S. § 1311(b), *inter alia*, established a framework for water utilities replacing the customer-owned portion of lead service lines, including Commission-approved budget caps, and established a cost recovery mechanism that permits the inclusion of the lead service line replacement costs in the utility's rate base. While these changes were primarily aimed at investor-owned utilities (as a municipal authority, PWSA does not have a rate base on which it can earn a return), this amendment to the Public Utility Code is indicative of Pennsylvania's policy goals. Further, Act 44 of 2017 amended the Fiscal Code to clarify that municipal authorities have the ability to replace private water or wastewater laterals in order to benefit public health. 72 P.S. § 1719-E(c)(1). The legislature clearly intended to encourage water utilities and municipal authorities to replace the customer-owned portion of lead service lines, and PWSA is one of a number of water utilities in Pennsylvania that will be replacing these lead service lines.<sup>1</sup>

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<sup>1</sup> PWSA describes York Water Company's plan to replace lead service lines, but this description is incomplete. See PWSA M.B. at 72. First, York obtained a temporary waiver of the portion of its tariff that did not allow the Company

In its Main Brief, PWSA argues that replacing customer-owned lead service lines is discretionary on the part of the utility and thus cannot be required by the Commission. PWSA M.B. at 71-72. In support of this, PWSA cites the language of Act 44, which allow municipal authorities to replace private-side lead service lines, “if the authority determines that the replacement or remediation will benefit the public health, public water supply system or public sewer system.” 72 P.S. § 1719-E(c)(1). PWSA’s argument here is moot given that PWSA has clearly already made a determination that replacing private-side lead service lines will benefit the public health and the public water supply, since the Authority has already replaced thousands of private-side lead service lines and continues to do so. The issue, as discussed in further detail below, is with PWSA’s proposed income-based reimbursement policy for private-side only lead service lines. The income-based reimbursement policy is not based on any substantiated data; rather, the policy is arbitrary and is inconsistent with PWSA’s stated goal of removing all lead service lines from its system, and inappropriately singles out a group of customer that will have to pay some amount for a private-side lead service line replacement while other customers receive these replacements from PWSA at no direct cost. See OCA M.B. at 19-20. PWSA has already determined that replacing private-side lead service lines will benefit the public health and the

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to bear the costs associated with replacing customer-owned lines. Petition of York Water Company, Docket No. P-2016-2577404, Order (March 2, 2017). Regarding private-side lead service lines, the Commission stated as follows:

Rather than rely upon customers to replace their lead service lines, **which would result in a haphazard approach**, York Water proposes to assume that responsibility at its initial expense. While performing the replacement of the Company-owned lead service lines, York Water proposes to simultaneously replace the customer-owned portions of the lead service lines as they are discovered. In instances where the customer-owned lead service line is connected to a Company-owned non-lead service line, York Water would still replace customer-owned lead service lines, as they are discovered. York Water proposes to pay up to the Company’s average contracted cost for replacing a customer-owned lead service.

Id. at 4 (emphasis added). The customer’s portion can be paid in a lump sum or added to the customer’s bill for up to one year. Petition of York Water Company, Docket No. P-2016-2577404, Joint Petition for Settlement at ¶ 16 (Jan. 23, 2017). York will not charge interest and will not terminate a customer for non-payment; rather, any unpaid portion will be written off as uncollectible and included in a regulatory asset account. Id.

public water supply; the issue in this proceeding relates to how PWSA is implementing its program.

2. PWSA's Goals and Policies Regarding Lead Service Line Replacements Continue to be Inconsistent, Incomplete, and Unsupported by the Record in this Proceeding.

As discussed in the OCA's Main Brief, at times PWSA's goals and policies regarding lead service line replacements seem to be inconsistent or unsupported by the record in this proceeding, particularly related to how the proposed income-based reimbursement policy fits within the context of PWSA's broader lead service line replacement program. See OCA M.B. at 16-17. A number of points raised in PWSA's Main Brief illustrate this concern, as will be discussed below. This further supports the OCA's position that the Commission should reject the proposed income-based reimbursement policy and direct PWSA to submit a single, comprehensive plan for replacing all public and private-side lead services lines in its system at no direct cost to customers.

PWSA reiterates that it has "voluntarily committed to formulating a plan that will, over time, completely eliminate lead in its water system," (PWSA M.B. at 56) but argues on the same page that "PWSA has no legal or regulatory obligation to repair or replace a customer's private service line." Id. PWSA seems to suggest that because of its jurisdictional argument, it has no obligation to ensure that customers are treated in a fair and consistent manner, both to achieve PWSA's stated goal of eliminating lead in an efficient manner and to ensure that customers are treated fairly and equitably as required by Section 1304 of the Public Utility Code. 66 Pa. C.S. § 1304.

Additionally, PWSA repeatedly makes promises to replace all lead in its system, but does not have a comprehensive plan to do so and does not explain how the reimbursement policy, which will likely result in many private-side lead service lines remaining in the ground (see OCA M.B.

at 20-23), fits within this stated goal. For example, PWSA states that “[t]he July 2019 Policy will eventually address all known residential lead service lines in PWSA’s system.” PWSA M.B. at 61. The record in this proceeding, however, does not include a plan or other information supporting this statement. PWSA does not currently have complete information on how many lead service lines are in the system and where the lead service lines are located. See PWSA M.B. at 52 (explaining PWSA’s timeline for completing an inventory of residential lead service lines by December 31, 2020). PWSA also has not presented a comprehensive plan for replacing all lead service lines, beyond generic statements that it intends to do so. Further, it is unclear how the July 2019 policy would ensure that all lines are replaced, particularly given that the income-based reimbursement policy requires customers with private-side only lead service lines to replace their lead line on their own initiative at some level of personal expense. See OCA M.B. at 20-23.

PWSA misstates the OCA’s position regarding the proposed income-based reimbursement policy. In its Main Brief, PWSA claims that the OCA and other parties “insist that PWSA must provide ‘free’ private-side line replacement to all residential customers who wish to have their line replaced (and not wait for PWSA to replace the water mains on his/her street – in which case PWSA will replace at no direct cost to the property owner).” PWSA M.B. at 58; see also PWSA M.B. at 73. This statement is inconsistent with the record in this proceeding. This statement indicates that all customers with private-side only lead service lines can simply wait their turn and have their lead service line replaced when PWSA replaces the public main, but that is not the OCA’s understanding of PWSA’s proposal as presented in the record. PWSA has not indicated that all private-side only lead service lines will be replaced. For example, as discussed by Pittsburgh UNITED, “by 2020, PWSA will have skipped nearly 2,000 private-side-only lead service lines located in areas covered by its neighborhood-based program.” UNITED M.B. at 9.

Thus, even in PWSA's current program, customers with private lead service lines do not receive a replacement unless the public side is also being replaced, resulting in many lead service lines remaining in the system. PWSA does not have a comprehensive plan to remove all lead from its system and, in particular, nothing indicates that all private-side only lines will be removed at no direct cost to customers unless PWSA happens to replace the public side. As discussed in the OCA's Main Brief, the income-based reimbursement policy is particularly concerning for customers in that PWSA has indicated that it may change course in the future. In Rejoinder Testimony, PWSA witness Weimar states that PWSA is:

...committed to eliminating all lead lines in its system . . . To do this, in 2021 PWSA will establish a plan and timeline to replace all lead service lines in its system and will establish a revised replacement timeline (its current goal is 2026) once it has completed its inventory of lead service lines in 2020.

PWSA St. No. C-1RJ at 4. It is unclear to the OCA how customers can adequately evaluate whether to spend their own time and money to replace their lead line now, or wait while their family is potentially being exposed to harmful lead contamination in the hope that PWSA may modify its policy and instead replace their private-side lead service line at no direct cost as part of a future program. OCA M.B. at 24-25.

To address the parties' concerns about the proposed income-based reimbursement policy, PWSA stated that it is "willing to work with third parties so PWSA would pay the customer's contractor (usually a plumber) directly, thereby obviating the need for the customer to initially 'front' the entire cost." PWSA M.B. at 63 (citation omitted); see also PWSA M.B. at 73-74. PWSA first raised this possibility late in the proceeding in its Rejoinder testimony. PWSA St. C-1RJ at 11. There is nothing in the record to substantiate if or how PWSA would do this, and nothing to this effect is included in the July 2019 Board Policy creating the income-based reimbursement policy. Additionally, while it would be helpful for customers to not be required to

pay all costs up front, this change would not fully address the OCA's concerns with the income-based reimbursement policy. As discussed in the OCA's Main Brief, PWSA has not demonstrated that this program would achieve any actual savings to the Authority, and the administrative burden of verifying customers' income and otherwise running this program are unknown but have been estimated at \$1,000 per customer. OCA M.B. at 22-23. The OCA submits that, rather than spending \$1,000 per customer in administrative costs and undertaking the significant burden of overseeing the income-based reimbursement policy, PWSA and its customers would be better served to put this funding and operational capacity toward replacing lead service lines at no direct cost to customers, thus ensuring that lead lines are being expeditiously removed from its system. Id. This modification also would not address the OCA's concern that the policy may be discriminatory under Section 1304 of the Public Utility Code, 66 Pa. C.S. § 1304.

As demonstrated in the OCA's Main Brief, PWSA has not met its burden of showing that the income-based reimbursement policy is just, reasonable, and otherwise in compliance with the Public Utility Code. OCA M.B. at 15-27. PWSA generically justifies the policy by stating that it "fairly balances the goals of eliminating lead in the PWSA system while controlling costs." PWSA M.B. at 64. While the OCA supports the goal of removing all lead from the distribution system at a reasonable cost to ratepayers, PWSA has not demonstrated that the income-based reimbursement policy will achieve either facet of this goal. In fact, the proposed policy will require PWSA to assume a significant administrative burden with high costs to ratepayers, just to implement a program that will likely result in many private-side lead lines remaining in service. See OCA M.B. at 19-23. The OCA further shares PWSA's concern about "the level of rate burden that PWSA ratepayers will have to bear in the coming years..." PWSA M.B. at 75. The income-based reimbursement policy, however, has not been shown to alleviate the ratepayer burden in any way.

The OCA submits that PWSA should instead focus on replacing all lead service lines, both public and private, at no direct cost to customers in the most efficient manner possible. The ad hoc or “one-off” private-side only lead service line replacements that would occur under the income-based reimbursement policy are very inefficient and miss economies that could be gained by a more systematic geographic approach. OCA M.B. at 27-28; OCA St. 2R-Supp at 3-5. PWSA also recognizes that a program similar to its current neighborhood-based program may also a reasonable approach in the future. PWSA M.B. at 77.

For these reasons and those discussed in the OCA’s Main Brief, the OCA maintains that: (1) the proposed income-based reimbursement policy will result in fewer lead service lines being replaced with little to no meaningful savings to the Authority; (2) that lead service lines represent a significant public health and safety risk and should be removed the PWSA’s system in their entirety; and (3) that this policy may not be consistent with Section 1304 of the Public Utility Code. For these reasons, the OCA requests that the Commission reject the income-based reimbursement policy and direct PWSA to submit a single, comprehensive plan for replacing all public and private-side lead services lines in its system.

### III. CONCLUSION

Based on the foregoing and for the reasons articulated in the OCA's Main Brief, the OCA respectfully requests that the Commission adopt its recommendations as discussed above and in its Main Brief. Specifically, the Commission should: (1) require PWSA to begin charging a flat rate to unmetered and/or unbilled municipal properties and non-profits which "ramps up" during a five-year transition period; and (2) reject PWSA's income-based reimbursement policy and direct PWSA to develop a comprehensive plan to replace all lead service lines in its service territory at no direct cost to customers.

Respectfully Submitted,



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