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September 30, 2019

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265


Re: Implementation of Chapter 32 of the Public Utility Code RE: Pittsburgh Water  
and Sewer Authority; Docket Nos. M-2018-2640802 and 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 and P-2018-3005039

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Pittsburgh Water and Sewer Authority's ("PWSA")  
Statement in Support of Joint Petition for Partial Settlement with regard to the above-referenced  
matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww  
Enclosure

cc: Hon. Conrad Johnson w/enc.  
Hon. Mark Hoyer w/enc.  
Certificate of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the PWSA's Statement in Support of Joint Petition for Partial Settlement upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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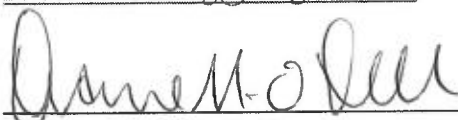
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Dated: September 30, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the	:	
Public Utility Code Re Pittsburgh Water	:	Docket No. M-2018-2640802 (water)
And Sewer Authority	:	M-2018-2640803 (wastewater)
	:	
And	:	And
	:	
Petition for The Pittsburgh Water and	:	Docket No. P-2018-3005037 (water)
Sewer Authority for Approval of Its Long-	:	P-2018-3005039 (wastewater)
Term Infrastructure Improvement Plan	:	

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**STATEMENT OF THE PITTSBURGH WATER AND SEWER AUTHORITY  
IN SUPPORT OF JOINT PETITION FOR PARTIAL SETTLEMENT**

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## **I. INTRODUCTION AND PROCEDURAL BACKGROUND**

The Pittsburgh Water and Sewer Authority (“PWSA,” the “Authority,” or the “Company”) offers this Statement In Support (“Statement”) of the Joint Petition for Partial Settlement (“Partial Settlement” or “Joint Petition”) entered into by PWSA, the Bureau of Investigation and Enforcement (“BIE” or “I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Pittsburgh UNITED (“UNITED”) and Pennsylvania-American Water Company (“PAWC”) (collectively, the “Joint Petitioners” or “Parties”).<sup>1</sup>

**PWSA is transitioning to full compliance with the Public Utility Code and the regulations and orders of the Pennsylvania Public Utility Commission (“Commission” or “PUC”).** By way of background, in 2018, as directed by the Chapter 32 of the Public Utility Code,<sup>2</sup> PWSA filed both its Compliance Plan<sup>3</sup> and its Long-Term Infrastructure Improvement Plan (“LTIP”) <sup>4</sup> with the Commission.<sup>5</sup> The Compliance Plan self-identifies areas where changes or improvements are needed to bring PWSA’s existing operations and procedures into compliance with applicable the requirements of the Commission. It also, together with the LTIP, presents proposals to implement such changes and improvements. Areas of inquiry, additional issues and/or alternative proposals regarding compliance and/or the LTIP were highlighted by

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<sup>1</sup> The Partial Settlement has been agreed to by all of the active parties in this proceeding.

<sup>2</sup> 66 Pa.C.S. § 3201 to 3209. On December 21, 2017, Governor Wolf signed Act 65 of 2017 into law whereby the Pennsylvania Public Utility Code was amended to add new language to 66 Pa.C.S. § 1301 and to add a new Chapter 32 consisting of Sections 3201 through 3209, 66 Pa.C.S. § 3201, et seq. (“Act 65” or “Chapter 32”).

<sup>3</sup> Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater).

<sup>4</sup> Docket Nos. P-2018-3005037 (water) and P-2018-3005039 (wastewater).

<sup>5</sup> See 66 Pa.C.S. § 3204(b). The Commission’s established a due date of September 28, 2018, for the filing by PWSA of a Compliance Plan and a LTIP. See Implementation of Chapter 32 of the Public Utility Code, Docket Nos. M 2018-2640802 (water) and M-2018-2640803 (wastewater), Final Implementation Order entered Mar. 15, 2018 (“FIO”).

the Commission's Staff,<sup>6</sup> PWSA's rate proceeding,<sup>7</sup> and the other active parties to these proceedings.

**The Partial Settlement is supported by all of the active parties.**<sup>8</sup> Overall, the Partial Settlement, if approved, expressly resolves a majority (75%)<sup>9</sup> of the issues among the Joint Petitioners. The Partial Settlement was reached after considerable review of PWSA's operations through a substantial amount of formal<sup>10</sup> and informal discovery, the submission of extensive testimony by the active parties,<sup>11</sup> and after a series of negotiations and discussions concerning all

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<sup>6</sup> On November 28, 2018, the Commission issued a Corrected Secretarial Letter ("November Secretarial Letter") and the accompanying Technical Staff Initial Report and Directed Questions – Stage 1 ("Stage 1 Initial Report"), which lists a variety of specific questions that PWSA and the parties were directed to address as part of the Stage 1 litigation. For ease of reference Exhibit RAW/C-1 reprinted the Commission's questions and sequentially numbers them. The Partial Settlement refers to Directed Questions by the numbering shown in Exhibit RAW/C-1.

<sup>7</sup> As part of the Commission-approved settlement ("Rate Settlement") in PWSA's July 2, 2018 base rate increase filing at Docket Nos. R-2018-3002645 (Water) and R-2018-3002647 (Wastewater), PWSA agreed that certain issues would be investigated as part of this consolidated proceeding.

<sup>8</sup> Please note that not every issue was of equal concern to every Joint Petitioner. Accordingly, each of the Joint Petitioners' statements in support does not necessarily address each and every aspect of the Partial Settlement. The inactive parties as well as commenters regarding the Commission's implementation orders (described in Paragraph 28 of the Joint Petition) did not file testimony and did not otherwise actively participate in this proceeding.

<sup>9</sup> By its terms, the Partial Settlement presents a resolution for 74.73% of the issues between the Joint Petitioners. As set forth on Exhibit 1 (Checklist) of the Joint Petition, the Joint Petitioners identified a total of 186 discrete issues involved in this proceeding. Agreement was reached on 139 issues. The Exhibit (Checklist) also shows that 25 issues are deferred to future proceedings (including those issues the Commission has already moved to Stage 2) and 18 issues were reserved for litigation. An additional 4 issues were no longer open due to either the passage of time and/or the resolution of other related matters. The total number of agreed-upon issues (139) divided by the total number of issues (186), multiplied by 100, equals 74.73%.

<sup>10</sup> PWSA responded to 700 interrogatories (including subparts) from the other active parties. In addition, PWSA responded to 42 data requests (including subparts) from the Bureau of Technical Utility Services ("TUS").

<sup>11</sup> The active parties submitted 7 rounds of written testimony. [1] On February 14, 2019, PWSA served its written direct testimony and exhibits. [2] Written directly testimony and accompanying exhibits, if any, were served by I&E, OCA, OSBA, Pittsburgh UNITED, and PAWC on April 5, 2019. [3] On May 6, 2019, PWSA, OCA, OSBA, and PAWC served their written rebuttal testimony and accompanying exhibits, if any. [4] On May 17, 2019, I&E, OCA, OSBA and Pittsburgh UNITED served their written surrebuttal testimony and accompanying exhibits, if any. Consistent with the extended litigation schedule, [5] PWSA written supplemental direct testimony and exhibits on August 2, 2019. OSBA also written supplemental direct testimony to which PWSA served its written supplemental rebuttal testimony on August 14, 2019. [6] On August 14, 2018, I&E, OCA, OSBA and Pittsburgh UNITED served their written supplemental rebuttal

of the issues raised by PWSA's Compliance Plan and LTIIP, including plans to enhance and modernize PWSA's infrastructure, compliance with PUC rules and regulations and PWSA's plans to address lead levels in its water supply and the replacement of lead service lines. The Partial Settlement, therefore, represents a reasonable accepted resolution to virtually all of these issues (a handful of issues were reserved for litigation).

The Joint Petitioners agree that both the Compliance Plan<sup>12</sup> and the LTIIP<sup>13</sup> should be approved, subject to the terms and conditions of the Partial Settlement and subject to modifications – to the extent necessary – to take into account of the resolution of the remaining “Litigation Issues.”<sup>14</sup>

The Compliance Plan, as modified by the Partial Settlement and subject to the Litigation Issues, adequately ensures and maintains the provision of adequate, efficient, safe, reliable and reasonable service to customers. It contains agreed-upon resolutions which create workable and viable paths for PWSA's transition to full compliance.

In addition, the Partial Settlement – if approved – resolves all of the issues among the Joint Petitioners regarding the LTIIP proceeding. The LTIIP will adequately ensure and maintain the provision of adequate, efficient, safe, reliable and reasonable service to customers. The Partial Settlement will approve the initial LTIIP, which (a) shows the acceleration of the

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testimony and accompanying exhibits, if any. [7] On August 19, 2018, PWSA written supplemental rejoinder testimony.

<sup>12</sup> The current version of the Compliance Plan is found at PWSA Hearing Exh. 1 and PWSA Hearing Exh. 2. During the course of the proceeding, the Compliance Plan (PWSA Hearing Exh. 1) was updated and supplemented (by PWSA Hearing Exh. 2) to reflect changed conditions.

<sup>13</sup> The current version of the LTIIP is found at PWSA Hearing Exh. 3. During the course of the proceeding, the LTIIP (as filed on September 28, 2018) was updated (PWSA Hearing Exh. 3).

<sup>14</sup> The “Litigation Issues” are stated in Section IV of the Partial Settlement. Please note that Section IV of the Partial Settlement consolidates and summarizes the 18 litigation issues shown on the Exhibit 1 (Checklist) to the Partial Settlement.



replacement of infrastructure by PWSA and (b) will enable PWSA to seek to implement a Distribution System Improvement Charge (“DSIC”).

The Commission encourages parties in contested on-the-record proceedings to settle cases. Settlements eliminate the time, effort and expense the parties must expend litigating a case and at the same time conserve administrative resources. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding.

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.

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.

PWSA respectfully submits that the Partial Settlement clearly satisfies this standard. It provides plans for PWSA compliance with scores of PUC Regulations that are carefully crafted so that they can realistically be achieved by PWSA and acceptable to the advocates for the public interest (I & E), residential consumers (OCA) small business customers (OSBA), low income customers (Pittsburgh United) and even one interested water utility (PA American). PWSA respectfully requests that the Presiding ALJs recommend that it be approved by the Commission.

PWSA submits that the agreed-upon paths forward set forth in the Partial Settlement are reasonable given PWSA's current financial and operational conditions and represent a carefully balanced compromise of the interests of the Joint Petitioners. PWSA submits, therefore, that the Partial Settlement is in the public interest, just and reasonable, and supported by substantial evidence and should be approved without modification. Accordingly, for the reasons set forth herein and in the Partial Settlement, PWSA respectfully requests that the Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Conrad A. Johnson (collectively, the "ALJs") and the Commission: 1) approve the Partial Settlement without modification; 2) resolve the Litigation Issues; and 3) permit PWSA to file a Compliance Tariff that includes the tariff supplement<sup>15</sup> annexed as Exhibit 2 to the Partial Settlement as well other revisions as needed to support implementation of the Commission's final order.

## **II. OVERALL SUMMARY OF STATEMENT IN SUPPORT**

PWSA's goal is to become a first class utility, providing excellent and efficient service at reasonable rates.<sup>16</sup> Progress towards that goal includes addressing the mandates to update infrastructure and service imposed by entities that have primary jurisdiction over PWSA's water quality – the PA Department of Environmental Protection ("PADEP") and the US Environmental Protection Agency ("EPA"). Progress also includes plans (or paths) for PWSA to come into full compliance with the requirements applicable to jurisdictional water and wastewater utilities under the Public Utility Code and applicable rules, regulations and orders of the Commission.<sup>17</sup>

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<sup>15</sup> PWSA Exh. JAQ/C-17

<sup>16</sup> PWSA St. No. C-1R at (Weimar) at 3.

<sup>17</sup> See 66 Pa.C.S. § 3204(b).

Prioritization and the time provided to complete tasks are important aspects of any workable and viable path forward for PWSA.<sup>18</sup> The transition to full compliance will be a process.<sup>19</sup> PWSA has many issues that need a path forward not only to address a long history of system disinvestment but also to implement the difficult and time consuming steps needed to transition to full compliance. The hard reality is that PWSA is not able to *simultaneously and immediately* complete and finance all of the tasks required for full compliance with PUC regulations and continued compliance with the timelines mandated for capital improvement projects.<sup>20</sup> There is only a certain level of spending that PWSA will be able to sustain at current rates, along with additional just and reasonable rate increases.<sup>21</sup> So, PWSA's need to spend money on capital projects and/or PUC regulatory transitional efforts must be balanced against the requirement that PWSA's rates must be reasonable and not subject its ratepayers to "rate shock."

The Compliance Plan, as modified by the Partial Settlement, contains agreed-upon resolutions which recognize these realities and create workable and viable paths for PWSA's transition to full compliance. In some instances, the path consists of a gradual movement towards full compliance.<sup>22</sup> In others, the path includes taking partial steps in order to complete all the

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<sup>18</sup> PWSA Petition for Approval of Compliance Plan at ¶ 12, which states, in part: "The number and complexity of the areas in which improvement is required means that all areas will not be able to be addressed at once. Again, PWSA and the parties, with oversight and approval by the Commission will need to engage in a process of weighing the risks and benefits of addressing various compliance issues sooner rather than later. On that basis, a prioritization of the numerous compliance issues and their order of implementation will need to be developed in the course of the Compliance Plan proceeding."

<sup>19</sup> PWSA St. No. C-1R at (Weimar) at 4.

<sup>20</sup> See PWSA St. No. C-1R at (Weimar) at 4-6.

<sup>21</sup> PWSA St. No. C-1R at (Weimar) at 5. This point holds true even if PWSA seeks a rate increase. Any rate increase will only support a certain level of spending on capital projects and/or transitional efforts, since that increase must also be balanced against the requirement that PWSA's rates must be reasonable.

<sup>22</sup> See PWSA St. No. C-1R at (Weimar) at 4.

tasks necessary for compliance at some later date.<sup>23</sup> Together these paths create a balance,<sup>24</sup> so that PWSA can increase its human capital, consultant or support resources to address the outstanding issues in a manner consistent with its ability to effectively manage the agreed upon compliance activities while maintaining its ability to meet its customer requirements and needs.

### **III. REASONS FOR SUPPORT OF SPECIFIC ISSUES**

#### **A. Financial, Accounting Practices, And Commission Required Reports**

##### **1. System of Accounts (52 Pa. Code §65.16)**

###### ***a. Statement of the Issue***

The PUC regulation 52 Pa. Code § 65.16 states that a public utility of PWSA's size shall keep its accounts in conformity with the most recent National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) for Class A Water Utilities. PWSA presently does not conform to NARUC's USOA; its chart of accounts, and resulting financial reports, are maintained in accordance with the Governmental Accounting Standards Board. In PWSA's Compliance Plan<sup>25</sup>, PWSA explained that it had started a "gap analysis" which will compare its present chart of accounts with the USOA. In the 2019 budgeting process (for the 2020 year budget), PWSA also planned to incorporate general ledger codes into its budget and begin tracking those codes to fill in voids identified by the gap analysis.<sup>26</sup> This will give PWSA the ability to generate reports of financials that will track the USOA. This is expected to be possible some time in 2020. PWSA also needs to implement an Enterprise Resource Planning System in order to be able to fully convert to all of its accounts to USOA.

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<sup>23</sup> See PWSA St. No. C-1R at (Weimar) at 4.

<sup>24</sup> Before any proposals in the Partial Settlement are changed or expedited, the PWSA, the Parties and the PUC should try to agree on how any such modification changes the priorities or its funding abilities. PWSA St. No. C-1R (Weimar) at 6.

<sup>25</sup> Compliance Plan at 62-63.

<sup>26</sup> Compliance Plan at 63.

The Parties took the position that PWSA needed to comply with this regulation.<sup>27</sup> I&E witness Patel recommended that PWSA revise its Compliance Plan to provide more detail about the status of the development of its enterprise resource planning system, needed to fully convert all individual accounts to the USOA NARUC system.<sup>28</sup>

***b. Terms of the Partial Settlement***

In the Partial Settlement, PWSA agreed to convert its accounting system to full NARUC Uniform System of Accounts (“USOA”) compliance in two phases: For Phase I, PWSA has manually mapped the PWSA Chart of Accounts (“COA”) to the NARUC USOA so that completion of the 2020 operating budget will include the NARUC USOA to conform and comply with reporting requirements. All Commission required reporting for 2019 (and in the future) will use the NARUC USOA.<sup>29</sup>

For Phase II, PWSA will fully convert (and therefore automate the process) to the NARUC COA during the implementation of a new Enterprise Resource Planning (“ERP”) System. PWSA also agreed to make good faith efforts to complete installation of the Enterprise Resource Planning System by December 2021 given the below processes that must be put into place first:

- i. PWSA needs to issue a Request for Proposal (“RFP”) to develop and implement the new ERP;
- ii. PWSA expects to issue the RFP by August 30, 2019;
- iii. PWSA anticipates that the contract will be awarded in early 2020; and,

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<sup>27</sup> See, e.g., I &E St. 2 at 3-7,

<sup>28</sup> Id. at 6-7.

<sup>29</sup> Partial Settlement at Section III.A.

- iv. PWSA anticipates an 18-22 month implementation timeframe for financials and billing once the contract is awarded.

PWSA will report on its progress on a quarterly basis in the PWSA Compliance Plan Progress Reports. The reporting will include (when available):

- a. Date when Request for Proposal is issued;
- b. Notice of selection of an ERP contractor;
- c. Contractor projected ERP system cost; and
- d. Detailed implementation schedule.

***c. The terms of the Partial Settlement are in the Public Interest***

The two stage process agreed to in the Partial Settlement represents a reasonable and rationale process by which PWSA will come into full compliance with Section §65.16 and convert its accounting records to PUC-required Uniform System of Accounts. Stage I will revise PWSA's financial reports so that the outputs will reflect the same categories of assets, revenues, expenses, etc. as required by NARUC USOA. This will be a manual process that PWSA's finance team will complete. Stage II will be to fully convert all individual accounts to be in compliance with NARUC USOA. This will take place after PWSA implements a new ERP system. This is reasonable because the current financial system is antiquated and will take much time, effort, and funding to convert the chart of accounts. Converting to the NARUC chart of accounts during the implementation of the new ERP system allows PWSA to keep the archived financial information consistent. After completion of these two steps, PWSA expects to be in full compliance by 2021. PWSA will report on its progress on a quarterly basis.

**2. Annual Depreciation Reports (52 Pa. Code §73.3)**

***a. Statement of the Issue***

As PWSA indicated in the Compliance Plan (p. 87), it does not currently have the capability to produce a depreciation report or service life study report with the detail required by

the Commission. (See, 52 Pa. Code § 73.4, 73.5). When PWSA was created as an authority, and spun off from the City of Pittsburgh, it inherited asset records from the City that lacked specificity or precision. As also noted in the Compliance Plan, PWSA has been keeping better records since its full takeover. Depreciation is posted monthly and at year end. While audited annually, PWSA does not have complete confidence in the accuracy of its current asset or depreciation records. Accordingly, the Authority proposed the following steps in order to come into compliance:

- Commit to coming into compliance with 52 Pa. Code §§ 73.4 and 73.5 over five years, with the filing of its first annual depreciation report in April 2024 for FY 2023.
- Commission a fixed asset study in 2019 that will likely be completed no later than 2021.

The fixed asset study will provide the Authority with a complete list of assets and their current condition. After completing the fixed asset study, the next steps will be to create a ‘replace or repair’ schedule, and to more accurately present the current asset or depreciation records.

While the Parties appeared to accept PWSA's proposal to fully comply with the PUC's annual depreciation reporting, requirements by 2024 (for 2023), they also recommended that PWSA be required to file partial annual depreciation reports on the same schedule as full annual depreciation reports, detailing only known and newly constructed plant additions and retirements. I&E stated that PWSA should start this filing in 2020.<sup>30</sup>

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<sup>30</sup> I & E St. 3 at 50-51.

***b. Terms of the Partial Settlement***

PWSA and the Parties agreed that the Authority will fully comply with the Commission annual depreciation reporting requirements by 2024 (for 2023). During the interim period and starting in 2020, PWSA: 1) will file partial annual depreciation reports on the same schedule as full annual depreciation reports, detailing only known and newly constructed plant additions and retirements; and 2) will solicit the services of a professional consultant experienced with this type of work and reporting to assist PWSA with compliance. PWSA will also work with the professional services consultant and the newly implemented Enterprise Resource Planning System to hone the current asset list to allow for full reporting by 2024.

***c. The terms of the Partial Settlement are in the Public Interest***

The process set out in the Partial Settlement for PWSA being able to fully comply with the Commission's annual depreciation reporting requirements by 2024 (for 2023) represents a reasonable and rationale process by which PWSA will come into full compliance with Section 73.3. While PWSA has committed to taking the necessary steps to be able to start filing PUC compliant depreciation reports by 2024 (for 2023), PWSA believes that its current depreciation accounting and reporting is reasonable and will not have an impact on PWSA's implementation of a DSIC. As PWSA explained in its Compliance Filing and its Direct Testimony, PWSA's base rates are established on a "cash flow" basis and not based on a return on depreciated investment.<sup>31</sup> Moreover, if it filed for a DSIC, the DSIC would be established to recover the actual expenditures for DSIC eligible plant and facilities (up to whatever is established). Therefore, PWSA's depreciation accounts will not be relevant to an accurate implementation of a

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<sup>31</sup> PWSA Compliance Filing, p. 87.



DSIC. Accordingly, putting in place the necessary systems to permit PWSA to fully report depreciation on a full “PAPUC” basis by 2024 is reasonable.

3. **Capital Investment Plan Report (52 Pa. Code §§73.7-73.8)**

*a. Statement of the Issue*

52 Pa. Code §§73.7 and 73.8 require public utilities of PWSA’s size to file “Capital Investment Plan reports. Those reports require, among other things, that a public utility The report requires information about a utility’s major construction plans. The Parties testified that PWSA should be required to make this filing.”<sup>32</sup>

*b. Terms of the Partial Settlement*

PWSA will file the Capital Investment Plan Reports pursuant to 52 Pa. Code 73.7 and 73.8 starting in 2020 and every five years thereafter.

*c. The terms of the Partial Settlement are in the Public Interest*

PWSA has agreed with the parties to fully comply with Section 73.7. Therefore this settlement term is reasonable.

4. **PWSA Risk and Resilience Assessment and Updated Emergency Response Plan as required by the America Water Infrastructure Act (AWIA) (42 U.S.C. §300i-2)**

*a. Statement of the Issue*

Section 65.11 of the Commission’s regulations address a public utility’s use of voluntary and mandatory conservation measures to reduce or eliminate nonessential uses of water when it is experiencing a short term supply shortage. The regulations require water utilities to file plans

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<sup>32</sup> I & E St. 1 at 19-20.

of their contingent mandatory conservation measures with the Commission as part of their tariff rules and regulations.<sup>33</sup>

PWSA presented testimony that the existing tariff provisions adequately address voluntary and mandatory water restrictions. Also, since PWSA is in a water-rich location, it has rarely needed to impose water conservation measures on its customers. PWSA has not developed specific standard operating procedures for situations that require mandatory conservation measures and was evaluating how to address the requirements of Section 65.11 in the context of revising its Emergency Response Plan (“ERP”). PWSA anticipated that completion of this process by 2020 is a reasonable timeframe.<sup>34</sup>

I&E recommended that PWSA file a revised Compliance Plan stating that it would develop mandatory water restriction procedures by no later than the close of 2019 and incorporate those procedures into PWSA’s pending ERP.<sup>35</sup> In response, PWSA explained that it must comply with the America Water Infrastructure Act (“AWIA”),<sup>36</sup> which requires drinking water systems to complete a risk and resilience assessment (“RRA”) and Emergency Response Plans (“ERP”) every five years. Guidance from the Environmental Protection Agency (“EPA”) was just released on August 1, 2019, including an updated ERP template. Now that PWSA has received this guidance, it will need to review it and undertake the process of performing its RRA so that it can finalize its ERP. This is relevant for purposes of this proceeding because PWSA’s

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<sup>33</sup> 52 Pa. Code § 65.11.

<sup>34</sup> PWSA St. No. C-1 (Weimar) at 35.

<sup>35</sup> I&E St. 4 at 13-14, 39.

<sup>36</sup> 42 U.S.C. §300i-2.

final ERP will include the internal processes and procedures being developed (or already developed) by PWSA to comply with the Commission's regulations.<sup>37</sup>

***b. Terms of the Partial Settlement***

In the Partial Settlement, PWSA noted its commitment to conducting a RRA as required by the AWIA, which must be concluded by March 31, 2020. The AWIA also obligates PWSA to prepare an ERP by September 30, 2020. Pending final completion of its ERP, the parties agreed that PWSA is developing or has developed internal processes and procedures to comply with Commission regulations and requirements, which will ultimately be included in the final ERP. PWSA has further agreed to update the status of its RRA and ERP in its Compliance Plan Progress Reports.<sup>38</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

For purposes of PWSA complying with the Commission's regulations relating to mandatory conservation measures, it is in the public interest to await the completion of the RRA and ERP, as required by the AWIA. It would be inefficient for PWSA to undertake a separate process to develop standard operating procedures to address this requirement in the regulations. Particularly given PWSA's testimony that it is extremely rare for PWSA to impose mandatory conservation measures on its customers given its water-rich location, development of an ERP to address these issues and others by September 30, 2020 is reasonable.

**5. Security Planning and Readiness (52 Pa Code §§101.1 to 101.7)**

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<sup>37</sup> PWSA St. No. C-1SD (Weimar) at 17-18.

<sup>38</sup> Partial Settlement at Section III.D.

*a. Statement of the Issue*

Sections 101.1 through 101.7 of the Commission’s regulations address public utility preparedness through self-certification, requiring utilities to develop and maintain appropriate written physical security, cyber security, emergency response and business continuity plans to protect the Commonwealth’s infrastructure and ensure safe, continuous and reliable utility service. In addition, utilities are required to submit a Self-Certification Form to the Commission documenting compliance with these regulations.<sup>39</sup>

Although PWSA is working toward compliance with these regulations, it does not currently have a physical security plan, a cyber security plan, an emergency response plan, or a business continuity plan that meets the requirements of the Commission’s regulations. However, PWSA has recently conducted physical and cyber-security assessments and has an emergency response plan that is in the process of being updated. Regarding the business continuity plan, PWSA has a plan that contains elements of what the Commission requires, but it is not comprehensively compiled in one place. Also, PWSA does not currently meet the reporting requirements described in the regulations.<sup>40</sup>

PWSA described its process for complying with the Commission’s requirements relating to security and readiness, which involved the hiring of a consultant and a new information technology (“IT”) director. In addition, PWSA consulted with representatives of Department of Homeland Security and obtained feedback from the Allegheny County Health Department and the Pennsylvania Department of Environmental Protection. Of note, PWSA has earmarked funds in its budget for these functions and expects to hire permanent staff to assist with ongoing

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<sup>39</sup> 52 Pa. Code §§ 101.1-101.7.

<sup>40</sup> PWSA St. No. C-2 (Lestitian) at 6.

efforts. Also, the AWIA, which was enacted on October 23, 2018, established a series of obligations for water utilities in the areas of security and emergency response planning. Further, PWSA identified target dates for the completion of these plans and noted that the cyber security plan had received internal approval as of August 1, 2019. As to the filing of the Self-Certification Form, PWSA indicated that it would be filed by February 28, 2020, which is the date required by the Commission's regulations for all utilities.<sup>41</sup>

I&E took the view that because these plans are crucial to the integrity of PWSA's operations, they must be completed as soon as possible.<sup>42</sup> I&E recommended that PWSA provide the Commission, through additional information in this proceeding, with a more detailed timeline for anticipated completion of these plans so that a date for certification of these obligations can be confirmed.<sup>43</sup>

In response to the Commission's directed question asking the parties to discuss whether PWSA should consult with Commission staff regarding its completed plans, PWSA noted its willingness to meet with the supervisor and staff of the Commission's Reliability and Emergency Preparedness Section of the Bureau of Technical Utility Services ("TUS") to review its completed plans. Indeed, PWSA welcomed the input and expertise of the Commission staff in developing the plans required by Chapter 101 of the Commission's regulations.<sup>44</sup> I&E agreed that PWSA should consult with staff in the development of these plans.<sup>45</sup>

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<sup>41</sup> PWSA St. No. C-2 (Lestitian) at 6-7; PWSA St. No. C-2R (Lestitian) at 4-6; PWSA St. No. C-2SD (Lestitian) at 2-3.

<sup>42</sup> I&E St. No. 4 at 21-22.

<sup>43</sup> I&E St. No. 4 at 22-23.

<sup>44</sup> PWSA St. No. C-2 (Lestitian) at 7-8.

<sup>45</sup> I&E St. No. 4 at 22-23.

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA committed to consulting with Commission staff in the development of its physical security, cyber security, emergency response and business continuity plans, as well as working with the Department of Homeland Security and the Federal Bureau of Investigation. PWSA also agreed to specific dates for the completion of the plans, which may be updated pursuant to the RRA that is currently underway as required by the AWIA. Those dates are as follows:

- Physical security plan – December 31, 2019
- Cyber security plan – August 1, 2019
- Emergency response plan – October 31, 2019
- Business continuity plan – October 31, 2019

PWSA further committed to filing its Self-Certification Form by February 28, 2020 and to providing a status update in its October 31, 2019 Compliance Plan Progress Report regarding its efforts to achieve the above stated target dates.<sup>46</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

These terms are in the public interest because they provide a solid framework for PWSA's completion of its physical security, cyber security, emergency response and business continuity plans to fulfill the requirements of the Commission's regulations. The consultation with Commission staff in TUS, as well as federal agencies, will ensure that the plans contain the necessary elements. Additionally, PWSA will have the benefit of incorporating additional information that results from the RRA. The target dates agreed to by the parties should ensure that all necessary work is done to enable PWSA to file its Self-Certification Form by February

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<sup>46</sup> Partial Settlement at Section III.E.

28, 2020. The filing of a status update on October 31, 2019 will make the parties aware of PWSA's progress in achieving compliance with these Commission regulations.

6. **Notices Regarding Accident, Death, Service Interruptions/Outage, Physical or Cyber Attack and Low Pressure Incidents Required to be Reported to DEP (52 Pa. Code §§65.2, 65.5, 67.1, and 69.1601-69.1603)**

a. *Statement of the Issue*

Under the Commission's regulations, utilities are required to submit a report to the Secretary of the Commission regarding each reportable accident involving the facilities or operations of the utility. Reportable accidents are those that result in the following circumstances: death of a person; injury that requires immediate treatment at a hospital emergency room or in-patient admittance to a hospital; occurrences of an unusual nature that result in a prolonged and serious interruption of normal service; or occurrences of an unusual nature that are a physical or cyber-attack, including attempts at cyber security measures, that cause an interruption of service or more than \$50,000 in damages. A telephone report must be made immediately after the utility becomes aware of the occurrence of a reportable accident involving a death, an injury requiring hospital treatment or hospitalization or a physical or cyber-attack. For other reportable accidents, telephone reports must be made within 24 hours after the utility becomes aware of them. Within 30 days of the occurrence of a reportable accident, a utility is required to submit a written report made on Form UCTA-8.<sup>47</sup>

PWSA is actively working toward compliance with these requirements and at that time was in the process of updating its Incident Policies and Procedures, as well as further developing and documenting standard operating procedures. PWSA has updated its Incident Investigation

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<sup>47</sup> 52 Pa. Code § 65.2.

Policies and Procedures to ensure compliance with 52 Pa. Code § 65.2. In addition, PWSA has developed and documented its standard operating procedures through the designation of its Director of Operations as the person who is responsible for ensuring that telephone and written reports are completed as required. As a result of these measures, PWSA believed that it was already in compliance with the accident reporting requirements.<sup>48</sup>

I&E noted that PWSA's testimony only identified fatalities as triggering immediate telephone reports to Commission staff and that the regulations also require telephone reports to be made immediately when there is: (i) an occurrence of an unusual nature, whether or not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service; and (ii) an occurrence of an unusual nature that is a physical or cyber-attack, including attempts against cyber security measures as defined in Chapter 101 (relating to public utility preparedness through self-certification) which causes an interruption of service or over \$50,000 in damages or both. 52 Pa. Code § 65.2(b). Therefore, I&E recommended that the Commission order PWSA to file a revised Compliance Plan stating that PWSA's Incident Investigation Policies will be updated to comply with its obligation to make immediate telephone reports after the additional two above-cited occurrences that he identified.<sup>49</sup>

PWSA agreed with this assessment and recommendations, with the only caveat being that the regulations trigger the telephone reports only after the utility becomes aware of the occurrence of the reportable accident. Therefore, PWSA has updated its Incident Investigation Policies to provide telephone notifications to Commission staff immediately upon becoming aware of reportable accidents involving a fatality; an occurrence of an unusual nature, whether or

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<sup>48</sup> PWSA St. No. C-2 (Lestitian) at 4-5; PWSA St. No. C-2R (Lestitian) at 3.

<sup>49</sup> I&E St. No. 4 at 10-11.



not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service; and an occurrence of an unusual nature that is a physical or cyber-attack, including attempts against cyber security measures as defined in Chapter 101 (relating to public utility preparedness through self-certification) which causes an interruption of service or over \$50,000 in damages or both.<sup>50</sup>

The Commission's regulations also require public utilities to keep a record of each prolonged interruption of service affecting its entire system or a part of its system. The record must contain the time, cause, extent and duration of the interruption. Further, the interruptions are required to be treated in accordance with the provisions of Section 56.71 (relating to interruption of service)<sup>51</sup> and Chapter 67 (relating to service outages)<sup>52</sup> in the Commission's regulations. In addition, scheduled interruptions are to be done at hours that will provide the least convenience to the customers consistent with reasonable and economical utility operating practices.<sup>53</sup>

Section 67.1 obligates public utilities to adopt a series of steps to notify the Commission regarding unscheduled service interruptions. Under this regulation, public utilities must notify the Commission when 2,500 or 5.0% of their total customers have an unscheduled service interruption in a single event for 6 or more projected consecutive hours. A service outage report must then be filed when the within 10 working days after the total restoration of service. When storm conditions cause multiple reportable interruptions, a single composite outage report must

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<sup>50</sup> PWSA St. No. C-2-R (Lestitian) at 3.

<sup>51</sup> 52 Pa. Code § 56.71.

<sup>52</sup> 52 Pa. Code, Ch. 67.

<sup>53</sup> 52 Pa. Code § 65.5.

be filed for the event. The regulations specify the information that must be contained in the report. In addition to his report, the utility is obligated to notify the Commission by telephone within 1 hour after preliminary assessment of conditions reasonably indicates that the criteria listed in this section may be applicable.<sup>54</sup> The Commission's "Unscheduled Water Service Interruptions and Associated Actions" Policy Statement provides guidance relating to unscheduled water service interruptions and states that if an interruption involves the quality of water, water utilities should follow the Department of Environmental Protection ("DEP") regulations regarding public notifications.<sup>55</sup> In the directed questions, the Commission asked the parties to address PWSA's compliance with these requirements.

PWSA described the steps that it will follow for notifying the Commission of unscheduled service operations. Specifically, PWSA will establish an open communication channel will establish an open communication channel with the designated representatives of the Commission to notify of unscheduled service interruptions that affect at least 2500 customers. PWSA is in the process of revising its current flow chart of communication protocols to include the Commission and expects to have this completed by the end of the first quarter 2019.<sup>56</sup> As to the notification to customers, PWSA explained that field crews notify the Public Affairs department which sends out automated telephone calls to the affected customers. Foreman on-site may also notify affected persons directly in person if possible. Emails and social media notifications are also issued if the outage is larger than 40 homes or a major traffic thru-way is blocked due to work. PWSA's Communications Department coordinates the appropriate

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<sup>54</sup> 52 Pa. Code § 67.1

<sup>55</sup> 52 Pa. Code §§ 69.1601-69.1603

<sup>56</sup> PWSA St. No. C-1 (Weimar) at 46-47.

response to the public on behalf of PWSA through the normal channels, including newspaper, radio and television transmissions, direct emails, phone calls, and social media.<sup>57</sup>

I&E expressed concern that PWSA may not have a procedure in place to assure that the Commission receives adequate notification of an emergency. Therefore, I&E recommended that PWSA incorporate the following recommendations into its pending Emergency Response Plan: (1) provide additional information regarding whether PWSA has met its target of revising communication protocols to include notification to the Commission by the first quarter of 2019; and (2) notify the Commission of any low pressure incident or other service interruption for which it notifies PA DEP.<sup>58</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement reflects PWSA's revisions its Internal Investigation Policy and Procedures to ensure that telephone reports are made to Commission staff immediately after becoming aware of: i) the death of a person; (ii) an occurrence of an unusual nature, whether or not death or injury of a person results, which apparently will result in a prolonged and serious interruption of normal service; and (iii) an occurrence of an unusual nature that is a physical or cyber-attack, including attempts against cyber security measures as defined in Chapter 101 (relating to public utility preparedness through self-certification) which causes an interruption of service or over \$50,000 in damages or both.<sup>59</sup>

With respect to Unscheduled/Emergency Service Disruptions and Low Pressure Incidents required to be reported to PADEP, the Partial Settlement provides that PWSA is in the process of

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<sup>57</sup> PWSA St. No. C-1 (Weimar) at 47.

<sup>58</sup> I&E St. 4 at 17, 39.

<sup>59</sup> Partial Settlement at Section III.F.1.

soliciting applicants for an Environmental Health and Safety professional who is anticipated to be hired in 2019. Pending this, a consultant is currently serving in this role to assist in developing and communicating a Standard Operating Procedure (“SOP”) for communicating Emergency Service Disruptions to the Commission, among others (including the public). Also, PWSA’s revised communication protocols include notifications to the Commission of unscheduled water service interruptions and to DEP of any low pressure incident or other service interruption.<sup>60</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

By memorializing the changes to PWSA’s Internal Investigation Policy to address immediate telephone reports of occurrences identified in the Commission’s regulations, the Partial Settlement demonstrates PWSA’s full compliance with the PUC’s accident reporting requirements. The Partial Settlement also establishes a process for ensuring that unscheduled or emergency service disruptions are timely communicated to the Commission and the public. It further ensures that PADEP receives required notifications. Through documenting PWSA’s reporting requirements for accidents and emergencies, these terms of the Partial Settlement are in the public interest.

**B. Metered Service And Meter Testing**

**1. Plan To Identify Unmetered/Unbilled and Flat Rate Properties 52 Pa. Code § 65.7**

***a. Statement of the Issue***

Pursuant to Section 65.7 of the Commission’s regulations, utilities are required to provide a meter to each of their water customers, except for fire protection customers, and shall provide

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<sup>60</sup> Partial Settlement at Section III.F.2.

water service on an exclusively metered basis, except for water provided for fire protection.<sup>61</sup> In its Compliance Plan, PWSA provided that it is currently in compliance with most of Section 65.7; however not all customers are currently metered.<sup>62</sup> PWSA explained that it is in the process of securing a contractor to assist with inspecting, sizing and installing meters and associated equipment for 200-400 municipal buildings, as well as 500 flat rate customers.<sup>63</sup> PWSA provided that the exact number of unmetered and/or unbilled locations is pending confirmation.<sup>64</sup> PWSA explained, “Because the plumbing at many of the non-metered locations was not designed to accept meters, a significant amount of re-plumbing and/or construction may be required at some sites.”<sup>65</sup> PWSA explained that this effort may consist of installing new plumbing fixtures, pipe and valving, constructing meter pits, and/or building facilities to satisfactorily house meters and appurtenances.<sup>66</sup> Because of the variation in sites and meter needs, PWSA explained that it does not expect to complete metering all locations for approximately five years.<sup>67</sup> PWSA further explained its intention to hire outside contractors to support this initiative.<sup>68</sup>

In his testimonies, PWSA witness Mr. Robert Weimar explained PWSA’s plans and ongoing efforts to identify and meter currently unmetered/unbilled municipal properties and flat

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<sup>61</sup> 52 Pa. Code § 65.7.

<sup>62</sup> Compliance Plan at 56.

<sup>63</sup> *Id.*

<sup>64</sup> Compliance Plan at 108.

<sup>65</sup> *Id.* at 109.

<sup>66</sup> *Id.*

<sup>67</sup> Compliance Plan at 56.

<sup>68</sup> *Id.*

rate customers.<sup>69</sup> Specifically, in his testimony, Mr. Weimar clarified that, in addition to the 200-400 municipal buildings that are currently unmetered, there are between 300-400 municipally-owned fountains, pools, etc. that need to be metered.<sup>70</sup> Mr. Weimar testified that PWSA will strive to accelerate the timeframe for completing the metering of municipal facilities and explained that PWSA may be able to complete the metering of municipal facilities in two to three years.<sup>71</sup> Nevertheless, Mr. Weimar explained that PWSA needs flexibility to reprioritize and shift anticipated timeframes, if necessary, to ensure that all projects are handled within available funds and that priority items are addressed.<sup>72</sup> As such, Mr. Weimar recommended that the Commission grant PWSA a five-year time period to complete the metering of municipal facilities.<sup>73</sup> Similarly, Mr. Weimar explained that PWSA anticipates it will take approximately five years to complete the metering of flat rate customers, but recommended that the Commission grant PWSA flexibility in these efforts as well.<sup>74</sup>

In his Supplemental Direct Testimony, Mr. Weimar provided an update to PWSA's efforts to identify unmetered/unbilled municipal and flat rate customers. Mr. Weimar explained that PWSA had selected and awarded a contract to Professional Engineering Consultant, Buckhart Horn, to assist in identifying and evaluating unmetered facilities and flat rate customers.<sup>75</sup> Mr. Weimar further explained that PWSA had started site inspections of these

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<sup>69</sup> PWSA St. No. C-1R (Weimar) at 16.

<sup>70</sup> See PWSA St. No. C-1 (Weimar) at 26 and PWSA St. No. C-1R (Weimar) at 17.

<sup>71</sup> See PWSA St. No. C-1 (Weimar) at 26 and PWSA St. No. C-1R (Weimar) at 17.

<sup>72</sup> *Id.*

<sup>73</sup> PWSA St. No. C-1R (Weimar) at 17.

<sup>74</sup> *Id.* at 18.

<sup>75</sup> PWSA St. No. C-1SD (Weimar) at 12.

unmetered facilities.<sup>76</sup> Mr. Weimar testified that PWSA plans to actively search for additional municipal, flat rate, and other unmetered properties through various Geographic Information System (“GIS”) and other data sources.<sup>77</sup> When found, these properties will be added to the list of properties requiring meters.<sup>78</sup> Consistent with the Buchart Horn Proposal, Mr. Weimar explained that PWSA expects that all unmetered and/or unbilled locations will be identified by June 29, 2020.<sup>79</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement contains numerous provisions identifying the Authority’s efforts to-date to meter unmetered facilities and requiring the Authority to take additional measures to ensure compliance with Section 65.7 of the Commission’s regulations.<sup>80</sup> Specifically, the Partial Settlement provides that PWSA has accepted a proposal from Buchart Horn to assist in identifying and evaluating unmetered properties and flat-rate customers and has started site inspections of unmetered facilities.<sup>81</sup>

The Partial Settlement also requires PWSA, where physically possible, to install meters at all unmetered municipal buildings, flat rate properties, and municipally-owned fountains, pools, etc.<sup>82</sup> Additionally, pursuant to the Partial Settlement, the Authority is required to actively search for additional municipal, flat rate and other unmetered properties through various GIS and

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<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Partial Settlement at Section III.G.

<sup>81</sup> Partial Settlement at Section III.G(1)(a).

<sup>82</sup> Partial Settlement at Section III.G(2).

other data sources.<sup>83</sup> When found, these properties will be added to the list of properties requiring meters.<sup>84</sup> Pursuant to the Partial Settlement, PWSA is also required to identify all unmetered and/or unbilled locations by June 29, 2020 and to provide status updates regarding these efforts.<sup>85</sup>

The Joint Petition also outlines PWSA's plans to hire consultants, plumbers, and outside contractors to assist in the metering of unmetered properties and to assign a project manager to assist in the timely metering of municipal facilities.<sup>86</sup> Finally, the Partial Settlement provides that PWSA intends to complete the metering (where possible) of all unmetered municipal properties and flat rate customers within 5 years, or by December 31, 2024.<sup>87</sup> PWSA will accelerate this timeframe, if possible.<sup>88</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The Partial Settlement provisions related to the metering of unmetered municipal and flat rate properties are in the public interest and should be adopted. Importantly, PWSA's compliance with the Joint Petition will result in full compliance with 52 Pa. Code § 65.7, as the Partial Settlement specifically requires PWSA to meter all unmetered properties, where physically possible, and to actively search for additional properties that may require metering. By identifying the Authority's efforts to-date to identify and meter unmetered facilities, the Joint Petition also demonstrates PWSA's commitment to achieving full compliance with Section 65.7.

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<sup>83</sup> Partial Settlement at Section III.G(1)(a)(i).

<sup>84</sup> *Id.*

<sup>85</sup> Partial Settlement at Section III.G(1)(b).

<sup>86</sup> Partial Settlement at Section III.G(2)(b)(i) – (ii).

<sup>87</sup> Partial Settlement at Section III.G(2)(b)(iii).

<sup>88</sup> *Id.*



Additionally, while the Joint Petition does not require a date-certain for the completion of meter installations, the Joint Petition memorializes PWSA's intention to complete the project within five years and to accelerate this timeframe, if possible. This provision provides PWSA with the needed flexibility, as explained by Mr. Weimar in his testimony, yet ensures that PWSA will make all reasonable efforts to complete this project in a timely manner. For the reasons explained above, PWSA submits that the Joint Petition is in the public interest and should be adopted.

2. **Installation Costs of Metering Unmetered Or Converting Flat Rate Properties That Are Not Municipal Properties Located Within the City of Pittsburgh**

*a. Statement of the Issue*

Regarding the financing of PWSA's meter installation plans, Section 65.7(b) of the Commission's regulations provides a general rule that the utility should provide the meter (at the utility's expense), but expressly provides that the Commission can authorize a departure from that general rule.<sup>89</sup> Regarding expenses related to other related appurtenances and additional plumbing changes that may be required to make the installation, neither the Public Utility Code nor the Commission's regulations prohibits a utility from passing these charge on to customers. Instead, the Public Utility Code generically provides that every charge (or "rate") made, demanded or received by any public utility — for any service provided under the Public Utility Code — be just and reasonable, and that there may be no unreasonable preference or prejudice to any customer.<sup>90</sup>

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<sup>89</sup> 52 Pa. Code § 65.7(b).

<sup>90</sup> See 66 Pa.C.S. §§ 102, 1301, 1304.

The Compliance Plan provides that PWSA anticipates that the cost of metering unmetered facilities (municipal and flat rate) is expected to be approximately \$35 million over five years.<sup>91</sup> In his Direct Testimony, PWSA witness Mr. Weimar explained that PWSA's current practice is for applicants (e.g., new customers) to pay for the meter, meter installation and other related appurtenances — in all instances.<sup>92</sup> The meter and any appurtenances are then owned, installed, tested, and maintained by PWSA.<sup>93</sup> Consistently, under PWSA's initial proposal, residential customers would be required to pay for the initial installation of their meters.<sup>94</sup> I&E, however, filed testimony taking the position that the metering of unmetered properties should be done at PWSA's expense.<sup>95</sup>

***b. Terms of the Partial Settlement***

Regarding the cost for metering unmetered flat rate properties, the Joint Petition provides that PWSA will pay for the meter and the meter installation for non-municipal properties. Applicants, however, will be required to pay for any plumbing changes and other related appurtenances required to make the installation comply with applicable PWSA requirements and county and local plumbing codes.<sup>96</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

This Partial Settlement provision is in the public interest and provides a reasonable compromise between the positions advanced by PWSA and I&E. This Partial Settlement

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<sup>91</sup> Compliance Plan at 56.

<sup>92</sup> PWSA St. No. C-1 (Weimar) at 23.

<sup>93</sup> *Id.*

<sup>94</sup> PWSA St. No. C-1R (Weimar) at 18.

<sup>95</sup> I&E St. No. 3 at 22-23.

<sup>96</sup> Partial Settlement at Section III.G(3)(a).

provision is consistent with Pennsylvania law and Commission regulations, neither of which provide a strict standard for recovering the costs of meter installations, other than the general requirement that every charge must be just and reasonable. Here, the Joint Petition splits the costs of meter installations between PWSA and the Applicants, by requiring the Authority to pay for the meter and the meter installation and for Applicants to pay for plumbing changes and other related appurtenances. This Partial Settlement term provides a reasonable sharing of costs and balances the interests of existing ratepayers (who will ultimately be responsible for costs incurred by the Authority) and current, flat rate customers. As such, PWSA submits that the Joint Petition is in the public interest and should be adopted.

3. **Implementing Rates for Unmetered and/or Unbilled Properties That Are Not Municipal Properties Located Within The City of Pittsburgh**

*a. Statement of the Issue*

Regarding implementing rates for unmetered and/or unbilled non-municipal properties, Mr. Weimar testified that PWSA currently charges all unmetered, non-municipal properties a flat rate and will continue to do so until these properties are metered.<sup>97</sup> Mr. Weimar explained that, “as non-municipal properties are metered, these customers will be fully billed pursuant to PWSA’s tariffs.”<sup>98</sup>

*b. Terms of the Partial Settlement*

The Partial Settlement provides that once meters are installed for previously unmetered or unbilled non-municipal properties, PWSA will bill the account in full pursuant to the applicable tariff rate.<sup>99</sup> Further, all current flat-rate customers will continue to pay a flat rate, based on

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<sup>97</sup> PWSA St. No. C-1R (Weimar) at 22.

<sup>98</sup> PWSA St. No. C-1SD (Weimar) at 15.

<sup>99</sup> Partial Settlement at Section III.H(1)(a).

estimated usage, as well as a customer charge, until meters are installed.<sup>100</sup> Properties that are unable to be metered because of the configuration of their service lines will be billed at the appropriate single/two/three family or commercial flat rate.<sup>101</sup> The characteristic of these unmetered properties and the reasonableness of the current flat rate will be reviewed in a subsequent rate proceeding.<sup>102</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

These Partial Settlement provisions are reasonable, in the public interest, and should be adopted. The Partial Settlement provisions ensure that the Authority will begin charging residential customers the applicable tariff rate as soon as possible. In the interim, the Partial Settlement provisions help to ensure that unmetered, non-municipal customers are charged a reasonable rate for water and wastewater services and that PWSA receives reasonable revenue for the services rendered. Unlike currently unmetered municipal properties, these flat rate, residential customers are accustomed to being billed for water and wastewater services, and the terms of the Partial Settlement are designed to continue these estimated-usage billing practices until meters are installed. Since these customers are already accustomed to being billed and since their bills are based on estimated usage, the transition from a flat rate to tariff rates should be smooth. For these reasons, the Partial Settlement provisions are in the public interest and should be adopted.

**4. PWSA's Meter Replacement and Testing Plans**

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<sup>100</sup> Partial Settlement at Section III.H(1)(b).

<sup>101</sup> Partial Settlement at Section III.H(1)(c)(i).

<sup>102</sup> Partial Settlement at Section III.H(1)(c)(ii).

*a. Statement of the Issue*

Section 65.8 of the Commission's regulations contains provisions related to allowable meter errors, periodic meter tests, meter test records, the installation and removal of meters, facilities for meter testing, meters in service without test records, requests for meter testing, and the schedule of fees for testing water meters.<sup>103</sup> In its Compliance Plan, the Authority indicated that it is currently working towards compliance with Section 65.8 and that, according to the best available information, the Authority has as many as 50,000 residential meters that have exceeded the time allowed by the Commission's recommended testing schedule.<sup>104</sup> PWSA also provided that it has approximately 800 large (greater than 2") and 2,000 intermediate (1.5" – 2") commercial meters, which were last tested prior to 2013, except for those that were subsequently tested at the request of a customer.<sup>105</sup>

The Compliance Plan further provides that PWSA intends to contract out the testing of meters greater than 3 inches.<sup>106</sup> For small and intermediate sized meters, the Authority is upgrading its meter test bench, which will be installed by early 2019.<sup>107</sup> PWSA also indicated that it intends to test 10% of all new meters before installation and to develop criteria to test residential and commercial meters pulled from service prior to meter disposal.<sup>108</sup> Additionally, PWSA plans to comply with customer requests for meter testing.<sup>109</sup>

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<sup>103</sup> 52 Pa. Code § 65.7(b).

<sup>104</sup> Compliance Plan at 57.

<sup>105</sup> *Id.* at 58.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

Through his testimony, PWSA witness Mr. Weimar provided additional information and updates related to the Authority's meter testing efforts. In his Direct Testimony, PWSA witness Mr. Weimar explained that PWSA's 2022 goal had been reviewed by PWSA and that PWSA now believes the meter change out can be completed by June 30, 2024.<sup>110</sup> Mr. Weimar testified that this timeline is subject to change and cautioned against holding PWSA to a firm, unmovable deadline.<sup>111</sup> Mr. Weimar also clarified that much of the meter data, including meter installation data, was lost in a billing system transition and that PWSA has determined that meter replacements (as opposed to testing) may be the most timely and cost effective way to establish proper meter records and metering accuracy.<sup>112</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement contains numerous provisions identifying the Authority's to-date efforts to implement its meter testing and replacement plan and outlines specific requirements related to meter testing/replacement.<sup>113</sup> Importantly, the Partial Settlement requires the Authority to undertake a comprehensive metering program to identify and replace non-working meters, upgrade testing processes and equipment, and ensure that the Authority has the technical ability to reasonably accommodate customer requests for meter testing.<sup>114</sup> Pursuant to the Partial Settlement, customers will not be required to pay for the replacement of meters and metering equipment, unless damage resulted from the negligent or willful act of the customer.<sup>115</sup>

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<sup>110</sup> PWSA St. No. C-1 (Weimar) at 31.

<sup>111</sup> *Id.*

<sup>112</sup> PWSA St. No. C-1R (Weimar) at 26-27.

<sup>113</sup> Partial Settlement at Section III.J.

<sup>114</sup> Partial Settlement at Section III.J(1).

<sup>115</sup> *Id.* at Section III.J(2).

The Authority intends to test, repair, or replace large meters that have been in service more than 8 years, or where the installation date is unknown. The Authority will prioritize the testing/replacement of large meters and will make its best effort to complete the testing/replacement of these meters within 3 years.<sup>116</sup> Additionally, PWSA will make its best efforts to replace intermediate meters that have been in service more than 8 years, or where the service date is unknown, within 3-5 years. PWSA will test a fraction of the intermediate meters pulled from service.<sup>117</sup> Finally, PWSA will make its best efforts to replace all small meters that have been in service more than 20 years, or where the service date is unknown, within 5-7 years. PWSA will test a fraction of the small meters pulled from service.<sup>118</sup> Once large, intermediate, and small meters are tested/replaced, PWSA agrees to comply with Chapter 65.8 and begin testing meters on a regular interval.<sup>119</sup>

The Partial Settlement provides that, to date, PWSA has: (1) implemented a Non-Access Campaign to address aged actual meter readings and estimated readings; (2) entered into a contract for the testing of meters 3” and greater; and 3) purchased and installed a state of the art water meter testing bench to test meters 2” or less.<sup>120</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The Authority submits that these Partial Settlement provisions are in the public interest and should be adopted. Importantly, the Partial Settlement terms will result in PWSA’s full compliance with Section 65.8 of the Commission’s regulations. All aging meters, or meters

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<sup>116</sup> *Id.* at Section III.(J)(3), (5).

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Partial Settlement at Section III.J(5).

<sup>120</sup> *Id.* at Section III.J(4).

whose installation date is unknown, will be tested, repaired or replaced, and the Authority will be required to continue to test these meters on a regular interval. These provisions will help to ensure that PWSA's meters are recording accurate water usage, and will continue to do so on a going-forward basis. Additionally, the Partial Settlement requires the Authority to prioritize the testing/replacement of large meters, yet grants the Authority some flexibility in the timeframe for completing its meter testing/replacement program. This flexibility for the Authority is important and, along with the Authority's recent meter testing efforts, will allow for the Authority to accommodate customer-generated meter testing requests. As such, these Partial Settlement provisions are in the public interest and should be adopted.

**C. Allocation of Public Fire Hydrants Costs (Does Not Including The Billing Plan For Public Fire Hydrants Within The City of Pittsburgh)**

***a. Statement of the Issue***

PWSA did not address charges for public fire hydrants in its Compliance Plan. In his Testimony, Mr. Weimar explained that the Authority plans to address charges for public fire hydrants in its next base rate proceeding.<sup>121</sup>

In its testimony, I&E took the position that the Authority's current practice of recovering public fire hydrant costs from all ratepayers should be examined and that the Authority should be required to provide a new rate design in its next rate case proposal, reflecting allocation of all public fire hydrant costs to the City.<sup>122</sup>

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<sup>121</sup> PWSA St. No. C-1 (Weimar) at 31 and PWSA St. No. C-1R (Weimar) at 22.

<sup>122</sup> I&E St. No. 3 at 58-59.



***b. Terms of the Partial Settlement***

The Partial Settlement provides that in its next rate case, PWSA will provide a class cost of service study reflecting all public fire hydrant costs and a rate design allocating 25% of all public fire hydrant costs to the City, consistent with the Public Utility Code, Section 1328, which directs that no more than 25% of public hydrant costs be collected from the municipality using the public hydrant service (with the rest recovered from other ratepayers).<sup>123</sup> The Partial Settlement provides that PWSA reserves its right to propose a phase-in period at that that time.<sup>124</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The Partial Settlement provision related to the allocation of public fire hydrant costs is in the public interest. PWSA's commitment to make a proposal in its next base rate case to allocate at least 25% of fire hydrant costs to the City is a reasonable compromise between PWSA's existing practice of recovering public fire hydrant costs from existing ratepayers and I&E's recommendation to allocate these costs to the City. The allocation of public fire hydrant costs is appropriately addressed in a rate case. At that time, the Commission will have an opportunity to review PWSA's proposal in its entirety (and those advanced by any other party) and make a determination on the matter based on the evidence provided in that proceeding. For these reasons, this Partial Settlement provision is in the public interest and should be adopted.

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<sup>123</sup> Partial Settlement at Section III.I(1). 66 Pa. Stat. Ann. § 1328.

<sup>124</sup> *Id.*

**D. Water Conservation Measures, Unaccounted-For Water And Leak Detection  
(52 Pa Code §§65.11 And 65.20)**

**1. Water Conservation Measures**

***a. Statement of the issue***

The Commission’s statement of policy related to water conservation measures states the Commission’s intention in the rate proceedings of water utilities to “examine specific factors regarding the action or failure to act to encourage cost-effective conservation by their customers.”<sup>125</sup> Section 65.20(b) of the statement of policy identifies specific customer education practices that the Commission will examine as part of the rate case proceeding.<sup>126</sup> In addition, Section 65.11 of the Commission’s regulations permit public utilities to implement mandatory conservation measures and both 65.11(a) and 65.20(7) require the mandatory conservation plan to be filed with the Commission.<sup>127</sup>

In the Compliance Plan and Mr. Weimer’s testimony, PWSA explained that it has rarely needed to impose water conservation measures on its customers and, though it does not have a contingency plan imposing mandatory conservation measures, the topic has been included as part of PWSA’s emergency response planning process.<sup>128</sup> Regarding Section 65.20, Mr. Weimer explained that PWSA planned to undertake a number of initiatives to educate customers on water conservation steps that they can take including: (1) an educational brochure at least one a year;

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<sup>125</sup> 54 Pa. Code § 65.20.

<sup>126</sup> 52 Pa. Code § 65.20(1)-(3). The remaining subsections regarding unaccounted-for water, lead detection and metering are addressed within those topic headings in the Partial Settlement and this Statement in Support.

<sup>127</sup> 52 Pa. Code § 65.11(a); 65.20(7).

<sup>128</sup> Compliance Plan at 60; PWSA St. No. C-1 (Weimar) at 35.

(2) annual water audits for large users; and, (3) customer notification regarding water-saving plumbing fixtures.<sup>129</sup>

Testifying for I&E, Mr. Gray expressed support for the importance of developing a mandatory conservation plan notwithstanding PWSA's testimony concerning the low need for such measures and raised a concern about PWSA projected timeline for completion of this project (2020). Mr. Gray recommended that PWSA file a revised Compliance Plan stating that it would develop mandatory water restriction procedures by no later than the close of 2019 and incorporate those procedures into PWSA's final emergency response plan.<sup>130</sup> Also testifying on behalf of I&E, Mr. Cline requested that PWSA provide a detailed timeline and start date for which it could commit to begin providing the required educational information to customers.<sup>131</sup>

In response to I&E, Mr. Weimer explained: (1) PWSA has general water emergency procedures that have been deployed during boil water advisories; (2) PWSA and its emergency preparedness partners were in the process of simulating PWSA's responses to a loss of water supply; and, (3) PWSA was in the process of trying to hire an environmental health and safety professional who would be tasked with developing and communicating standard operation procedures.<sup>132</sup>

***b. Terms of the Partial Settlement***

In the Partial Settlement PWSA addresses both of the concerns raised by I&E. Regarding Section 65.20(1)-(3), PWSA committed to complying with the requirements regarding an

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<sup>129</sup> PWSA S.t No. C-1 (Weimar) at 35.

<sup>130</sup> I&E St. 4 (Gray) at 13-14, 39.

<sup>131</sup> I&E St. 3 (Cline) at 40.

<sup>132</sup> PWSA St. No. C-1R (Weimar) at 29-30

educational brochure, annual water audit for large users and bill inserts regarding water-saving plumbing fixtures in 2019.<sup>133</sup> Regarding Section 65.11, the Partial Settlement identifies specific issues to be included in the SOPs including customer notification in the event conservation measures are required as well as evaluating the feasibility of pursuing interconnections with other regional water suppliers to enhance system resiliency.<sup>134</sup> The Partial Settlement also provides timelines for the SOPs to include a preliminary SOP by February 28, 2020 with the flexibility to revise the preliminary SOP upon further approval from non-PWSA entities by no later than December 31, 2020.<sup>135</sup> PWSA also committed to incorporating the SOPs into its Emergency Response Plan and updating its progress on these items as part of the Compliance Plan Progress Reports.<sup>136</sup>

***c. The terms of the Partial Settlement are in the public interest***

The Partial Settlement reasonably addresses the issues raised by I&E and sets forth concrete action items with specific timelines pursuant to which PWSA will come into compliance with Sections 65.20(1) - (3) and 65.11 of the Commission's regulations. Importantly, the agreed-to timelines enable PWSA to coordinate its commitments in this regard with its obligations under the America Water Infrastructure Act ("AWIA")<sup>137</sup> to conduct a risk and resilience assessment ("RRA") and prepare an Emergency Response Plan ("ERP").<sup>138</sup> Water conservation measures and communication protocols related to such measures are necessarily a

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<sup>133</sup> Partial Settlement, Section III.K.1 at 25.

<sup>134</sup> Partial Settlement, Section III.K.2.a at 26

<sup>135</sup> Partial Settlement, Section III.K.2.b.

<sup>136</sup> Partial Settlement, Section III.K.2 and 3 at 25-26.

<sup>137</sup> 42 U.S.C. §300i-2.

<sup>138</sup> For more information about the AWIA and PWSA's requirements pursuant to the new law see Section III.A.4 above and PWSA St. No. C-1SD (Weimar) at 17-18.

part of PWSA's efforts to come into compliance with the AWIA. The Partial Settlement recognizes this and permits the appropriate timeframe for this to occur is therefore reasonable and in the public interest.

2. **Standards of Design 52 Pa. Code § 65.17(b)**

a. *Statement of the Issue*

Section 65.17 of the Commission's regulations address the physical engineering, materials used and design of the distribution, transmission and service lines of water utilities.<sup>139</sup> It also requires that the quantity of water delivered to the distribution system be sufficient and maintained at the pressures required by Section 65.6.<sup>140</sup> In the Compliance Plan, PWSA explained that it currently complies with most of Section 65.17 in that it maintains standard specifications and construction details for all water mains and sewers while striving to keep standard specifications up to date with the latest regulations and industry standards.<sup>141</sup> PWSA also noted in the Compliance Plan that it has been actively working to replace all 4-inch diameter mains in the system.<sup>142</sup> PWSA Exh. RAW/C-20 is a map that shows the existing 4-inch diameter mains on the system. In his direct testimony, Mr. Weimar explained that PWSA's 2019 and 2020 Small Diameter Main Replacement Program prioritized the 4-inch diameter mains for replacement.<sup>143</sup>

Mr. Weimer further explained that the issues related to standards of design are being addressed as part of PWSA's current process to update its engineering plan, referred to as

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<sup>139</sup> 52 Pa. Code §65.17(a)-(d) and (f).

<sup>140</sup> 52 Pa. Code §65.17(e).

<sup>141</sup> Compliance Plan at 64.

<sup>142</sup> Compliance Plan at 64.

<sup>143</sup> PWSA St. No. C-1 (Weimar) at 17.

PWSA's Water Distribution System Master Plan.<sup>144</sup> This master planning effort will develop a detailed process to clearly identify needed improvements to the distribution system, to develop criteria for evaluating and ranking candidate water mains for renewal, present an assessment of expected growth in the system, assess vertical assets and recommend a five year plan of capital improvements and annual priorities.<sup>145</sup> As such, the master planning effort is an integral part of assisting PWSA in its transition to complying with the Commission's regulations and identifying improvements needed in the distribution system.<sup>146</sup>

Testifying on behalf of I&E, Mr. Cline expressed concerns related to the timing of PWSA's proposals and, more specifically, when PWSA's replacement of all 4-inch diameter water mains would be completed.

***b. Terms of the Partial Settlement***

Pursuant to the Partial Settlement, the targeted completion date of the Final Water Distribution System Master Plan is late 2019 to mid-2020 and PWSA's Water Distribution System Master Plan will include a prioritization matrix to inform the ranking of PWSA's various projects to include the replacement of four inch diameter water mains.<sup>147</sup> PWSA also reaffirmed its commitment to placing a high priority on the replacement of 4 inch diameter mains as part of the Small Diameter Water Main Replacement Program and committed to providing updates as part of the Compliance Plan Progress Reports as to the timeline and projected completion date for the replacement of all 4-inch diameter water mains.

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<sup>144</sup> PWSA St. No. C-1 (Weimar) at 11; PWSA St. No. C-1SD (Weimar) at 10-11; PWSA Exh. RAW/C-36 details the scope of work for PWSA's Master Plan as well as a draft table of contents to be included with the final plan.

<sup>145</sup> PWSA St. No. C-1SD (Weimar) at 10-11.

<sup>146</sup> PWSA St. No. C-1SD (Weimar) at 10-11.

<sup>147</sup> Partial Settlement at Section III.L1.b and L.2.b.

*c. The Terms of the Partial Settlement are in the Public Interest*

The Partial Settlement terms are a reasonable resolution of the concerns identified because they more clearly set forth PWSA's plan to ensure compliance with Section 65.17 to include the prioritization of replacing the 4-inch diameter water mains. The Partial Settlement in combination with the supporting supplement direct testimony of Mr. Weimar detail how PWSA's on-going master planning effort has evolved to ensure that the Commission's requirements in Section 65.17 (among other things) will be addressed. As such, approving the Partial Settlement is in the public interest and will ensure that PWSA has a good and viable path toward ensuring compliance with the Commission's regulations.

**3. Unaccounted-for (Non-Revenue) Water – 52 Pa. Code §65.20(4)**

*a. Statement of the Issue*

Section 65.20(4) states that levels of unaccounted-for water should be kept within reasonable amounts with levels above 20% to be considered excessive.<sup>148</sup> In its Compliance Plan, PWSA explained that it is not able to make a meaningful assessment of non-revenue water ("NRW")<sup>149</sup> for a number of reasons. First, it lacks accurate means of determining flows into and out of the water distribution system. Second, PWSA lacks reliable meters on its raw water public station. Third, many City accounts are not metered and a large number of meters have been in service past their prescribed testing periods.<sup>150</sup> Notwithstanding this, the Compliance Plain explained that PWSA is working toward gathering better information on flows into the

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<sup>148</sup> 52 Pa. Code §65.20(4).

<sup>149</sup> In his direct testimony, Mr. Weimar explained that PWSA uses the term NRW consistent with the American Water Works Association (AWWA) manual. PWSA St. No. C-1 (Weimar) at 36-37. He further explained that while NRW is similar to the definitions commonly used by the Commission for "unaccounted-for water," the definition of unaccounted-for water used in the AWWA manual is different than that utilized by the Commission. *Id.* at 37.

<sup>150</sup> Compliance Plan at 121-122.

distribution system, has a plan to add meters as part of infrastructure facility upgrades, is in the process of addressing metering and meter testing at all service locations and plans to implement a comprehensive leak surveying program.<sup>151</sup> In his direct testimony, Mr. Weimar further elaborated on the various plans of PWSA to address the categories of NRW which include addressing: (1) unbilled meter consumption; (2) unbilled, unmetered consumption; (3) unauthorized consumption; (4) customer metering inaccuracies; (5) systematic data handling errors; (6) leakages due to various causes.<sup>152</sup> Mr. Weimar testified that in FY 2018, PWSA increased personnel focused on water operations/line maintenance repair work with the intention of addressing NRW.<sup>153</sup> Finally, Mr. Weimar stated that PWSA plans to file its first AWWA Water Audit in 2020.

In response to PWSA's proposals, OCA Witness Fought expressed concerns about the difficulty of measuring the water in PWSA's system due to the factors identified in the Compliance Plan and recommended that PWSA should immediately start recording estimated non-revenue water used for blow-offs, street sweeping, flushing, firefighting, main breaks, tank overflows, etc..<sup>154</sup> Both Mr. Fought and I&E Witness Cline also recommended that PWSA "be prepared to provide and document" details about its unaccounted-for water as required in Section 500 of the Commission's Annual Report.<sup>155</sup>

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<sup>151</sup> Compliance Plan at 122.

<sup>152</sup> PWSA St. No. C-1 (Weimar) at 38-39.

<sup>153</sup> PWSA St. No. C-1 (Weimar) at 39.

<sup>154</sup> OCA St. 5 (Fought) at 4-5.

<sup>155</sup> OCA St. 5 (Fought) at 4; I&E St. 3 at 60-61.



***b. Terms of the Partial Settlement***

The Partial Settlement sets forth PWSA's agreement to utilize the AWWA Water Loss Control Methodology and free software to evaluate NRW and to utilize the AWWA definition of NRW which includes such items as fire-fighting, testing and flushing under the heading of "unbilled authorized consumption."<sup>156</sup> The Partial Settlement also commits PWSA to: (1) submitting its first AWWA Audit to the Commission prior to April 30, 2020, utilizing available information where actual information is not available; and, (2) finalizing a plan for annual AWWA Audits in the Water Distribution System Plan based on metered withdrawals from the river, metered treated water delivered to the distribution system and estimates of non-revenue water.<sup>157</sup> In addition, the Partial Settlement sets forth a plan for recording estimated flows for street sweeping, blow-offs, main breaks, flushing, etc. More specifically, PWSA: (1) is working with the Pittsburgh City Public Works Department to begin recording water taken by the Department of Public Works; (2) has begun estimating water used for blow-offs, street sweeping, flushing main breaks, tank overflows, etc.; and, (3) records water used for flushing after main breaks.<sup>158</sup> Finally, as noted in the Partial Settlement, PWSA has assigned one of its existing operations senior managers to implement its valve operation, flushing and hydrant inspection program which is expected to be documented in an SOP by October 2019.<sup>159</sup>

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<sup>156</sup> Partial Settlement, Section III.M.1 at 27.

<sup>157</sup> Partial Settlement, Section III.M.1.b at 27-28.

<sup>158</sup> Partial Settlement, Section III.M.2.a at 28.

<sup>159</sup> Partial Settlement, Section III.M.2.b at 28.

***c. The Terms of the Partial Settlement are in the Public Interest***

The terms of the Partial Settlement set forth specific action items that PWSA has agreed to undertake to begin identifying and reducing the amount of NRW in its system. Also important to note is that PWSA has already committed to submitting a Section 500 form as part of its Annual Report to the Commission.<sup>160</sup> Additionally, the Partial Settlement specifically addresses PWSA's plan to deal with street sweeping, blow-offs, main breaks, flushing and commits PWSA to documenting its valve operation, flushing and hydrant inspection program in an SOP by October 2019.<sup>161</sup> Recognizing that NRW is a significant concern for PWSA and implicates a number of other issues in this proceeding (such as metering of City properties), the Partial Settlement is a reasonable step forward and in the public interest to addressing Section 65.20(4) of the Commission's regulations.

**4. Leak Detection and Leak Survey – 52 Pa. Code §65.20(5)**

***a. Statement of the Issue***

Section 65.20(5) of the Commission's regulations states that the Commission will examine a water utility's system of leak detection in a rate base proceeding and that the leak detection system should be utilized on a regular basis with leaks being repaired as expeditiously and economically as possible.<sup>162</sup> Mr. Weimar provided extensive detail about PWSA's comprehensive Leak Detection Program in his direct testimony including: (1) the technical details about the leak survey procedures such as installation of Permaloggers and the lift and shift method for difficult situations; (2) evaluation of advanced equipment for areas where there

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<sup>160</sup> PWSA St. No. C-1R (Weimar) at 32. This commitment was made as part of the Commission approved settlement of PWSA's Rate Case at Docket No. R-2018-300264 (Settlement at § III.C.2 and § III.H.7.i.xix).

<sup>161</sup> Partial Settlement, Section III.M.2 at 28.

<sup>162</sup> 52 Pa. Code §65.20(5).

are no suitable valves; (3) consultation with leak surveying experts; (4) education of distribution crews; (5) collection and analysis of data; (6) management and staffing for the leak survey program; and, (7) costs for the new program.<sup>163</sup>

Mr. Weimar's supplemental direct testimony and PWSA Exh. RAW/C-29 provided updated information about PWSA's Leak Detection Program which was launched in April 2019 and is already showing significant results regarding the number of located and repaired leaks as well as the ability of PWSA to take more proactive action regarding leaks.<sup>164</sup>

While parties did not raise specific issues with PWSA's proposals, the Leak Detection Program is a vital part of PWSA's overall plan to address NRW.

***b. Terms of the Partial Settlement***

In the Partial Settlement, PWSA estimated that the Leak Detection Program can be fully operational in three to four years and, until fully implemented, PWSA agreed to present information in the Compliance Plan Progress Reports regarding a historical breakdown of historical costs related to the program and an updated timeline for full implementation of the Leak Detection Program.<sup>165</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

PWSA's Leak Detection Program has come a long way since PWSA filed its Compliance Plan and, as explained by Mr. Weimar, is already showing significant results.<sup>166</sup> Approving the terms of the Partial Settlement will serve to continue this positive forward movement that

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<sup>163</sup> PWSA St. No. C-1 (Weimar) at 39-42.

<sup>164</sup> PWSA St. No. C-1SD (Weimar) at 15-16; PWSA Exh. RAW/C-39.

<sup>165</sup> Partial Settlement, Section III. N at 28-29.

<sup>166</sup> PWSA St. No. C-1SD at 15-16.

benefits the public interest by ensuring that leaks in the system are identified and quickly addressed consistent with the intent of Section 65.20(5) of the Commission's regulations.

5. **Source of Supply Measurement 52 Pa Code §§65.14 and 65.20(6)**

*a. Statement of the Issue*

Section 65.14 of the Commission's regulations require utilities to install suitable measuring devices at each source of supply and to record, at least once each month, the quantity produced from each source of supply.<sup>167</sup> Relatedly, Section 65.20 of the Commission's regulations requires a comprehensive metering program in place which includes metering sources of supply.<sup>168</sup>

In its Compliance Plan, PWSA explained that while it has measuring devices installed at each source of supply, they were not currently operational but that it was in the process of both: (1) reestablishing operability; and, (2) installing an additional meter at the Fox Chapel Pump Station.<sup>169</sup> In direct testimony, Mr. Weimar presented additional information about PWSA's plans to: (1) ensure measurement from the Ross Pump Station; (2) install additional metering after each filter to provide a basis to estimate water use and losses from the water treatment processes; and, (3) meter the filter effluent and backwash rates.<sup>170</sup> Mr. Weimar also discussed PWSA's consideration of methods to meter water flowing into the Highland 1 Reservoir.<sup>171</sup> An updated status of the meter installation and testing was provided in Mr.

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<sup>167</sup> 52 Pa. Code § 65.14.

<sup>168</sup> 52 Pa. Code § 65.20(6).

<sup>169</sup> Compliance Plan at 61.

<sup>170</sup> PWSA St. No. C-1 (Weimar) at 43.

<sup>171</sup> PWSA St. No. C-1 (Weimar) at 43-44.

Weimar's rebuttal testimony.<sup>172</sup> PWSA Exh. RAW/C-40 included with Mr. Weimar's supplemental direct testimony sets forth the most current system flow meter operation status available as of July 31, 2019.

Witnesses for I&E and OCA expressed concerns about the adequacy of PWSA's proposals. I&E Witness Cline recommended that PWSA provide details and a timeline regarding how and when each of the meters listed on Table 4-3 of the 2012 Chester Engineers Report – PWSA 40 Year Plan (PWSA Exh. RAW/C-7) will be operational and accurate.<sup>173</sup> OCA expressed concern that the volume of water delivered to the distribution system is not metered.<sup>174</sup>

***b. Terms of the Partial Settlement***

PWSA has been addressing these source of supply measurement issues since the filing of the Compliance Plan and, as this proceeding has progressed, has made significant progress in this regard as reflected in the terms of the Partial Settlement. More specifically: (1) PWSA is using regulatory calibrated individual filter gallery effluent flow meters to measure the volume of produced water from the Water Treatment Plant; (2) the meter at the Ross Pump Station has been rehabilitated, confirmed to be accurate and fully operational; (3) flow meters have been installed at the Fox Chapel Pumping Station; (4) PWSA is continuing to refurbish the existing flow meters at the Bruecken pump station though flow to Highland 2 Reservoir is operational; (4) PWSA has refurbished the flow meter at Aspinwall pump station and it is operational; and, (5) PWSA has

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<sup>172</sup> PWSA St. No. C-1R (Weimar) at 34-35.

<sup>173</sup> I&E St. 3 (Cline) at 34.

<sup>174</sup> OCA St. 5 (Fought) at 4.

installed insertion-type flow meters at the Highland 1 Reservoir primary rising mains.<sup>175</sup> The Partial Settlement also notes that further capital projects related to meter operability and measurement are being evaluated and sets forth items that are expected to be included in PWSA's flow metering program.<sup>176</sup> The Settlement also commits PWSA to including in its Final Water Distribution System Master Plan a table similar to Table 4-3 the 2012 Chester Engineers Report – PWSA 40 Year Plan (PWSA Exh. RAW/C-7) explaining how and when each of the meters listed on the Table will be operational and accurate.<sup>177</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

Adopting the terms of the Partial Settlement is in the public interest because they recognize both the to-date efforts and future commitment of PWSA to address meter operability and measurement consistent with Sections 65.14 and 65.20(6) of the Commission's regulations.

**E. Contracts/Agreements With Customers, Other Municipalities & City**

**1. City Cooperation Agreement**

***a. Statement of the Issue***

The Cooperation Agreement, which is attached to PWSA's Compliance Plan as Appendix B, is an agreement between the City of Pittsburgh and PWSA, which was effective January 1, 1995, under which the City provides certain ongoing services to the Authority, for which the Authority compensates the City. The Cooperation Agreement was amended on March 21, 2011. As explained by PWSA, it is committed to working with the City to develop a modern Cooperation Agreement that is fair to the City, its taxpayers, PWSA and its ratepayers.

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<sup>175</sup> Partial Settlement, Section III.O.2 at 29-30.

<sup>176</sup> Partial Settlement, Section III.O.1 and O.3 at 29-30.

<sup>177</sup> Partial Settlement, Section III.O.4 at 30.

To that end, PWSA is negotiating with the City to revise the Cooperation Agreement so that the annual payments reflect actual services being provided and the fair market value of those services. PWSA gave the City notice on February 4, 2019 that it was terminating the Cooperation Agreement in 90 days, effective May 5, 2019.<sup>178</sup> Upon resolution adopted by PWSA's Board, the termination of the 1995 Cooperation Agreement was extended to July 5, 2019 and again to October 3, 2019.<sup>179</sup>

The PWSA Board approved a new Cooperation Agreement on June 7, 2019 ("2019 Cooperation Agreement"), which was presented to City Council on July 11, 2019. Public hearings were held on proposed 2019 Cooperation Agreement on July 9, 2019. City Council passed a resolution on July 24, 2019 authorizing a 2019 Cooperation Agreement between the City and PWSA to provide for the rights and obligations of each party with respect to the other, and for payments and cooperation between the parties. The resolution authorized the Mayor to enter the 2019 Cooperation Agreement, and provided that the 2019 Cooperation Agreement shall be in a form approved by the City Solicitor and shall, in addition to the terms and conditions specified therein, contain other terms and conditions that may be in the interest of the City. Upon final approval by the City, PWSA will file the 2019 Cooperation Agreement with the Commission.<sup>180</sup>

In its directed questions relating to the 1995 Cooperation Agreement, the Commission asked the parties to discuss the services and related costs that PWSA can identify and quantify the basis for those costs, and to describe PWSA's ability to so identify and quantify those

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<sup>178</sup> PWSA St. No. C-2 (Lestitian) at 8.

<sup>179</sup> PWSA St. No. C-2 (Lestitian) at 9; PWSA St. No. C-2SD (Lestitian) at 3-4.

<sup>180</sup> PWSA St. No. C-2SD (Lestitian) at 4.

services and costs. PWSA presented estimates of the costs of services that it provides to the City on an annual basis, as well as the estimates of the costs of the services that the City provides to PWSA.<sup>181</sup>

I&E offered testimony regarding the 1995 Cooperation Agreement, claiming that the annual payments made by PWSA lack sufficient cost justification and do not reflect payment for actual services. I&E contended that the documents provided by PWSA did not include a detailed and itemized breakdown, cost basis and supporting calculations for the costs. Without this detail it was I&E's position that it would be unjust and unreasonable to include these costs in PWSA's rates.<sup>182</sup>

***b. Terms of the Partial Settlement***

Although some issues regarding the Cooperation Agreement were reserved for litigation, many of the basic principles were addressed through the Partial Settlement. The parties have agreed that once a newly negotiated Cooperation Agreement is approved by the City of Pittsburgh and approved by the Mayor, the new Cooperation Agreement will be filed with the Commission and subject to the Commission's review and approval process in accordance with Sections 507 and 508 of the Public Utility Code.<sup>183</sup> Further, PWSA will make a request for the agreement to be referred to the Office of Administrative Law Judge for a formal on-the-record proceeding with its §507 filing, which will be filed no later than upon PWSA's next base rate

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<sup>181</sup> PWSA St. No. C-2 (Lestitian) at 10; PWSA Exhibits DML/C-1, DML/C-2 and DML/C-4.

<sup>182</sup> I&E St. No. 2 at 16-18, 20-21.

<sup>183</sup> 66 Pa. C.S. §§507-508.



filing. Under the terms of the Partial Settlement, parties are free to raise issues related to the ratemaking aspects of the agreement in any future rate proceeding.<sup>184</sup>

Also, the parties have agreed to a set of principles that should apply to the Commission's review of a Cooperation Agreement that is filed following approval, as follows:

- Any payments to the City must be just, reasonable and substantiated.
- The City and PWSA's relationship should be conducted on an arm's length "business-like" basis.
- Services provided by the City to PWSA and vice versa should be identified with detailed breakdown and be charged based on the related cost of service.
- PWSA is free to propose a phase-in period or other modifications to otherwise applicable laws, regulations, tariffs, and the existing Cooperation Agreement, subject to the rights of other parties to oppose PWSA's proposals.<sup>185</sup>

*c. The terms of the Partial Settlement are in the Public Interest*

The terms of the Partial Settlement regarding the Cooperation Agreement are in the public interest because they establish a procedure for Commission review and approval of the 2019 Cooperation Agreement, which is being negotiated by PWSA and the City to replace the 1995 Cooperation Agreement. The parties agree that the 2019 Cooperation Agreement should be referred to the Office of Administrative Law Judge for a formal on-the-record proceeding, which will afford all interested parties an opportunity to raise any issues they have regarding the legality and validity of the terms. The Partial Settlement also assures that parties will be able in future rate proceedings to raise issues regarding the impact on rates of any provisions in the 2019 Cooperation Agreement.

Notably, the Partial Settlement further sets forth a set of principles that should guide the Commission's review in this future proceeding. All parties agree that any payments from PWSA

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<sup>184</sup> Partial Settlement at Section III.P.1-2.

<sup>185</sup> Partial Settlement at Section III.P.5.

to the City must be just, reasonable and substantiated, and that PWSA and the City should conduct business on an arms-length basis. The Partial Settlement addresses the concern about the lack of details regarding the costs by including a provision that services provided by the City to PWSA and vice versa should be identified with detailed breakdown and be charged based on the related cost of service. All of these agreed-upon principles should streamline the future proceeding that is conducted to review the 2019 Cooperation Agreement.

2. **Capital Lease Agreement**

a. *Statement of the Issue*

The Capital Lease Agreement is a 30-year lease with the City of Pittsburgh, which was created as a mechanism for the City to draw equity invested in the water and wastewater assets to cover budget shortfalls. PWSA has the option to acquire the City's assets upon termination of the lease in 2025. The Capital Lease Agreement provides PWSA with the option to purchase the system for one dollar in 2025. It further stipulates minimum lease payments, all of which were satisfied during the initial three years of the lease. PWSA intends to purchase the system for one dollar when eligible in 2025 or renegotiate a new arrangement with the City, allowing PWSA to acquire the assets sooner. Any revised lease agreement with the City will be filed with the Commission pursuant to Section 507 of the Public Utility Code.<sup>186</sup>

The Commission directed the parties to discuss whether PWSA has provided the City with equivalent compensation for the value of PWSA since the inception of the Capital Lease Agreement, and PWSA presented such testimony. Specifically, in the first year, PWSA paid

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<sup>186</sup> PWSA St. No. C-2 (Lestitian) at 13.

\$103 million and estimates that it has provided equivalent services in the amount of \$554 million over the course of the agreement.<sup>187</sup>

Also in its directed questions, the Commission advised the parties to discuss whether the City's acceptance of that consideration binds the City to the \$1 transfer if PWSA seeks to exercise that option. PWSA noted its position that the City's acceptance of that consideration or compensation does bind the City to the \$1 transfer if PWSA seeks to exercise that option.<sup>188</sup> I&E presented testimony, expressing concern about the City modifying this term of the Capital Lease Agreement and recommending that PWSA should be entitled to complete the transaction in 2025 by paying \$1 to purchase the water and wastewater system assets.<sup>189</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, the parties agreed that PWSA will purchase the system for \$1 when eligible in 2025, unless a new arrangement is renegotiated and approved by the Commission prior to that time.<sup>190</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

Through this term of the Partial Settlement, the parties have provided a level of certainty that PWSA will purchase the water and wastewater system assets from the City for \$1 in 2025. Indeed, it would not be possible for the City to unilaterally change that term. Rather, the only way that would not occur is if the Capital Lease Agreement is renegotiated and its new terms are

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<sup>187</sup> PWSA St. No. C-2 (Lestitian) at 13.

<sup>188</sup> PWSA St. No. C-2 (Lestitian) at 13-14.

<sup>189</sup> I&E St. No. 2 at 33-36.

<sup>190</sup> Partial Settlement at Section III.Q.

approved by the Commission. Therefore, this term is in the public interest and should be adopted.

3. **Bulk Water: Sales for Resale**

*a. Statement of the Issue*

PWSA has contracts for the sale of bulk water to other water utilities or public authorities. Part I, Section I (Sales for Resale) of the Proposed Water Tariff applies to these sales. Generally speaking, that schedule authorizes negotiated rates and terms.<sup>191</sup>

The Commission directed the parties to discuss a number of issues concerning these bulk water contracts, including (i) whether PWSA should be required to immediately file them; (ii) whether such unfiled agreements are valid under the Public Utility Code, (iii) whether each contract adheres to PWSA's tariff; (iv) whether PWSA maintains a map of all interconnection points between its distribution system and other public water service providers; (v) whether each interconnection is subject to emergency use only or it is used to provide bulk water sales; (vi) whether each interconnection is metered; and (vii) whether there are any issues related to the estimated water loss provision in a 1979 agreement between the City of Pittsburgh and the Municipal Authority of the Borough of West View.

PWSA presented testimony to answer these questions. Noting that the rates have been negotiated, and that the negotiated rate approach is reflected in PWSA's Tariff, PWSA indicated its belief that it is not necessary to file wholesale contract with the Commission. PWSA also expressed the view that agreements that were entered into prior to April 1, 2018 continue to be valid and noted that it was still reviewing whether each contract needed to be revised. Additionally, PWSA provided a map of all interconnection points between its distribution system

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<sup>191</sup> PWSA St. No. C-2 (Lestitian) at 19.

and other public water service providers and explained that all of the interconnections are for emergency use, while two are also used for bulk sales. PWSA further indicated that each interconnection is metered and that it sees no issues with the estimated water loss provision, which was part of an arms-length negotiation that occurred 40 years ago.<sup>192</sup>

I&E offered testimony expressing the view that PWSA had provided insufficient information upon which to determine whether the terms of PWSA's bulk water sales contracts comport with the Code and suggesting that even contracts entered into before April 1, 2018 may need to be reformed if they violate the Code. Therefore, I&E recommended that the Commission order PWSA to file all contracts and contract details that it has entered into with municipalities and other public utilities for bulk water sales, within 120 days of the final order in this proceeding.<sup>193</sup> OCA also provided testimony on this issue, indicating that PWSA's wholesale agreements need to be approved by the Commission because its tariff does not contain any rates for the provision of wholesale service.<sup>194</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed to file all bulk water sales contracts entered into with municipalities and other public utilities (both prior to and after April 1, 2018) at a separate docket within 120 days of the final Commission Order in this proceeding. However, no party waived its right to present its position regarding the Commission's legal authority to vary, reform or revise the contracts entered into before the Commission assumed jurisdiction over PWSA on April 1, 2018. PWSA further committed to filing all future contracts with the

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<sup>192</sup> PWSA St. No. C-2 (Lestitian) at 20-22.

<sup>193</sup> I&E St. No. 3 at 62-64.

<sup>194</sup> OCA St. 1 at 14-17.

Commission and to propose a resale rate(s) that will be included in its tariff and charged to new bulk water sales. In addition, PWSA agreed to provide costs of furnishing these wholesale services as part of its cost of service study in the next rate case and to seek to update rates to reflect the current cost of service.<sup>195</sup>

*c. The terms of the Partial Settlement are in the Public Interest*

The Partial Settlement fully resolves the issue concerning bulk water sales contracts that are entered into with municipalities and other public utilities in the future by committing PWSA to filing those contracts with the Commission pursuant to Sections 507 and 508 of the Code.<sup>196</sup> It also resolves the dispute over whether PWSA should file bulk water sales contracts that were entered into before April 1, 2018, by obligating PWSA to file them within 120 days of a final Commission order in this proceeding. Importantly, however, PWSA is still free to take the position when filing contracts entered into prior to April 1, 2018 that the Commission does not have legal authority to vary, reform or revise those contracts. These terms reflect a reasonable compromise among the parties varying positions on this issue and are therefore in the public interest.

**4. Bulk Wastewater Conveyance Agreements**

*a. Statement of the Issue*

PWSA has contracts for the conveyance of wastewater from other wastewater utilities or public authorities through PWSA's wastewater conveyance system to ALCOSAN's system. Part I, Section B (Bulk Water Conveyance) of PWSA's Wastewater Tariff applies to all bulk

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<sup>195</sup> Partial Settlement at Section III.R.

<sup>196</sup> 66 Pa.C.S. §§507-508.

wastewater conveyance for other wastewater utilities or public authorities. Generally speaking, the rate schedule authorizes negotiated rates and terms.<sup>197</sup>

The Commission directed the parties to address a series of questions regarding these bulk wastewater conveyance agreements, including: (i) whether PWSA is required to file contracts with utilities, municipalities or public authorities with the Commission; (ii) whether the terms of any existing agreements cause PWSA to provide wastewater conveyance at a financial loss; (iii) a determination of the appropriate incremental system contribution; (iv) whether systems that use PWSA's wastewater conveyance infrastructure should be required to contribute to its integrity; (v) whether PWSA intends to be financially responsible long-term for both conveyance and treatment costs for bulk wastewater customers; (vi) whether the provisions of the 1991 shut-off agreement between PWSA and O'Hara Township are consistent with the Municipality Authorities Act ("MAA");<sup>198</sup> and (vii) the scope, potential rate effect and status of any proposed or contemplated agreement between PWSA and ALCOSAN for the transfer of operation and maintenance responsibilities for certain multi-municipal trunk line sewers currently operated and maintained by PWSA.

PWSA presented testimony to answer these questions. Noting that it has bulk wastewater agreements with municipalities and public authorities, PWSA took the position that agreements entered into prior to April 1, 2018 are not required to be filed with the Commission. While some of the existing bulk wastewater conveyance agreements include cost sharing percentages for the repair and replacement of sewer main lines, some do not include charges that the municipalities are required to pay PWSA for conveyance and/or system repairs. PWSA expressed the view that

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<sup>197</sup> PWSA St. No. C-2 (Lestitian) at 22.

<sup>198</sup> 53 P.S. §§ 3102.502.

cost of service should be the basis for determining an appropriate incremental system contribution. PWSA also noted while that systems utilizing its wastewater conveyance infrastructure should be required to contribute to its integrity, current contractual obligations supersede PWSA's desire to receive these contributions. As to the O'Hara Township agreement, PWSA stated that its belief that it complies with the MAA. Regarding ALCOSAN, PWSA offered testimony noting that no agreement currently exists regarding the transfer of PWSA's conveyance lines to ALCOSAN from various municipalities. While negotiations between PWSA and ALCOSAN are underway, PWSA is not in a position at this time to explain the scope, potential rate effect or status of any potential future agreement that may be finalized. To the extent those negotiations are successful, the existing agreements would likely become null and void.<sup>199</sup>

Other parties in the proceeding took the view that PWSA should file all wholesale contracts to provide wastewater service to other municipalities or public authorities with the Commission. It was recommended that the Commission direct PWSA to file these contracts, including those entered into prior to April 1, 2018, at a separate docket within 120 days after a final order in this proceeding.<sup>200</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement provides that within 120 days of the final Commission Order in this proceeding, to the extent that PWSA can locate them, PWSA will file with the Commission in a separate docket all bulk wastewater conveyance agreements that it has entered into with municipalities and other public utilities (both prior to and after April 1, 2018). No party is

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<sup>199</sup> PWSA at. No. C-2 at 23-24.

<sup>200</sup> OCA St. 2 at 14-17; I&E St. No. 2 at 53-55, 56-57.



waiving its right to present its position regarding the Commission's legal authority to vary, reform or revise these contracts entered into prior to the Commission assuming jurisdiction over PWSA on April 1, 2018. PWSA further agreed to file all future wastewater conveyance contracts with the Commission. In the next rate case, PWSA will propose a rate(s) that will be included in its tariff and charged to new bulk wastewater conveyance arrangements. If PWSA is unable to locate a pre-existing bulk wastewater conveyance agreement, PWSA will include the rate in its tariff. To the extent ALCOSAN assumes responsibility for any existing wastewater conveyance agreements, PWSA will file notice with the Commission.<sup>201</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The Partial Settlement fully resolves the issue concerning bulk wastewater conveyance agreements that are entered into with municipalities and other public utilities in the future by committing PWSA to filing those contracts with the Commission pursuant to Sections 507 and 508 of the Code. It also resolves the dispute over whether PWSA should file bulk wastewater conveyance agreements that were entered into before April 1, 2018, by obligating PWSA to file them within 120 days of a final Commission order in this proceeding. Importantly, however, PWSA is still free to take the position when filing contracts entered into prior to April 1, 2018 that the Commission does not have legal authority to vary, reform or revise those contracts. These terms reflect a reasonable compromise among the parties varying positions on this issue and are therefore in the public interest.

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<sup>201</sup> Partial Settlement at Section III.S.

5. **Pennsylvania American Water Company (PAWC) Contract**

a. *Statement of the Issue*

The City of Pittsburgh entered into an arrangement with PAWC in 1973 whereby the City pays a rate discount directly to PAWC that offsets PAWC's water rates for about 27,000 of PWSA's sewer only customers. The discount limits water charges for City residents served by PAWC, so that their out-of-pocket rates match PWSA prices. The Cooperation Agreement requires PWSA to reimburse the City for this expense. In practice, PWSA pays the rate discount directly to PAWC.<sup>202</sup>

The Commission directed the parties to discuss the feasibility of setting a date certain by which the discount should be eliminated or phased out. PWSA expressed the view that it is not possible to establish a date certain for elimination of phasing out of this discount, since that largely depends on the timing of the next rate case as well as the level of the increase approved by the Commission. Depending on the level of the next rate increase, the discount may be automatically eliminated due to the lack of any gap existing between PWSA rates and PAWC rates.<sup>203</sup>

Other parties presented testimony on this issue. I&E expressed the view that funding a water rate subsidy for another utility's customers is not a proper and justifiable expense for PWSA and its customers to bear. Therefore, I&E recommended that the Commission order PWSA to revise its Compliance Plan to indicate that it will eliminate the discount by the time of its next base rate filing or by December 31, 2019, whichever comes first.<sup>204</sup> OCA took the

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<sup>202</sup> PWSA St. No. C-2 (Lestitian) at 18-19.

<sup>203</sup> PWSA St. No. C-2 (Lestitian) at 19.

<sup>204</sup> I&E St. No. 2 at 49-53.

position that PWSA's next base rate case is the appropriate time to address elimination of the discount and recommended that PAWC customers should receive notice from PAWC regarding its elimination.<sup>205</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, the discount will be eliminated by December 31, 2019. Based on the May 2019 billing data, over 80% of residential customers are receiving a discount of \$1 or less, over one-third of the residential customers are receiving no discount; and the average discount customers are receiving is less than 50 cents per month. Further, PAWC will provide notice to customers before the discount is eliminated, over the course of two billing cycles.<sup>206</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

As all parties agreed that the elimination of the discount is in the public interest, the Partial Settlement achieves this result by December 31, 2019. Given the minimal effect of the discount on customer bills as of May 2019, its elimination will be barely noticeable to most customers. Nonetheless, as advocated by the parties, the customers will receive adequate notice of the discount being eliminated. As such, these terms are in the public interest and should be adopted.

**6. Billing Arrangement for ALCOSAN Charges**

***a. Statement of the Issue***

ALCOSAN bills each PWSA wastewater conveyance customer a charge for wastewater treatment; this charge is passed through to customers on PWSA's monthly bill. In May 2004,

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<sup>205</sup> OCA St. 1 at 12-13.

<sup>206</sup> Partial Settlement at Section III.T.

PWSA started directly billing City residents for current and delinquent ALCOSAN wastewater treatment charges and remitting to ALCOSAN the aggregate amount of service charges billed. This was done by way of a 2004 amendment to the 1995 Agreement between the City and ALCOSAN.<sup>207</sup> In its Compliance Plan, PWSA proposed the addition of a surcharge to be included with the ALCOSAN portion of the charges billed to PWSA customers. This surcharge would reflect ALCOSAN billing costs not already collected and uncollected revenue costs. If approved, the surcharge would be part of PWSA's next wastewater base rate case.<sup>208</sup>

I&E raised issues about the impact of this billing arrangement on PWSA and its ratepayers because PWSA does not collect the full amount of ALCOSAN charges from its wastewater customers. Therefore, I&E took the view that the Commission should exercise its authority under Section 508 of the Code<sup>209</sup> to reform the ALCOSAN contract.<sup>210</sup> As PWSA explained, however, the contract is between the City and ALCOSAN, neither of which is under the purview of the Commission, rendering Section 508 inapplicable.<sup>211</sup>

Additionally, both I&E and OCA expressed concerns about PWSA's proposed surcharge because it would move uncollectible expense from base rates into a surcharge. Suggesting that this mechanism may violate Section 1408 of the Public Utility Code,<sup>212</sup> the parties recommended that the Commission reject it.<sup>213</sup> PWSA proposed to rename it as a service charge and described

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<sup>207</sup> PWSA St. No. C-2R (Lestitian) at 19.

<sup>208</sup> PWSA St. No. C-2R (Lestitian) at 20-21.

<sup>209</sup> 66 Pa.C.S. § 508.

<sup>210</sup> I&E St. No. 2 at 41-43.

<sup>211</sup> PWSA St. No. C-2R (Lestitian) at 20.

<sup>212</sup> 66 Pa.C.S. § 1408.

<sup>213</sup> OCA St. 1 at 11-12; I&E St. No. 1 at 45-46.

it as improving transparency, as well as being consistent with the approach followed by other municipalities.<sup>214</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed to stop advocating for an ALCOSAN surcharge but reserved the right to develop and propose a service charge related to ALCOSAN charges in its next wastewater base rate filing. All parties retained their rights to review, support or challenge the proposal in that proceeding.<sup>215</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The Partial Settlement on this issue is in the public interest because it resolves the parties' disputes over the ALCOSAN billing arrangement as part of this proceeding. While PWSA continues to believe that service charge should be implemented so that uncollectible charges are shown as a separate line item on customers' bills, it has reserved the right to make this proposal in its next wastewater rate case.

**F. Tariff And Other Miscellaneous Issues (Not Addressed Elsewhere)**

**1. Limitations on Liability (52 Pa Code §67.87)**

***a. Statement of the Issue***

The Commission's Policy Statement regarding limitations on liability recognizes that state law permits utilities to limit their liability for interruption or cessation of service and directs utilities wishing to include this language in their tariff to provide a company-specific dollar amount for the proposed limitation.<sup>216</sup> As explained by PWSA Witness Quigley, PWSA is not

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<sup>214</sup> PWSA St. No. C-2R (Lestitian) at 21-22.

<sup>215</sup> Partial Settlement at Section III.U.

<sup>216</sup> 52 Pa. Code § 69.87.

proposing any specific dollar amounts related to injury or damages as a result of negligence or intentional torts because the specific dollar limitations are controlled by Pennsylvania law governing political entities such as PWSA, which is a municipal authority.<sup>217</sup> Given this, PWSA does not believe setting forth the tort claims act limitations in its tariff is advisable given that the person's ability to bring suit for negligence or intentional torts is very limited when the claim involves a municipal authority like PWSA, the lack of Commission jurisdiction, and the complexity of the language that would need to be drafted to explain this issue to the public in a meaningful way.<sup>218</sup>

No party raised concerns with PWSA's proposal.

***b. Terms of the Partial Settlement***

The Partial Settlement recognize the agreement of the parties to not recommend revisions to PWSA's limitations on liability language to include specific dollar amounts.

***c. The Terms of the Partial Settlement are in the Public Interest***

The terms of the Partial Settlement are in the public interest for the reasons set forth by Ms. Quigley in her direct testimony.<sup>219</sup> As all parties in this proceeding has an opportunity to consider PWSA's view on this issue and have not objected to its approach, the Partial Settlement term should be approved.

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<sup>217</sup> PWSA St. No. C-4 (Weimar) at 34-37.

<sup>218</sup> PWSA St. No. C-4 (Weimar) at 35-36.

<sup>219</sup> PWSA St. No. C-4 (Weimar) at 34-37.

2. **Residential Fire Protection and Standby Charges (52 Pa. Code §69.169)**

a. *Statement of the Issue*

Section 1326 of the Public Utility Code prohibits standby charges on owners of residential structures equipped with automatic fire protection systems.<sup>220</sup> The statute defines standby charge as an amount, in addition to the regular rate, assessed against the owner of a residential structure for the reason that the residential structure is equipped with an automatic fire protection system.<sup>221</sup> In response to Staff Directed Questions, PWSA Witness Quigley explained that customers are not being charged any additional amount because a structure is equipped with a fire protection though PWSA does offer private fire protection services which, if elected, results in a per month customer charge as specified in Part I, Section B of PWSA's water tariff.<sup>222</sup>

Witnesses on behalf of both OCA and I&E expressed concerns about these charges with I&E Witness Cline requesting additional information to better assess the tariff provision and OCA Witness questioning whether PWSA has shown that its private fire protection charges are based on the investment made to serve residential, private-fire customers.<sup>223</sup>

Based on the concerns raised, Ms. Quigley noted in rebuttal testimony that PWSA had identified 49 accounts that had being charged a separate private fire protection and was reviewing each account to determine which ones were classified as residential properties.<sup>224</sup> For each of these accounts identified as residential, PWSA would no longer assess the private fire

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<sup>220</sup> 66 Pa.C.S. § 1326(a).

<sup>221</sup> 66 Pa.C.S. § 1326(b).

<sup>222</sup> PWSA St. No. C-4 (Quigley) at 37-38; PWSA St. No. C-4R (Quigley) at 39.

<sup>223</sup> I&E St. 3 (Cline) at 46-48; OCA St. 2 (Rubin) at 9-11.

<sup>224</sup> PWSA St. No. C-4 (Quigley) at 40-41.

protection customer charge and retroactively remove any assessed charges since April 1, 2018. The results of this review were set forth in Ms. Quigley's supplemental rebuttal testimony which explained that four affected customers were identified, refunds were issued and PWSA Exh. JAQ/C-17 set forth proposed tariff revisions to remove the charge from PWSA's tariff.<sup>225</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement sets forth the result of PWSA's investigation of 49 accounts that had been charged a separate private fire protection charge and committed PWSA to including in its next base rate case: (1) a separate rate for residential, private protection service; and, (2) any evidence of its investment in separate or larger service lines, meters, or other customer specific facilities for residential customers with automatic fire protection systems.<sup>226</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

The Partial Settlement is a reasonable resolution of this issue because it recognizes PWSA's proactive action to identify and refund residential customers who have been assessed private fire protection charges, revises PWSA's tariff to remove the charge, and commits PWSA to providing further information regarding residential, private fire protection service in its next base rate case.<sup>227</sup> Adopting these terms is in the public interest because it is consistent with legal requirements and fully addresses the concerns of other parties in this proceeding.

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<sup>225</sup> PWSA St. No. C-4SD (Quigley) at 2-3.

<sup>226</sup> Partial Settlement, Section III.X at 33-34.

<sup>227</sup> Partial Settlement, Section III.X at 33-34.



### 3. **Ownership of Wastewater Laterals**

#### *a. Statement of the Issue*

In his direct testimony, OCA Witness Fought expressed his opinion that customers should not be responsible for owning the sewer lateral within public rights-of-ways and easements.<sup>228</sup> To address his concerns, Mr. Fought recommended that PWSA study the feasibility of owning and maintaining sewer laterals within the public rights-of-ways and easements and that the study be provided to the Commission no later than January 15, 2020.<sup>229</sup>

In his rebuttal testimony, Mr. Weimar opposed Mr. Fought's recommendation noting that it was simply "too much too soon" and PWSA should be required to undertake the proposed study prior to the time it is able to successfully address other pressing matters involved with its transition to the Commission's jurisdiction.<sup>230</sup>

#### *b. Terms of the Partial Settlement*

The Partial Settlement sets forth the negotiated agreement of PWSA to conduct a study to investigate the legal, economic and operational feasibility of owning and/or maintaining the now privately owned wastewater laterals within public easements.<sup>231</sup> The information to be included in the report is set forth in the Partial Settlement.<sup>232</sup> PWSA committed to providing a final report to the parties by January 15, 2021 and to update the status of the study in the PWSA Compliance Plan Progress reports.<sup>233</sup>

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<sup>228</sup> OCA St. 5 (Fought) at 8-9.

<sup>229</sup> OCA St. 5 (Fought) at 9.

<sup>230</sup> PWSA St. No. C-1R (Weimar) at 37.

<sup>231</sup> Partial Settlement, Section III.Z.1 at 34.

<sup>232</sup> Partial Settlement, Section III.Z.2 at 34.

<sup>233</sup> Partial Settlement, Section III.Z.3 at 34.

***c. The Terms of the Partial Settlement are in the Public Interest***

The terms of the Partial Settlement offer a reasonable compromise regarding OCA's recommendation set in the context of all the other issues involved in this proceeding. As such, approval of this term as submitted is in the public interest.

**4. Commission Staff Requested Documents**

***a. Statement of the Issue***

The Commission's Staff Directed Questions identified a number of documents and invited PWSA to introduce into evidence those materials it intends to use as support for the Compliance Plan.<sup>234</sup> Upon review of this list, Mr. Weimar explained that: (1) only some of the documents were prepared by or at the direction of PWSA; (2) other documents are relevant at this point only because they illustrate some of the complex issues faced by PWSA; and, (3) other documents are directly related to Stage 2 issue.<sup>235</sup> Based on this categorization of the various documents, Mr. Weimar included those documents with his direct testimony that he intended to rely upon in support of PWSA's Compliance Plan.<sup>236</sup>

In response, I&E Witness Spadaccio took the view that PWSA was required to include with its testimony all of the documents identified in the Staff Directed Questions.<sup>237</sup>

***b. Terms of the Partial Settlement***

Pursuant to the Partial Settlement, the parties agreed to stipulate into the record specific identified documents that were not sponsored by PWSA.<sup>238</sup> These documents were included

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<sup>234</sup> PWSA Exh. RAW/C-1, Staff Directed Question Number 1.

<sup>235</sup> PWSA St. No. C-1 (Weimar) at 9.

<sup>236</sup> PWSA St. No. C-1 (Weimar) at 9.

<sup>237</sup> I&E St. 1 (Spadaccio) at 10-12.

<sup>238</sup> Partial Settlement, Section III.AA.1 at 34.

with Mr. Weimar’s supplemental direct testimony and moved into the record on August 21, 2019.<sup>239</sup> Mr. Weimar also included an additional document in supplemental testimony in response to Staff Directed Question No. 1.11.<sup>240</sup> Regarding those documents related to Stage 2 issues, the Partial Settlement proposes that they be deferred to Stage 2 process but if the Commission directs that they be filed as part of its Stage 1 review, PWSA agrees to file the documents within 30 days of the final order.<sup>241</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

The Partial Settlement regarding this issue is a reasonable resolution of I&E’s concerns because it balances recognizes that the Staff Directed Questions specifically identified these documents while acknowledging PWSA’s views regarding various third party and Stage 2 related documents. Please note that PWSA is not attesting to the truth of any assertions of fact or law contained in any such documents.

**G. Capital Projects/Construction/Bidding Processes**

**1. Construction Project Tracking and Evaluation**

***a. Statement of the Issue***

As explained in its Compliance Plan, PWSA is undertaking a comprehensive evaluation of its performance and plans to provide the results of this evaluation publicly in the so-called “Headwaters Performance Dashboard.”<sup>242</sup> Part of this includes evaluation of PWSA’s planned capital projects.<sup>243</sup> PWSA monitors several metrics related to cost effectiveness and cost

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<sup>239</sup> PWSA St. No. C-1SD (Weimar) at 5-8; Stip Doc-1 through Stip Doc-5.

<sup>240</sup> PWSA Exh. RAW/C-33.

<sup>241</sup> Partial Settlement, Section III.B at 35.

<sup>242</sup> Compliance Plan at 9.

<sup>243</sup> PWSA Hearing Exh. 3, LTIP dated August 21, 2019 at 43-47.

reporting relative to its projected capital spending and, through PWSA's eBuilder project management software, PWSA is able to employ advanced calculation of performance metrics.<sup>244</sup> Regarding construction projects, PWSA employs a robust review process that includes input from its engineering department, operations staff and independent third-party reviewers.<sup>245</sup> As explained by Mr. Weimar, PWSA also evaluates contractors for cost effectiveness.<sup>246</sup>

***b. Terms of the Partial Settlement***

The Partial Settlement acknowledges PWSA's agreement from the rate case to include additional measures to the Headwaters tracking database and sets forth a process whereby PWSA will work with I&E to identify additional metrics that may be measured, to make the data available in the PWSA Compliance Plan Progress Reports, to propose any additional changed metrics as part of the Compliance Plan Progress Reports and to make all performance metric results available in the next rate case.<sup>247</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

Adoption of the settlement terms is in the public interest because it recognizes PWSA's commitment to continually improving its tracking and evaluation of construction projects which is an issue of concern that has been raised by I&E.

**2. Selection Processes and Existing Contractors**

***a. Statement of the Issue***

In direct testimony, Mr. Weimar explained that all PWSA capital and operation related projects are publicly bid following the requirements of the Municipality Authorities Act

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<sup>244</sup> PWSA St. No. C-1R (Weimar) at 14.

<sup>245</sup> PWSA Hearing Exh. 3, LTIP dated August 21, 2019 at 45.

<sup>246</sup> PWSA St. No. C-1 (Weimar) at 16.

<sup>247</sup> Partial Settlement, Section III.CC at 35-36.

(“MAA”).<sup>248</sup> Mr. Weimar also discussed exceptions to the typical public bidding processes for emergency actions or those that are below the threshold for bidding per the MAA and PWSA’s existing pre-qualification process.<sup>249</sup>

On behalf of I&E, Mr. Gray recommended that PWSA track and provide the percentage of projects that are to be competitively bid as part of a revised compliance plan filing.<sup>250</sup> I&E Witness Cline also alleged that PWSA did not provide the design engineer or company affiliation for specific projects.

***b. Terms of the Partial Settlement***

The Partial Settlement recognizes that PWSA will continue to adhere to the MAA regarding competitive bidding and that it will not be prohibited from dispensing with competitive bidding in instances or for categories of expenditures where the MAA (or other applicable law) permits an exception to the competitive bidding requirement.<sup>251</sup> The Partial Settlement also commits PWSA to providing a list of each construction contract in the prior year that was awarded without competitive bidding as well as how those non-competitively bid contracts compare to the total number of construction contracts awarded on an annual basis as part of the Compliance Plan Progress Report.<sup>252</sup> Consistent with the agreements reached in the Partial Settlement, PWSA Exh. RAW/C-34 provides PWSA’s Project Operators for Open and Active

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<sup>248</sup> PWSA St. No. C-1 (Weimar) at 14.

<sup>249</sup> PWSA St. No. C-1 (Weimar) at 15; PWSA St. No. C-1R (Weimar) at 23-14.

<sup>250</sup> I&E St. 5 (Gray) at 9-10, 38.

<sup>251</sup> Partial Settlement, Section III.DD.1.a and 1.b at 36.

<sup>252</sup> Partial Settlement, Section III.DD.1.c.

Projects as of July 31, 2019 and committed PWSA to providing updated design engineer and company affiliation for each project in the PWSA Compliance Plan Progress Report.<sup>253</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

Approval of the Partial Settlement is in the public interest because it recognizes PWSA's competitive bidding requirements pursuant to the MAA and commits PWSA to providing information regarding those contracts that are not competitively bid to address the concerns raised by I&E.

**3. Open and Active Project Information**

***a. Statement of the Issue***

In response to Staff Directed Question, PWSA Exh. RAW/C-10 provided capital project information including Project Name, Project Descriptions, Project Justification, Budgeted Costs, Source of Funds, Start Date, Date of Completion and In Service and Consultant/Contractor for open and active project.<sup>254</sup>

In response to this information, I&E Witness Cline recommended that PWSA provide more specific details about the funding sources that it plans to use for each project or explain why such information is not available.<sup>255</sup>

***b. Terms of the Partial Settlement***

Consistent with the Partial Settlement, PWSA provided Updated Exh. RAW/C-10 with the supplemental direct testimony of Mr. Weimar with the information available through August

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<sup>253</sup> Partial Settlement, Section III.DD.2 at 36.

<sup>254</sup> PWSA St. No. C-1 (Weimar) at 12-13.

<sup>255</sup> I&E St. 3 (Cline) at 8.

2, 2019.<sup>256</sup> PWSA also committed to providing updated details about the funding sources that it plans to use for each project in the PWSA Compliance Plan Progress Reports.<sup>257</sup>

*c. The Terms of the Partial Settlement are in the Public Interest*

The terms of the Partial Settlement are in the public interest because they ensure that the Commission will have updated information regarding the funding sources that PWSA plans to use for its capital projects.

4. **Clearwell Improvements Projects**

*a. Statement of the Issue*

Upon review of the various planned and needed capital improvement projects, I&E Witness Cline focused on PWSA's plans regarding improvements to the Clearwell.<sup>258</sup> As explained by Mr. Weimar, since 2015 PWSA engaged several consultants to study alternative approaches to provide service should the Clearwell fail and, based on the results presented in PWSA Ex. RAW/C-30, PWSA has begun the initial phases of the Clearwell replacement project.<sup>259</sup> Mr. Weimar also explained that moving forward with the projects was subject to negotiations that were underway with the Pennsylvania Department of Environmental Protection ("PADEP") regarding a forthcoming Consent Order and Agreement ("COA").<sup>260</sup> In his supplemental direct testimony, Mr. Weimar provided an update related to the Clearwell projects noting that on May 16, 2019, PWSA Board Resolution 91 was adopted to enable the accelerated implementation of highly critical facilities noting the repair and replacement of the Clearwell as

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<sup>256</sup> PWSA St. No. C-1SD (Weimar) at 8-9.

<sup>257</sup> Partial Settlement, Section III.EE at 36.

<sup>258</sup> I&E St. 3 (Cline) at 9-15.

<sup>259</sup> PWSA St. No. C-1R (Weimar) at 10-11.

<sup>260</sup> PWSA St. No. C-1R (Weimar) at 10-11.

a high priority project.<sup>261</sup> Mr. Weimar further testified that the on-going negotiations with DEP were moving forward and PWSA expected a final Consent Order and Agreement to be executed in September.<sup>262</sup> The final executed COA is provided as PWSA Hearing Exh. No. 6 and was filed to be part of the record on September 9, 2019.

***b. Terms of the Partial Settlement***

The terms of the Partial Settlement recognize the various reviews and evaluations of the Clearwell that have been undertaken over the years and acknowledged that the one currently underway by PWSA was deemed to provide the most long-term benefits and to be the fastest available to address current multiple operations risks.<sup>263</sup> The Partial Settlement identified the multi-phase program approach, the importance of the DEP COA to move forward with the various projects, the high priority placed by PWSA on addressing the Clearwell, and the agreement of PWSA to update its LTIP consistent with the final CO.<sup>264</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

The Partial Settlement recognizes the efforts to date to address the Clearwell and sets forth the going-forward plan to address improvements. The parties spent a significant amount of time in settlement discussions on this issues ensuring that the plan was a reasonable path forward given the importance of the Clearwell in PWSA's overall infrastructure. Adoption of the Partial Settlement terms is in the public interest because they set forth the process PWSA is undertaking to address this critical infrastructure issue.

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<sup>261</sup> PWSA St. No. C-1SD (Weimar) at 9-10; PWSA Exh. RAW/C-35 (PWSA Board Resolution 91).

<sup>262</sup> PWSA St. No. C-1SD (Weimar) at 9-10.

<sup>263</sup> Partial Settlement, Section III.FF.

<sup>264</sup> Partial Settlement, Section III.FF.



## **H. Long-Term Infrastructure Implementation Plan (LTIIIP) (52 Pa Code §121)**

PWSA filed its LTIIIP on September 28, 2018<sup>265</sup> the same day it filed its Compliance Plan.<sup>266</sup> The LTIIIP outlines how PWSA plans to implement a program to rehabilitate, improve, and replace aging infrastructure at an accelerated pace for the five-year period from January 1, 2019 to December 31, 2023.<sup>267</sup>

As a result of the testimony served by the Parties and further discussions with the Parties, PWSA revised its LTIIIP (as filed on September 28, 2019) for the Commission's consideration in this proceeding.<sup>268</sup> The current version of the LTIIIP is found at PWSA Hearing Exh. 3.<sup>269</sup>

PWSA's current LTIIIP meets the requirements of Act 11 of 2012<sup>270</sup> ("Act 11"), the Commission's regulations,<sup>271</sup> and the Commission's Orders.<sup>272</sup> The record together with the Partial Settlement shows that PWSA's LTIIIP (1) is in the public interest, (2) contains measures

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<sup>265</sup> Section 3204(b) of the Public Utility Code directs PWSA to file an LTIIIP with the Commission no later than Friday, September 28, 2018. *See* 66 Pa.C.S. § 3204(b); *Implementation of Chapter 32 of the Public Utility Code; RE: Pittsburgh Water And Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803, Final Implementation Order entered March 15, 2018 ("FIO") at 36; *Implementation of Chapter 32 of the Public Utility Code; RE: Pittsburgh Water And Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803, Tentative Implementation Order entered January 18, 2018 ("TIO") at 18.

<sup>266</sup> PWSA St. No. C-1 (Weimar) at 7. PWSA also included the as-filed LTIIIP as Appendix C of its Compliance Plan as directed by the Commission in the Final Implementation Order. *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water And Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803, Final Implementation Order entered March 15, 2018 at 7. Pursuant to the Rate Case Settlement, PWSA also filed a Motion for Consolidation of Proceedings on December 14, 2018 to enable the parties and the Commission to review the Compliance Plan and the LTIIIP in one proceeding.

<sup>267</sup> PWSA St. No. C-1 (Weimar) at 66.

<sup>268</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 19.

<sup>269</sup> Red-line revisions to the LTIIIP were provided in Exh. RAW/C-43. *See* PWSA Supplemental St. No. C-1SD (Weimar) at 20. PWSA Hearing Exh. 3 incorporates the redlines from RAW/C-43 into the originally filed LTIIIP for the Commission's consideration.

<sup>270</sup> Among other things, Act 11 provides certain utilities with the ability to implement a for a distribution system improvement charge (DSIC) to recover reasonable and prudent costs incurred to repair, improve or replace certain eligible distribution property that is part of the utility's distribution system. *See Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered August 2, 2012.

<sup>271</sup> 52 Pa. Code § 121.1 to 121.8.

<sup>272</sup> *See, e.g.,* the FIO, *supra*, and the Order regarding the Implementation of Act 11, *supra*.

to ensure that the projected annual expenditures are cost-effective, (3) specifies the manner in which it accelerates or maintains an accelerated rate of infrastructure repair, improvement or replacement (4) is sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service.<sup>273</sup>

1. **Materials Report, Valves, Prioritization**

*a. Statement of the Issue*

PWSA plans to undertake a 2-year upgrade to its Geographic Information System (GIS) to include main break, main age and main material to provide a more robust prioritization model.<sup>274</sup> PWSA also plans on implementing a computerized maintenance management system (CMMS)<sup>275</sup> that will involve a listing of assets, a condition assessment of each asset and the creation of a maintenance plan for the assets.

OCA requested that PWSA provide the comprehensive materials report and updated information about the types and sizes of valves once the GIS is updated and this information is available.<sup>276</sup> OCA also requested that that PWSA notify the Commission and the OCA when the CMMS project is implemented.<sup>277</sup>

*b. Terms of the Partial Settlement*

Under the Partial Settlement, PWSA agreed that, in the PWSA Compliance Plan Progress Reports, PWSA will provide (1) the comprehensive materials report and updated information about the types and sizes of valves once PWSA's GIS is updated and this information is

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<sup>273</sup> See Partial Settlement, Requested Relief ¶ 5 at 62.

<sup>274</sup> PWSA St. No. C-1 (Weimar) at 63.

<sup>275</sup> PWSA St. No. C-1R (Weimar) at 73.

<sup>276</sup> OCA St. 1 (Everette) at 16, 18.

<sup>277</sup> OCA St. 1 (Everette) at 16, 18.

available;<sup>278</sup> and (2) additional information regarding the prioritization of main replacements, valve replacements.<sup>279</sup> PWSA will also notify the parties in the PWSA Compliance Plan Progress Report when the CMMS project is implemented.<sup>280</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described terms are reasonable, are in the public interest, and should be approved. Both the GIS and CMMS will be used in priority-based decision making on repair and replacement of various assets, facilities, and systems. The terms will keep the Parties apprised on the implementation of these systems.

**2. Customer Owned Lead Service Lines**

***a. Statement of the Issue***

PWSA accelerated replacement program is designed to address critical water supply risks.<sup>281</sup> This includes, but is not limited to, the acceleration of (a) the lead service line replacement (“LSLR”) program and (b) the Small Diameter Water Main Replacement (“SDWMR”) program.<sup>282</sup> These programs impact the replacement of lead service lines.

***b. Terms of the Partial Settlement***

Inclusion of costs in the LTIP does not mean that PWSA can recover those costs through the DSIC.<sup>283</sup> The Partial Settlement provides that, at the appropriate time, PWSA will file a Petition to Amend its LTIP to include estimates on the number of customer-owned (i.e., private

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<sup>278</sup> Partial Settlement at Section III.GG.1.

<sup>279</sup> Partial Settlement at Section III.GG.2.

<sup>280</sup> Partial Settlement at Section III.GG.3.

<sup>281</sup> PWSA St. No. C-1 (Weimar) at 69.

<sup>282</sup> PWSA St. No. C-1 (Weimar) at 69.

<sup>283</sup> Partial Settlement at Section III.LL.3

side) lead service lines, and the expected expenditures for their replacement, to the extent that the Commission has authorized or directed PWSA to replace such facilities.<sup>284</sup>

*c. The terms of the Partial Settlement are in the Public Interest*

The above-described terms are reasonable, are in the public interest, and should be approved as a framework that will provide the Parties with the opportunity to meet and exchange information and allow adequate time for review of all aspects of the recovery of costs for private-side lead line replacements.

**3. Metering Unmetered Properties**

*a. Statement of the Issue*

Currently, there are customers utilizing service from PWSA and there is no water meter on their property.<sup>285</sup> Some customers are receiving bills pursuant to PWSA's flat rates.<sup>286</sup> Some customers are unbilled.<sup>287</sup> Also, a substantial number of PWSA's meters are aged.<sup>288</sup>

Part of PWSA's LTIP addresses PWSA's plan to complete its unmetered and flat rate properties meter installation program.<sup>289</sup> I&E expressed concerns about PWSA's metering plan.<sup>290</sup> It sought to have PWSA expedite the completion of that plan.<sup>291</sup> In response, PWSA explained that specified task completion times must recognize that PWSA has many issues to

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<sup>284</sup> Partial Settlement at Section III.HH.

<sup>285</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 11.

<sup>286</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 11.

<sup>287</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 11-12.

<sup>288</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 12.

<sup>289</sup> LTIP at § 2.3.7.

<sup>290</sup> I&E St. 4 (Gray) at 32.

<sup>291</sup> I&E St. 4 (Gray) at 33-34.

address, in the context of a system that has experienced a long history of system disinvestment.<sup>292</sup>

***b. Terms of the Partial Settlement***

PWSA agreed to include information about its plan to meter unmetered properties to include an updated timeline.<sup>293</sup> In fact, the plan and timeline to meter unmetered properties was added to page 26 of PWSA's LTIIP filed on September 28, 2019 as shown in Exhibit RAW/C-43.<sup>294</sup> Moreover, it should be noted that PWSA (a) has selected a consultant and awarded a contract to assist in identifying and evaluating unmetered facilities and flat rate customers.<sup>295</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

Providing the above-described information and updated timeline represents a compromise, is reasonable, is in the public interest, and should be approved.

**4. Workforce Development**

***a. Statement of the Issue***

PWSA intends to build a workforce to meet the needs of increased capital spending, including specific detail for how staffing projections were quantified and, to the extent available, an estimate of required contractors.<sup>296</sup> To that end, PWSA continues to increase its staff and consultant resources to increase the rate of project implementation, at all levels and

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<sup>292</sup> PWSA St. No. C-1R (Weimar) at 70.

<sup>293</sup> Partial Settlement at Section III.II.2.

<sup>294</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 20.

<sup>295</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 12.

<sup>296</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 20.

departments.<sup>297</sup> However, in doing so, PWSA intends to be deliberately cautious with the rate of personnel increase to ensure the sustainability and optimize performance of our organization.<sup>298</sup>

I&E expressed concern that PWSA's workforce management plan did not adequately address the size of the workforce needed,<sup>299</sup> and requested more details.<sup>300</sup> In response, PWSA agreed to provide additional and more current information.<sup>301</sup> PWSA also explained that, even with expanding its internal workforce, PWSA will still need to hire additional contractors to accomplish the work associated with the Capital Improvement Plan.<sup>302</sup>

***b. Terms of the Partial Settlement***

PWSA provided that agreed information on pages 48-51 of PWSA's LTIP filed on September 28, 2019 as shown in Exhibit RAW/C-43.

***c. The terms of the Partial Settlement are in the Public Interest***

Providing the above-described information resolves the expressed concern, represents a compromise, is reasonable, is in the public interest, and should be approved.

**5. Construction Coordination with Other Utilities and Municipalities**

***a. Statement of the Issue***

PWSA has used resources, such as the Pennsylvania 811 Coordinate web service application, to identify opportunities for collaboration between projects and to meet the need for increased coordination with local utilities and local, state, county, and city government

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<sup>297</sup> PWSA St. No. C-1R (Weimar) at 71.

<sup>298</sup> PWSA St. No. C-1R (Weimar) at 71.

<sup>299</sup> I&E St. 4 (Gray) at 34-35.

<sup>300</sup> *Id.*; I&E St. 4 (Gray) at 36-37.

<sup>301</sup> Partial Settlement at Section III.JJ.

<sup>302</sup> PWSA Supplemental St. No. C-1SD (Weimar) at 21.

agencies.<sup>303</sup> In fact, PWSA has recent experience related to the need to collaborate with various entities for construction projects.<sup>304</sup>

PWSA has developed a coordination team with the City and its other utility members.<sup>305</sup> In addition, PWSA is developing a robust GIS based data layer to communicate our plans to other utilities.<sup>306</sup> At present, the critical coordination appears to be with the City paving plan and the Gas Companies' piping improvements.<sup>307</sup> Significant improvement is expected as a result of the City's hiring of a new Chief Engineer, and additional engineering staff, which has delayed coordination in the past.<sup>308</sup>

I&E expressed the desire for more detail on how PWSA will refine its coordination efforts with other utilities and local government.<sup>309</sup> In response, PWSA agreed to provide additional and more current information.<sup>310</sup>

***b. Terms of the Partial Settlement***

PWSA provided that agreed information in Exhibit RAW/C-43. That Exhibit includes revisions to the Outreach and Coordination Activities (Section 9) of PWSA's September 28, 2018 filed LTIIP.

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<sup>303</sup> See PWSA Supplemental St. No. C-1SD (Weimar) at 21.

<sup>304</sup> PWSA Supplemental St. No. C-1SD at (Weimar) 22.

<sup>305</sup> PWSA St. No. C-1R at (Weimar) at 72

<sup>306</sup> *Id.*

<sup>307</sup> *Id.*

<sup>308</sup> *Id.*

<sup>309</sup> I&E St. 4 (Gray) at 37-38.

<sup>310</sup> Partial Settlement at Section III.KK.

*c. The terms of the Partial Settlement are in the Public Interest*

Providing the above-described information resolves the expressed concern, represents a compromise, is reasonable, is in the public interest, and should be approved.

**6. Distribution System Improvement Charge (DSIC)**

*a. Statement of the Issue*

I&E recommended that PWSA file a DSIC and implement DISC funding once PWSA meets the eligibility criteria.<sup>311</sup> PWSA intends to follow that recommendation.<sup>312</sup> In fact, PWSA expects that it will request the ability to implement an annual, levelized charge as the basis for establishing DSIC rates, subject to subsequent true-up for PWSA's actual experience (similar to the DSIC mechanism used by Philadelphia Gas Works)<sup>313</sup> — since PWSA uses the cash-flow methodology and does not recover costs based on rate base.<sup>314</sup>

*b. Terms of the Partial Settlement*

The Partial Settlement provides a general framework for PWSA to file a DSIC and implement DISC funding. Under the Partial Settlement, PWSA agrees to seek necessary waivers to implement an annual, levelized charge as the basis for establishing DSIC rates, subject to subsequent true-up for PWSA's actual experience.<sup>315</sup> If the waivers are granted, PWSA agreed to terms to (a) separately track and account for all DSIC proceeds and expenditures in a separate accounting mechanism<sup>316</sup> and (b) minimize over or undercollections.<sup>317</sup> In addition, as noted

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<sup>311</sup> I&E St. 1 (Spadaccio) at 16.

<sup>312</sup> PWSA St. No. C-3R (Presutti) at 2.

<sup>313</sup> PWSA St. No. C-3R (Presutti) at 2 at 2-3. *See* 66 Pa.C.S. § 1357(c).

<sup>314</sup> FIO at 26-28.

<sup>315</sup> Partial Settlement at Section III.LL.1.

<sup>316</sup> Partial Settlement at Section III.LL.2.a.

<sup>317</sup> Partial Settlement at Section III.LL.2.b.



above, the Partial Settlement also states PWSA intent to include the costs related to private-side lead service line replacement within the DSIC.<sup>318</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described framework is reasonable, is in the public interest, and should be approved. No party opposes the filing of a DSIC, once PWSA's LTIIP is approved.<sup>319</sup> The structure and implementation of the DSIC will require additional approvals from the Commission.<sup>320</sup> All parties reserve their rights to review and challenge the implementation of the DSIC.<sup>321</sup> The DSIC, once implemented, will allow PWSA to continue with capital improvement projects without the risk of uncertainty or delay. By funding the accelerated replacement of infrastructure, the DSIC will also help ensure that customers will continue to receive safe and reliable service in the future.

**I. Customer Service, Collections And Customer Assistance Program**

**1. Issues Deferred to Stage 2**

***a. Statement of the Issue***

As further explained by PWSA Witness Quigley, the scope of the customer service issues to be addressed in this Stage 1 of the proceeding was unclear so PWSA used its best judgment about the issues to be addressed and presented testimony regarding them.<sup>322</sup> These issues

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<sup>318</sup> Partial Settlement at Section III.LL.3.

<sup>319</sup> See, e.g., 52 Pa. Code § 121.3(a), 121.4(a), 121.5(a) (approved LTIIP).

<sup>320</sup> Id. See also 52 Pa. Code § 121.4(f), (g) (approved DSIC mechanism); Partial Settlement at Section III.LL.

<sup>321</sup> See Partial Settlement at Section III.LL.4.

<sup>322</sup> PWSA St. No. C-4 (Quigley) at 2-7. Pursuant to its November 28, 2018 Secretarial Letter, the Commission announced that it would “stage” its review of PWSA’s Compliance Plan and specifically directed that Stage 2 would cover PWSA’s compliance with Chapter 14 and Chapter 56. Upon reconsideration, the Commission determined that Stage 1 should include issues related to Chapter 15 of the Public Utility Code, including the Discontinuance of Service to Leased Premises Act (“DSLPA”). 66 P.S. §§ 1521-1533. In addition, some of the Staff Directed Questions implicate issues related to Chapter 14 and Chapter 56 issue.

included: (1) PWSA’s processes related to voluntary discontinuance of service; (2) the language, format and method of providing suspension and termination notices; (3) PWSA’s compliance with DSLPA. Based on its view of the directives from the Commission, PWSA concluded that collections issues were to be a part of Stage 2.<sup>323</sup>

Witnesses for both OCA and UNITED set forth their views regarding the language, format and method of providing suspension and termination notices and UNITED addressed DSPLA issues.<sup>324</sup> Other parties expressed different views regarding the scope of the Stage 2 process. For example, I&E took the view that PWSA was required to enact “a comprehensive plan to mitigate its high level of uncollectibles impacts to its revenues and financing requirements” as part of its Stage 1 testimony while UNITED Witness Miller agreed with preserving collections issue for Stage 2.<sup>325</sup>

Given the interrelatedness of the issues identified in the testimony and the discussions of the Stage 2 collaborative workshop, the parties ultimately agreed to request that the Commission defer the customer service issues – including collections – to Stage 2. The Commission granted this request in its May 15, 2019 Secretarial Letter.

***b. Terms of the Partial Settlement***

The Partial Settlement recognizes the identifies the issues the Commission has deferred to Stage 2 while specifically addressing the agreed-to processes that PWSA would implement in the interim related to concerns of OCA and UNITED about the personal contact requirements of

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<sup>323</sup> PWSA St. No. C-4 (Quigley) at 20.

<sup>324</sup> OCA St. 3 (Alexander) at 2; UNITED St. No. C-1 (Miller) at 9-10.

<sup>325</sup> I&E St 2 (Patel) at 58; UNITED St. No. C-1 (Miller) at 33-34.

Sections 56.94 and 56.336 of the Commission’s regulations.<sup>326</sup> The Partial Settlement also sets forth the parties agreement regarding the collections plan issues deferred to Stage 2 setting forth a process whereby that issue can be further discussed and evaluated.<sup>327</sup> Finally, the Partial Settlement identifies specific information that PWSA agreed to provide the parties in advance of the Stage 2 litigation.<sup>328</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

The Partial Settlement terms set forth the parties previously reached agreements regarding the “staging” of customer service issues in the next phase of this Compliance Plan. The terms also recognize interim processes that PWSA has put in place to address some of the concerns raised by the parties and set forth a path forward to addressing that specific issue. Adoption of these terms is in the public interest because it provides a reasonable and logic way to address these issues in a way that includes assistance from Commission staff and provides the parties with some time to focus on these issues as the other issues in Stage 1 move forward for Commission decision.

**2. PWSA Low-Income Customer Assistance Program**

***a. Statement of the Issue***

In response to Staff Directed Questions, Ms. Quigley addressed issues related to its low-income Customer Assistance Program (“CAP”) ultimately recommending that PWSA’s programs not be revised at this time.<sup>329</sup> While parties did not oppose PWSA’s approach, they did

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<sup>326</sup> Partial Settlement, Section III.MM.2.a at 40-41.

<sup>327</sup> Partial Settlement, Section III.MM.2.b at 41-42.

<sup>328</sup> Partial Settlement, Section III.MM.3 at 42.

<sup>329</sup> PWSA St. No. C-4 (Quigley) at 22-29.

offer their recommendations about how PWSA's CAP should be designed as well as recommendations about what should occur prior to the filing of PWSA's next rate case.<sup>330</sup>

***b. Terms of the Partial Settlement***

As part of the Partial Settlement, PWSA agreed to provide a draft plan to its Low Income Advisory Council ("LIAAC") in September to enable them to provide written feedback that PWSA could consider incorporating in the plan to be presented as part of its next rate case.<sup>331</sup> PWSA agreed to continue to provide data related to its CAP in the Compliance Plan Progress Reports.<sup>332</sup> Finally, PWSA agreed to develop an outreach plan with the input of interested parties to be included with the CAP to be filed as part of PWSA's next base rate case.<sup>333</sup>

***c. The Terms of the Partial Settlement are in the Public Interest***

Adoption of the Partial Settlement terms related to low income customer assistance programs is in the public interest because it ensures a continued collaboration with interested parties regarding PWSA's proposals. Enabling a pathway for collaboration with the parties as well as BCS serves the public interest because such collaboration will benefit the overall plan to be submitted with PWSA's next base rate case.

**J. Lead Service Line Remediation**

**1. Introduction**

In the FIO, the Commission requested that one of the issues that should be developed in this proceeding is PWSA's plan to address lead in customer drinking water.<sup>334</sup> As explained in

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<sup>330</sup> OCA St. 4 (Colton) at 11; UNITED St. No. C-1 at 38; I&E St. 2 (Patel) at 12-13.

<sup>331</sup> Partial Settlement, Section III.NN.1-3 at 42-43.

<sup>332</sup> Partial Settlement, Section III.NN.1.b at 42.

<sup>333</sup> Partial Settlement, Section III.NN.4 at 42.

<sup>334</sup> Final Implementation Order at 32.

PWSA’s main brief, while there is no lead in the water when it leaves PWSA’s water purification plant, lead levels above the EPA/PADEP “Action Levels” have consistently been detected in more than 10% of the tap water samples for the last several years.<sup>335</sup> This lead is caused by lead service lines, both the portion that is owned by PWSA (“public side”) and the portion that is owned by the residential property owner (“private side”). This water quality and public health issue has caused PWSA and PADEP to enter into a “Consent Order and Agreement” (‘Lead COA’) which requires PWSA to replace at least 7% of its public lead service lines each year following a test showing that PWSA has exceeded “action levels” in the prior six months.<sup>336</sup>

As explained on the record, in future periods, PWSA fully expects to find that its water samples are well below the Action Level, because of the recent introduction of Orthophosphate, a corrosion control agent which acts to stop lead from leaching from lead service line piping.<sup>337</sup> Once PWSA’s results fall below the Action Level, it will have no regulatory obligation to replace any lead line – public or private. However, PWSA and its Board of Directors have voluntarily elected to continue to pursue a lead remediation program that includes replacing both public side and private side lines and has formulated a new Policy to reflect that commitment. For the most part, the Lead Remediation portion of the Partial Settlement reflects those PWSA voluntary commitments.

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<sup>335</sup> PWSA M.B. at 51-54.

<sup>336</sup> *Id.*

<sup>337</sup> *Id.* at 61.

## 2. General Discussion of Why the Lead Remediation Settlement is in the Public Interest

The Lead Remediation portions of the Partial Settlement present a comprehensive plan to remove all residential public and private-side lead lines in PWSA's system over a period of years and provides a host of interim steps to homeowners to replace their own lines with some or all of the costs being reimbursed by PWSA while the Authority systematically addresses service line lead issues.<sup>338</sup>

As discussed in greater detail below, the Partial Settlement comprehensively addresses all aspects of PWSA's lead remediation efforts (with the exception of just three lead-related issues that have been reserved for litigation) and is just, reasonable and in the public interest. Overall, it represents a fair and reasonable plan to address the water quality issues created by the historic use of lead and galvanized iron for customer service lines. Notably, none of these lines were installed by PWSA (or its predecessor), nor did PWSA (or its predecessor) direct these specific materials. It also represents an agreement by the Parties that PWSA's existing efforts, set forth in its 2018<sup>339</sup> and 2019 Lead Remediation Policies<sup>340</sup> and commitments it made in the 2017 Consent Order and Agreement with DEP, as well as some additional commitments, are fair, just and reasonable.

There are three term keys of the Settlement. First, PWSA has confirmed its voluntary commitment to replace, by 2026 100% of its known public *and private* lead service lines attached to a residential structure (assuming the homeowner grants permission to replace the

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<sup>338</sup> Partial Settlement at Section III.VV.

<sup>339</sup> PWSA Hearing Exhibit 1 at Appendix C (LTIIP), Appendix C (2018 Policy).

<sup>340</sup> PWSA Exh. RAW/C-46 (PWSA Lead Service Line Replacement Policy Approved July 26, 2019).

private side and no technical issue make replacement infeasible).<sup>341</sup> Non-residential properties are not included because they do not have “public-side” service lines connected to a private line and do not create “partial replacement” issues when the water main is removed (or “relayed”).<sup>342</sup>

Second, PWSA will replace a residential customers’ private lead service line if it replaces the public side (in order to avoid “partial” replacements).<sup>343</sup>

Third, the Settlement sets out a detailed procedure by which PWSA will inventory all residential lead service lines and establish a “plan” and timeline for removing all public and private residential lines that will start with PWSA’s current goal of replacing all identified residential lines by 2026, although, once the inventory is completed, that projected end date may change.<sup>344</sup>

In addition to these key features PWSA and the Parties have also committed to specific procedures involving interior plumbing inspections,<sup>345</sup> meter replacement associated with lead service lines,<sup>346</sup> rules for providing tap water testing kits and filter distribution<sup>347</sup> and the provision of bottled water and flushing assistance to customers.<sup>348</sup>

The Settlement also includes a commitment to continuing the existing CLRAC so that the community (through its representatives on the Committee) and the Parties to this Proceeding will

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<sup>341</sup> In the Partial Settlement, the term “residential” includes properties with no more than four dwelling units which are connected to a public-side lead service line, or a “mixed use” (residential and commercial property). See Partial Settlement at Section III.VV.1, ft. 36.

<sup>342</sup> See PWSA MB at 58-59.

<sup>343</sup> See Partial Settlement at Section III.VV.1.a, III.VV.1.b.

<sup>344</sup> See Partial Settlement at Section III.QQ.

<sup>345</sup> Partial Settlement at Section III.RR.

<sup>346</sup> Partial Settlement at Section III.SS.

<sup>347</sup> Partial Settlement at Section III.TT.

<sup>348</sup> Partial Settlement at Section III.UU.

continue to be briefed and be able to provide advice on PWSA's lead response efforts.<sup>349</sup> The Settlement also commits to providing additional information to the Commission and to CLRAC about PWSA's corrosion control efforts (use of orthophosphate)<sup>350</sup> and private lead line costs (for use in future rate cases).<sup>351</sup> While PWSA continues to assert that lead remediation efforts are plainly steps to deal with a water quality issue, and thus not the jurisdiction of the PUC,<sup>352</sup> it welcomed the opportunity to enter into this Settlement in Order to assure that the Parties and the Commission were fully informed about PWSA's substantial efforts. In any event, these efforts are clearly reasonable and in the public interest – as evidenced by the fact that all the Parties including UNITED (who was partially represented by the National Resources Defense Council) as well as I&E and OCA, all were able to agree to these terms.

### 3. Inventory

#### a. *Statement of the Issue*

The Lead COA contains deadlines for completing a lead service line system inventory.<sup>353</sup> In 2018, it was **estimated** that there were about 12,300 residential public lead service lines within PWSA's water system.<sup>354</sup> PWSA is working to update/complete its inventory of

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<sup>349</sup> See Partial Settlement at Section III.WW.

<sup>350</sup> Partial Settlement at Section III.XX.

<sup>351</sup> Partial Settlement at Section III.YY.

<sup>352</sup> See PWSA Main Brief at 67-78.

<sup>353</sup> Lead COA at § 3.c.

<sup>354</sup> PWSA Hearing Exh. 3 (LTIIP) at 28. Based on the March 29, 2018 Updated Materials Evaluation report, there are an estimated 12,218 lead service lines within the Authority's water system. *Id.* PWSA has yet to perform its inventory of non-residential service line materials. PWSA St. No. C-1R (Weimar) at 60-61; PWSA C-1SD (Weimar) at 24; PWSA Exh. RAW/C-44; PWSA St. No. C-1R-Supp. (Weimar) at 2, 5-6; PWSA St. No. C-1RJ (Weimar) at 4, 16-17. Once the residential inventory is completed in 2020, PWSA will be working to complete an inventory of non-residential lead service lines by December 31, 2022. *Id.*



residential lead service lines by December 31, 2020.<sup>355</sup> While that inventory is not yet complete, the number of residential customers potentially with public lead service lines (after 2020) is estimated to be around 6,000,<sup>356</sup> and the number of residential private lead service lines could be between 8,000 and 20,000.<sup>357</sup>

The active parties expressed concern that the inventory of lead service lines was still incomplete,<sup>358</sup> and claimed that, at that time, there was an insufficient plan for completing the inventory of residential lead service lines.<sup>359</sup> In July 2019, after discussions with PADEP, PWSA presented PADEP with its revised comprehensive plan to inventory service line materials in its distribution system.<sup>360</sup> In addition to other methods, PWSA started working with the University of Pittsburgh to develop a machine-learning model that will improve upon lead inventories.<sup>361</sup>

***b. Terms of the Partial Settlement***

Section QQ of the Partial Settlement affirms PWSA's existing plan to assist in the completion of the inventory of all public and private-side lead service lines in its system using a predictive model on which PWSA is currently working, in collaboration with the University of Pittsburgh. PWSA agreed to complete the modeling by March 31, 2020.<sup>362</sup>

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<sup>355</sup> PWSA St. No. C-1R at (Weimar) at 60-61; PWSA C-1SD (Weimar) at 24; PWSA Exh. RAW/C-44; PWSA St. No. C-1R-Supp. (Weimar) at 2, 5-6; PWSA St. No. C-1RJ (Weimar) at 4, 16-17;

<sup>356</sup> PWSA Hearing Exh. 3 (LTIIP) at Table 2-7 (residential lead service lines remaining after 2020: 5989).

<sup>357</sup> See UNITED St. No. C-1SUPP-R (Miller) at 5 and at Appendix A, 1.

<sup>358</sup> See, e.g., UNITED St. No. C-2 (Welter), at 29-32; UNITED St C-3 (Lanphear) at 42-43.

<sup>359</sup> See, e.g., UNITED St. No. C-2SR (Welter) at 2, 6-7.

<sup>360</sup> PWSA St. No. C-1SD, p. 24; PWSA Ex. RAW-C-44

<sup>361</sup> *Id.*; Partial Settlement at Section III.QQ.1.

<sup>362</sup> Partial Settlement at Section III.QQ.1, III.QQ.1.a, III.QQ.1.b.

Using the modeling, existing data bases information, and other sources of information PWSA continues to collect, PWSA will, by December 31, 2020 establish an estimated inventory of the number of private-side lead service lines connected to residential structures, which inventory will be updated annually.<sup>363</sup>

Using that inventory PWSA confirmed its previous intention to formulate – by March 31, 2021 – a “plan and timeline” for removing all known public and private-side lead service lines connection to a residential structure (subject to ability to obtain approvals and feasibility).<sup>364</sup>

PWSA’s current goal for replacing all public and private residential lead services lines is 2026.<sup>365</sup> The Partial Settlement acknowledges that this goal may have to be revised once a complete inventory is completed.<sup>366</sup> If the target end date needs to be revised PWSA will explain the bases for the revision to the Community Lead Remediation Advisory Committee (“CLRAC”) for its information and to consider any suggestions it might have,<sup>367</sup> although the decision on the timeline for removal, and all lead remediation steps is PWSA’s alone, subject to PADEP direction.

In addition to an overall plan and timeline, PWSA will prepare annually a plan describing the areas in which it intends to replace small diameter mains (pursuant to its Small Diameter Water Main Replacement program (“SDWMR”).<sup>368</sup> This detail will first be prepared by

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<sup>363</sup> Partial Settlement at Section III.QQ.1.c.

<sup>364</sup> Partial Settlement at Section III.QQ.2.b. The Partial Settlement acknowledges that PWSA will not be able to replace: (i) private-side lead lines that a residential property owner refuses to allow PWSA to replace; (ii) lead service lines that are operationally infeasible to replace as determined pursuant to Paragraph 3.3 of PWSA Exh. RAW/C-46 (PWSA Lead Service Line Replacement Policy Approved July 26, 2019); and, (iii) lines that PWSA is unable to identify as lead service lines. Id. Section III.QQ.2.d.

<sup>365</sup> Partial Settlement at Section III.QQ.2.c.

<sup>366</sup> Partial Settlement at Section III.QQ.2.c.

<sup>367</sup> Partial Settlement at Section III.QQ.2.a, III.QQ.3.

<sup>368</sup> Partial Settlement at Section III.QQ.3.

September 30, 2019 (for 2021), and each year thereafter. The detailed plan will include: (1) the number and location of lead service line replacements in the preceding year; (2) the mileage of small diameter mains and the number of lead service lines occurring in “Priority Neighborhoods,”<sup>369</sup> the number estimated to be removed in the following year and the number of lead service lines remaining to be removed.

Starting with the September 2022 update if it does not meet its commitment to replace at least 10 miles of small diameter mains in Priority Lead neighborhoods PWSA will also explain the reasoning why it failed to do so and how it will address this deficiency in the future.<sup>370</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described framework is reasonable, is in the public interest, and should be approved. The framework is a compromise acceptable parties representing a variety of consumer interests as well as the public interest and is consistent with PADEP regulations and the Lead COA, the MAA, and the Public Utility Code. The framework also commits PWSA to continue working with the University of Pittsburgh<sup>371</sup> and to seek input from the CLRAC,<sup>372</sup> which consists of interested parties from PWSA’s base rate proceeding, representatives from local community groups, and a public health expert.<sup>373</sup>

**4. Lead Service Line Replacements**

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<sup>369</sup> See Partial Settlement, Section III.OO

<sup>370</sup> Partial Settlement at Section III.QQ.3.c.

<sup>371</sup> Partial Settlement at Section III.QQ.1.

<sup>372</sup> Partial Settlement at Section III.QQ.2.a, III.QQ.2.b, III.QQ.2.c.

<sup>373</sup> PWSA Base Rate Proceeding, Joint Petition for Settlement, at § C.1.a.

*a. Statement of the Issue*

There is no detectable lead in PWSA's water when it leaves the treatment plant and travels through PWSA's water mains.<sup>374</sup> However, lead can enter drinking water through lead services lines.<sup>375</sup> For PWSA's service lines that are smaller than one inch – virtually all residential properties – services lines have a public-side (which is owned by PWSA<sup>376</sup>) and a private-side (which is owned by the property owner<sup>377</sup>). For all of PWSA's non-residential customers, there is only a private-side service line, since the service line is owned entirely by the property owner.<sup>378</sup>

When there is an action level exceedance under the “Lead and Copper” Rules,<sup>379</sup> the PADEP and the Federal Environmental Protection Agency (“EPA”) only mandates that replacement of the utility owned, or public-side lead service lines. Neither agency mandates the

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<sup>374</sup> PWSA Hearing Exh 1, Appendix 1 (Compliance Plan) at 119; PWSA Rate Case, PWSA St. 1-R (Weimar) at 14; PWSA M.B. at 51,

<sup>375</sup> PWSA Hearing Exh 1, Appendix 1 (Compliance Plan) at 119; PWSA Rate Case, PWSA St. 1-R (Weimar) at 14. The term “service line” is defined as “Water lines that connect the water service of a residential or non-residential property to the Authority's Mains and that deliver water from the Mains to one or more buildings, premises, or facilities. Service Lines may be Authority Service Lines, Customer Service Lines, or Party Service Lines.” PWSA Tariff Water (PUC No. 1) at Part II (definitions). Please note that lead can also enter drinking water through household plumbing. PWSA Hearing Exh 1, Appendix 1 (Compliance Plan) at 119. PWSA does not own any household or internal plumbing within the homes or buildings of PWSA's customers. PWSA also considers galvanized iron piping a concern because galvanized iron lines were typically jointed to lead public service lines and lead from the public side of a lead pipe can leach into a private galvanized iron service line. PWSA St. No. C-1R Supp (Weimar) at 4.

<sup>376</sup> This part of a service line is called the “Authority service line.” PWSA Tariff Water (PUC No. 1) at Part II (definitions).

<sup>377</sup> This part of a service line is called the “Customer service line.” PWSA Tariff Water (PUC No. 1) at Part II (definitions).

<sup>378</sup> PWSA Tariff Water (PUC No. 1) at Part III, Section B, Rule 12.a (“all Non-Residential service lines, regardless of diameter, are the responsibility of the property owner, including the section from the Curb Stop, the Curb Box, and that portion of the Water Service Line running from the Curb Stop to the Water Main.”). PWSA has identified four “public-side” galvanized iron service lines at non-residential properties, but they are in actuality privately owned service lines in the public right-of-way. *See* OSBA Exhibit I-5.

<sup>379</sup> 40 CFR Part 141 Subpart I and 25 Pa.Code § 109.1101 to 109.1108, collectively the “lead and copper rules” or “LCR.”

replacement of private-side lead service lines.<sup>380</sup> Nor has the Commission mandated the replacement of private-side lead service lines.<sup>381</sup>

Beyond any “Action Level” obligation, the active parties expressed concern about the continued replacement of public and private-side residential lead service lines and avoiding “partial” replacements, i.e., where for some reason the public side of the service line is replaced but not the private side.

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA affirmed its determination to replace a private-side lead service line at no direct cost to the property owner:<sup>382</sup> (i) at any residence<sup>383</sup> where PWSA replaces a public-side service line connected to a private-side lead service line; and (ii) at any residence with a private-side only lead service line located within a work order area of a neighborhood-based lead service line replacement program where lead service line replacements are performed after completion of the 2019 Lead Service Line Replacement program which is currently scheduled to be completed by September 2020. In doing so, it was acknowledged that there are certain private-side service lines that PWSA will not be able to replace.<sup>384</sup>

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<sup>380</sup> *Id.* See also UNITED St. No. C-2SUPP-R (Welter), Appendix A at 18-20.

<sup>381</sup> PWSA Main Brief at 67-78.

<sup>382</sup> Partial Settlement at Section III.QQ.2.d

<sup>383</sup> Partial Settlement at Section III.OO (definitions), VV.1.a (general terms). For purposes of Section III.VV.1.a, a “residence” means a residential property with no more than four (4) dwelling units or a dual use property (commercial & residential) with service lines 1-inch in diameter or less, for which the PWSA has maintenance responsibility for the water service line from the water main to and including the curb stop, as more fully described in PWSA Rules and Regulations.

<sup>384</sup> Partial Settlement at Section III.QQ.2.d.

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the lead and copper rules, PADEP Regulations and the Lead COA, the MAA, and the Public Utility Code.

**5. Partial Lead Service Line Replacements**

***a. Statement of the Issue***

PWSA seeks to refrain from performing partial lead service line replacements at residential properties.<sup>385</sup> There are health concerns<sup>386</sup> surrounding a “partial lead service line replacement.” In the Partial Settlement, that term is defined as “replacement of a public-side service line made of any material without the simultaneous replacement of a connected private-side lead service line.”<sup>387</sup>

The active parties expressed the desire for PWSA to avoid partial lead service line replacements. In response, PWSA’s Board adopted a policy to minimize partial lead service line replacements.<sup>388</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA reaffirmed the PWSA Board Policy to reduce the number of partial (public-only) lead service line replacements. In doing so, PWSA affirmed that

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<sup>385</sup> PWSA Hearing Exh. 3 (LTIIP) at 16, 56.

<sup>386</sup> *See, e.g.*, UNITED St. No. C-2 (Welter) at 5, 9-10, 22-25; UNITED St. No. C-3 (Lanphear) at 15-24.

<sup>387</sup> Partial Settlement at Section III.OO.6.

<sup>388</sup> PWSA EXh. RAW/C-46 (PWSA Lead Service Line Replacement Policy Approved July 26, 2019).

it would limit partial lead service line replacements to only four situations.<sup>389</sup> PWSA also made a commitment to identify and request funding sources (other than rates) for lead service line replacements.<sup>390</sup> In addition, PWSA agreed that, prior to conducting a private-side lead service line replacement, PWSA will provide the property owner with information about the property damage that might occur during the replacement and will describe the restoration that PWSA will perform.<sup>391</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**6. Interior Plumbing Inspections**

***a. Statement of the Issue***

Generally, PWSA is not responsible for diagnosing or repairing a customer's internal plumbing or associated equipment.<sup>392</sup> That being said, beyond service lines, older homes may

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<sup>389</sup> Partial Settlement at Section III.VV.1.b.

<sup>390</sup> Partial Settlement at Section III.VV.1.c.

<sup>391</sup> Partial Settlement at Section III.VV.1.d.

<sup>392</sup> PWSA is not under a duty or obligation to test the internal plumbing of a home or building. See, e.g., *Edward Ledbetter v. Factoryville Water Company and National Utilities, Inc.*, Docket No. C-881945, Opinion and Order entered August 7, 1989 (Internal piping is not of course the responsibility of the Respondent). Neither the Public Utility Code nor the Commission's regulations provide legal authority to require PWSA to eliminate charges resulting from a leak in, or other problems, with internal plumbing. See, e.g., *Ton van Dijk v. Pennsylvania American Water Company*, Docket No. C-2011-2221185, Final Order (Act 294) entered May 27, 2011 adopting decision of Administrative Law Judge Dennis J. Buckley dated March 3, 2011 (holding that a complaint lacks legal sufficiency with respect to the claim for a bill adjustment).

have lead-bearing interior plumbing.<sup>393</sup> It was recommended that PWSA should assist residents with inspecting their interior plumbing and identifying potential sources of lead exposure, such as galvanized pipes, lead solder, or brass fixtures.<sup>394</sup>

***b. Terms of the Partial Settlement***

Section RR of the Partial Settlement reaffirms PWSA's existing practice to inspect the interior plumbing adjacent to the water meter whenever it replaces the meter or when it replaces a private-side line and inform customers of the materials observed. Specifically, under the Partial Settlement, PWSA agreed that whenever PWSA replaces a residential water meter, PWSA will inspect the interior plumbing adjacent to the water meter and inform residents in writing of the materials observed. If the interior plumbing is composed of galvanized steel or iron, PWSA will inform customers of the risks of lead release from such plumbing.<sup>395</sup> In addition, PWSA also agreed that, whenever PWSA performs a private-side lead service line replacement without a simultaneous meter replacement, PWSA will make good faith efforts to document the material making up the interior plumbing adjacent to the private-side lead service line and inform residents in writing of the materials observed. If the interior plumbing is composed of galvanized steel or iron, PWSA will inform customers of the risks of lead release from such plumbing.<sup>396</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties

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<sup>393</sup> UNITED St. No. C-2 (Welter) at 6, UNITED St. No. C-2 SUPP-R (Welter) at 9; UNITED St. No. C-3 (Lanphear), 7-8, 13; UNITED St. No. C-3 SUPP-R (Lanphear), 4-5.

<sup>394</sup> UNITED St. No. C-2 (Welter) at 36-37.

<sup>395</sup> Partial Settlement at Section III.RR.1.

<sup>396</sup> Partial Settlement at Section III.RR.2.



representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**7. Meter Replacements**

***a. Statement of the Issue***

PWSA is undertaking a comprehensive metering program to identify and replace non-working or aged meters (of all sizes), upgrade testing processes and equipment, and ensure that PWSA has the technical ability to reasonably accommodate customer requests for meter testing.<sup>397</sup> There are health concerns<sup>398</sup> surrounding the replacement of meters at residences that still have a private-side lead service line.

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed to take actions to ensure that a new meter installed at any residence is “lead free,” as defined at 42 U.S.C. § 300g-6(d).<sup>399</sup> PWSA further agreed to provide, at no charge, a tap water lead testing kit to any resident within its service area who requests one.<sup>400</sup>

In addition, PWSA agreed to conduct a study to examine lead effects from meter replacement. Starting September 1, 2019, PWSA will conduct a three month study to determine the potential impact of replacing a water meter at locations with lead service lines or adjacent lead-bearing or galvanized interior plumbing.<sup>401</sup> If PWSA determines that when replacing a

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<sup>397</sup> Partial Settlement at Section III.J.1.

<sup>398</sup> UNITED St. No. C-3 (Lanphear) at 40-41.

<sup>399</sup> Partial Settlement at Section III.SS.4.

<sup>400</sup> Partial Settlement at Section III.TT.1.

<sup>401</sup> Partial Settlement at Section III.SS.1.

water meter that lead levels exceed 10 parts per billion for more than 10% of the sample PWSA will start providing to those customers water filters and filter cartridges to remove lead. By January 31, 2020, PWSA will present CLRAC with the results of the samples received to demonstrate the potential impacts and will solicit feedback from CLRAC, or take immediate action as determined to be necessary by the study results.<sup>402</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**8. Tap Water Testing and Filter Distribution**

***a. Statement of the Issue***

The active parties sought to improve PWSA's distribution of tap water testing kits<sup>403</sup> and water filters.<sup>404</sup> PWSA provides tap water test kits to customers that request a kit to evaluate lead levels.<sup>405</sup> If the results reveal that lead levels exceed 15 ppb, PWSA provides (under a prior agreement<sup>406</sup>) the customer a pitcher, filters and an additional water sample test kit at no charge.

PWSA also previously agreed to provide NSF-certified filters and replacement cartridges until December 31, 2019, free of charge and prior to service line replacement, to households that

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<sup>402</sup> Partial Settlement at Section III.SS.3.

<sup>403</sup> UNITED St. No. C-3 (Lanphear) at 40, 46.

<sup>404</sup> UNITED St. No. C-1 (Miller) at 51; UNITED St. No. C-2 (Welter) at 37; UNITED St. No. C-3 (Lanphear) at 4, 28-35; UNITED St C-3SR (Lanphear) at 10-13.

<sup>405</sup> PWSA St. No. C-1R at (Weimar) at 56.

<sup>406</sup> PWSA St. No. C-1R at (Weimar) at 56; Rate Case, Joint Petition for Settlement at § C.1.a.iv.(a).

qualify for an existing PWSA customer assistance program at properties where the public - and/or private-side service lines are made of lead or unknown material based on PWSA's historical records or curb-box inspection results.<sup>407</sup>

UNITED recommended that PWSA should offer water filters to residential customers whose tap water tests have lead levels exceeding 5 ppb,<sup>408</sup> as opposed to 15 ppb.

***b. Terms of the Partial Settlement***

Section TT of the Partial Settlement reaffirms PWSA's existing practice regarding tap water testing. PWSA will provide at no charge a tap water lead testing kit to: (i) any resident within its service territory who requests a kit; and (ii) any resident within its service territory who had a partial lead service line replacement, full lead service line replacement, or private-side only lead service line replacement.<sup>409</sup> PWSA has agreed to provide test kits and water filters to any resident within its service territory who receives a meter replacement with lead or galvanized plumbing identified, if PWSA determines, after a three-month test that lead levels are exacerbated due to meter replacement (pursuant to section (SS)).<sup>410</sup>

If the results of the test show lead at above 10 parts per billion, PWSA will provide at no charge water filters and filter cartridges for up to six months, and will continue to provide both testing kits and water filters if the tests show lead levels above 10 parts per billion.<sup>411</sup>

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<sup>407</sup> Rate Case Settlement at § C.1.a.iv.(a).

<sup>408</sup> UNITED St. No. C-3 (Lanphear) at 4, 28-35.

<sup>409</sup> Partial Settlement at Section III.TT.3. PWSA will provide residents who receive partial lead service line replacements with information regarding the risks of lead exposure from partial lead service line replacements. Partial Settlement at Section III.TT.3.a.

<sup>410</sup> Partial Settlement at Section III.TT.1.c.

<sup>411</sup> See Partial Settlement at Section III.TT.1.a, III.TT.1.b.; Partial Settlement at Section III.TT.3.b. If the three-month follow-up test result shows lead levels above 10 ppb, PWSA will assist the resident in determining why lead levels remain elevated. Partial Settlement at Section III.TT.3.c.

In addition, until PWSA's Lead and Copper Rule sampling results fall below the lead action level during two consecutive six-month monitoring periods, PWSA will offer, at no charge, a water filter NSF-certified to remove lead and six months of filter cartridges to any customer enrolled for PWSA's Customer Assistance Programs and any tenant that would be eligible for PWSA's Customer Assistance Programs if they were a customer, when PWSA's records (including predictions from the machine-learning model described above in Section III.QQ.1 of the Partial Settlement) indicate that the customer's or tenant's residence has a public-side or private-side service line made of lead or unknown material.<sup>412</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**9. Bottled Water and Flushing Assistance**

***a. Statement of the Issue***

PWSA follows, and will continue to follow, all federal and state requirements with regard to follow up water sampling post-lead service line replacement.<sup>413</sup> PWSA provides bottled water and assists customers with flushing their line if any post replacement sample shows water lead levels above 100 ppb.<sup>414</sup> UNITED recommended that PWSA use thresholds much lower than

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<sup>412</sup> Partial Settlement at Section III.TT.2.

<sup>413</sup> PWSA St. No. C-1R at (Weimar) at 58.

<sup>414</sup> *Id.*

100 ppb.<sup>415</sup> In response, PWSA indicated its willingness to reduce said threshold from 100 ppb to 50 ppb.<sup>416</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed that if a residence's tap water lead test reveals lead concentrations above 50 parts per billion, PWSA will deliver to the residence at least one case of bottled water per day until PWSA completes a meter drop and flush at the residence.<sup>417</sup> Residents who receive a meter drop and flush will remain eligible for additional filter cartridges and other assistance as described above in Sections III.TT.1 and III.TT.3 of the Partial Settlement.<sup>418</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**10. Small-Diameter Water Main Replacement Program**

***a. Statement of the Issue***

Once its "Action Level" replacement obligations are at an end, the active parties expressed concern about the continued replacement of public and private-side residential lead service lines. In response, PWSA indicated that it will continue to replace public and private-side

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<sup>415</sup> UNITED St. No. C-3 (Lanphear) at 38.

<sup>416</sup> PWSA St. No. C-1R at (Weimar) at 58-59.

<sup>417</sup> Partial Settlement at Section III.UU.1.

<sup>418</sup> Partial Settlement at Section III.UU.1.

lead lines.<sup>419</sup> This will happen in one of three ways: (1) as part of PWSA’s SDWMR Program;<sup>420</sup> (2) whenever PWSA replaces a public-side lead line in an emergency, line breaks or leaks; or (3) as part of the income based, customer initiated replacement program (PWSA will replace the corresponding public side lead line (if there is one) when the customer replaces his/her lead line).<sup>421</sup> The July 2019 Policy will eventually address all known residential lead service lines in PWSA’s system.<sup>422</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed that, starting January 1, 2021, PWSA will endeavor, to the maximum extent possible and consistent with balancing its other regulatory, infrastructure and consumer obligations and priorities, to replace at least ten miles per year of small-diameter water main in “Priority Lead Neighborhoods”, the locations of which will be determined in consultation with CLRAC.<sup>423</sup>

In addition, PWSA agreed that, by September 30, 2019 and each year thereafter until September 30, 2026, PWSA will create (and present to the CLRAC, for review and advisory input) a plan describing the areas where the small-diameter water main replacements will occur in 2021 and each year thereafter.<sup>424</sup> PWSA further agreed that no later than July 1, 2020, PWSA,

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<sup>419</sup> See PWSA Main Brief at 63.

<sup>420</sup> See Partial Settlement at Section III.OO.11. “Small-diameter water main replacement program” means PWSA’s program for replacing small-diameter water mains and associated lead service lines between 2019 and 2026, as described in the Long-Term Infrastructure Improvement Plan (LTIIIP) on page 18 and Tables 2-7 and 2-8 on pages 28-29 (See PWSA Hearing Exh. No. 3). *Id.*

<sup>421</sup> July 2019 Policy § 4.2.c-d; PWSA St. No. C-1SD (Weimar) at 26.

<sup>422</sup> PWSA St. No. C-1RJ (Weimar) at 4. PWSA is in the process of attempting to inventory all lead service lines in its system. A process that it has committed to complete by the end of 2020. Partial Settlement at Section III.QQ.

<sup>423</sup> Partial Settlement at Section III.VV.2.a.

<sup>424</sup> Partial Settlement at Section III.QQ.3. See also Partial Settlement at Section III.WW.4, regarding consultation with CLRAC.

in consultation with the CLRAC, will designate the census tracts or other appropriate geographic units in its service area that constitute Priority Lead Neighborhoods.<sup>425</sup> The designation of Priority Lead Neighborhoods will consider children’s blood lead levels, the prevalence of children under six years of age and women of child bearing age, income, lead service line density, or any combination of lead-related or public health-related factors recommended by the CLRAC.<sup>426</sup>

*c. The terms of the Partial Settlement are in the Public Interest*

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise and commits PWSA to seek input from the CLRAC,<sup>427</sup> which consists of interested parties from PWSA’s base rate proceeding, representatives from local community groups, and a public health expert.<sup>428</sup> The agreed-upon terms require actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**11. Neighborhood-Based Lead Service Line Replacement Program**

*a. Statement of the Issue*

PWSA’s “Neighborhood-based lead service line replacement program,”<sup>429</sup> which replaces lines on a neighborhood basis, will be complete in 2020.<sup>430</sup> Going forward, PWSA

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<sup>425</sup> Partial Settlement at Section III.VV.2.a.i.

<sup>426</sup> Partial Settlement at Section III.VV.2.a.ii.

<sup>427</sup> Partial Settlement at Section III.QQ.2.a, III.QQ.2.b, III.QQ.2.c.

<sup>428</sup> PWSA Base Rate Proceeding, Joint Petition for Settlement, at § C.1.a.

<sup>429</sup> Partial Settlement at Section III.OO.12. “Neighborhood-based lead service line replacement program” means the program, described in part on pages 27-28 of the LTIIP (PWSA Hearing Exh. No. 3), in which PWSA replaces all public-side lead service lines and eligible private-side lead service lines in work order areas. *Id.* This program is also referred to as the “lead service line replacement” or “LSLR” project. See PWSA Hearing Exh. 3 (LTIIP) at 27-28.

<sup>430</sup> PWSA St. No. C-1RJ (Weimar) at 16.

intends to focus on replacing lead service lines through its SDWMR program,<sup>431</sup> which is discussed in Section I.A.8 above III.J.10 above of this Statement. That being said, PWSA future plans may include a neighborhood-based lead service line replacement program.<sup>432</sup>

UNITED recommended that the current plans include a neighborhood-based program to work in tandem with the SDWMR program.<sup>433</sup> In response, PWSA opined that it would not be prudent to commit to a neighborhood-based lead service line replacement program at this time.<sup>434</sup>

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA agreed that, for any future neighborhood-based lead service line replacement program, PWSA will prioritize neighborhood-based lead service line replacement program work orders according to factors identified in consultation with the CLRAC, including but not necessarily limited to, children's blood lead levels, the prevalence of children under six years of age and women of child bearing age, income, and lead service line density.<sup>435</sup> In addition, PWSA will try to obtain a property owner's consent for a private-side lead service line replacement by making at least one attempt to contact the property owner by mail, one attempt by telephone, and one attempt by visiting the residence in person.<sup>436</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties

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<sup>431</sup> PWSA St. No. C-1RJ (Weimar) at 16.

<sup>432</sup> PWSA St. No. C-1RJ (Weimar) at 16-17.

<sup>433</sup> United St. No. C-2SUPP-R (Welter) at 8

<sup>434</sup> PWSA St. No. C-1RJ (Weimar) at 16-17.

<sup>435</sup> Partial Settlement at Section III.VV.3.a.i

<sup>436</sup> Partial Settlement at Section III.VV.3.a.ii.



representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

12. **Community Lead Response Advisory Committee**

*a. Statement of the Issue*

In the Settlement of its base rate proceeding, PWSA agreed to form a Community Lead Response Advisory Committee (“CLRAC”)<sup>437</sup> consisting of interested parties in the base rate proceeding, representatives from local community groups, and a public health expert to advise PWSA. The CLRAC will provide consultation and feedback on PWSA’s lead service line replacement program and lead remediation efforts in 2019 and 2020.<sup>438</sup> The CLRAC is set to expire in 2021, unless PWSA decides to extend it.<sup>439</sup>

UNITED recommended that PWSA should extend the term of the CLRAC through at least 2026 and continue to consult with the CLRAC on critical components of PWSA’s lead remediation program, including the prioritization of lead service line replacements for vulnerable populations.<sup>440</sup> In response, PWSA indicated its willingness to extend the term of the CLRAC and to continue to consult with the CLRAC.<sup>441</sup>

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<sup>437</sup> Partial Settlement at Section III.OO.12. “CLRAC” means the Community Lead Response Advisory Committee established pursuant to pages 9-13 of PWSA’s Joint Petition for Settlement, and as approved by Final Order of the Pennsylvania Public Utility Commission entered on February 7, 2019 in PWSA’s first jurisdictional base rate case docketed at R-2018-3002645 et al. *Id.*

<sup>438</sup> Rate Case, Recommended Decision at 72; Rate Case, Joint Petition for Settlement at § C.1.a.

<sup>439</sup> Rate Case, Recommended Decision at 14; Rate Case, Joint Petition for Settlement at § C.1.a.

<sup>440</sup> UNITED St. No. C-1 (Miller) at 49; UNITED St. No. C-3 (Lanphear) at 27-28, 33, 34, 37-38, 44.

<sup>441</sup> PWSA St. No. C-1R at (Weimar) at 63.

***b. Terms of the Partial Settlement***

Section WW of the Partial Settlement affirms PWSA's commitment to continuing the CLRAC, which is an advisory committee created by the settlement of PWSA's 2018 rate case.<sup>442</sup> The Partial Settlement provides for the continued existence of the CLRAC until January 1, 2026.<sup>443</sup> The CLRAC is made up of various representatives of the parties to that rate proceeding as well as this compliance plan proceeding and various members of the public.<sup>444</sup> While the CLRAC is purely an advisory committee and has no power to direct PWSA in any manner, PWSA has agreed to consult with CLRAC regarding the authority's lead remediation efforts on at least a quarterly basis and to provide information on a host of topics including:<sup>445</sup> (1) prioritization of residences for lead service line replacement; (2) information on instances on when PWSA has been unable to replace private-side lead service lines because of conditions such as technical infeasibility or refusal of the property owner to give consent; (3) information regarding the costs incurred by customers seeking reimbursement for private-side lead service lines; (4) information regarding PWSA's efforts to secure funds from government sources to supplement the cost of lead service line replacement; (5) information about PWSA's water filter distribution policy; (6) information about improving outreach efforts and exploring other methods for obtaining customer consent for private-side lead service line replacements; (7)

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<sup>442</sup> Partial Settlement at Section III.OO.12. "CLRAC" means the Community Lead Response Advisory Committee established pursuant to pages 9-13 of PWSA's Joint Petition for Settlement, and as approved by Final Order of the Pennsylvania Public Utility Commission entered on February 7, 2019 in PWSA's first jurisdictional base rate case docketed at R-2018-3002645 et al. *Id.*

<sup>443</sup> Partial Settlement at Section III.WW.1. However, notwithstanding Section III.WW.1, PWSA may terminate the CLRAC after January 1, 2022, if there are just and reasonable circumstances for its termination, including insufficient participation and/or engagement in the CLRAC. Termination of the CLRAC will be effective 120 days after notice is provided by PWSA to CLRAC members. Partial Settlement at Section III.WW.2.

<sup>444</sup> See Rate Case Settlement at § C.1.a.

<sup>445</sup> Partial Settlement at Section III.WW.4. See also Partial Settlement at Section III.QQ.1.c, III.QQ.2, III.QQ.3, III.SS.3, III.VV.2, III.VV.3, III.XX.1, III.YY.2.

efforts to increase customer participation in pre and post lead service line replacement and post meter replacement tap water lead testing programs; (8) information about PWSA's machine running model predictions regarding location of public and private-side lead service lines in PWSA's service territory; and (9) PWSA's overall plans for replacing all known remaining lead service lines connection to residential properties, including the number of private service lines located in the service area, etc.<sup>446</sup> In addition, PWSA will provide both to CLRAC and also the Commission and the parties, quarterly updates regarding PWSA's orthophosphate program which includes testing results after the orthophosphate has been fully operational.<sup>447</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**13. Corrosion Control**

***a. Statement of the Issue***

With the approval of the PADEP of its plan,<sup>448</sup> PWSA has implemented a corrosion control method for its drinking water using orthophosphate.<sup>449</sup> By introducing orthophosphate

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<sup>446</sup> Partial Settlement at Section III.WW.

<sup>447</sup> See Partial Settlement at Section III.XX.

<sup>448</sup> PWSA St. No. C-1 (Weimar) at 48-50; PWSA Exh. RAW/C-21.

<sup>449</sup> PWSA St. No. C-1R-Supp (Weimar) at 7.

into PWSA's system, PWSA is mitigating the health concerns associated lead service lines.<sup>450</sup> It is expected that the introduction of orthophosphate into the water treatment process will result in reduced lead levels to far below action levels at homes with lead service lines.<sup>451</sup> PWSA began adding orthophosphate in April 2019.<sup>452</sup> It will take time for the orthophosphate to become fully effective.<sup>453</sup> The active parties expressed the desire to receive status updates.

***b. Terms of the Partial Settlement***

Under the Partial Settlement, PWSA will provide the Commission, the Parties, and the CLRAC with quarterly updates regarding the progress of PWSA's orthophosphate program, when PWSA started testing for lead levels, and the results of the lead level testing.<sup>454</sup> PWSA's obligation to provide the quarterly updates (under the Partial Settlement) will cease when it is no longer required to provide quarterly updates on its orthophosphate program to the PADEP.<sup>455</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

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<sup>450</sup> PWSA St. No. C-1R-Supp (Weimar) at 7.

<sup>451</sup> PWSA St. No. C-1 (Weimar) at 48-50.

<sup>452</sup> PWSA St. No. C-1R-Supp (Weimar) at 7; PWSA St. No. C-1SD (Weimar) at 23.

<sup>453</sup> PWSA St. No. C-1RJ (Weimar) at 17-18; UNITED St. No. C-2SUPP-R (Welter) at 9.

<sup>454</sup> Partial Settlement at Section III.XX.1.

<sup>455</sup> Partial Settlement at Section III.XX.2.

14. **Rate Treatment**

***a. Statement of the Issue***

Whether certain costs are included in PWSA's rates is an issue that goes beyond the scope of the Compliance Plan proceeding.<sup>456</sup> Nevertheless, the active parties sought additional commitments regarding the lead service line replacement costs.

***b. Terms of the Partial Settlement***

The Partial Settlement provides that PWSA will separately identify all projected lead service line replacement costs and details on its cost projections in its rate filings.<sup>457</sup> When PWSA adopts the Uniform System of Accounts, it will show projected and actual lead service line replacement costs as a sub account; PWSA will determine whether it would be appropriate to include in a sub account of Account 333.<sup>458</sup>

In addition, PWSA will continue to provide information regarding actual replacement costs as part of its quarterly report provided to the parties pursuant to the Rate Case Settlement Par. A.2.c. (Docket Number R-2018-3002645) that includes quarterly and cumulative year-to-date data.<sup>459</sup> This reporting requirement will continue through the term of the lead service line replacement program.<sup>460</sup> Actual replacement costs will be evaluated in future base rate proceedings and shared with the CLRAC (and the parties to the case).<sup>461</sup>

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<sup>456</sup> See PWSA St. No. C-2R (Lestitian) at 11.

<sup>457</sup> Partial Settlement at Section III.YY.1.

<sup>458</sup> Partial Settlement at Section III.YY.3.

<sup>459</sup> Partial Settlement at Section III.YY.2.

<sup>460</sup> Partial Settlement at Section III.YY.2.

<sup>461</sup> Partial Settlement at Section III.YY.2.

***c. The terms of the Partial Settlement are in the Public Interest***

The above-described agreed-upon settlement terms are reasonable, are in the public interest, and should be approved. The agreed-upon terms are a compromise acceptable to parties representing a variety of consumer interests as well as the public interest and that requires actions by PWSA that exceed the requirements under the Lead and Copper Rules, PADEP Regulations, the Lead COA, the MAA, and the Public Utility Code.

**K. PWSA Compliance Plan Progress Reports**

***a. Statement of the Issue***

As evidenced by this proceeding as well as PWSA's recently approved base rate case, coming into compliance with Commission requirements is a significant undertaking that involves many action items for PWSA. Following the rate case, PWSA developed a Compliance Plan Progress Report intended to track and update the status of commitments made in this proceeding as well as the rate case proceeding.<sup>462</sup> PWSA's First Compliance Plan Progress Report was provided with the rebuttal testimony of Mr. Weimar as PWSA Exh. RAW/C-28. A Section Compliance Plan Progress Report was included with Mr. Weimar's supplemental direct testimony as PWSA Exh. RAW/C-28(A).

***b. Terms of the Partial Settlement***

The Partial Settlement provides more specific guidance about future Compliance Plan Progress Reports to include identifying the new items agreed to by PWSA as part of the Partial Settlement and establishing the future filing dates.<sup>463</sup> The Partial Settlement also clarifies the

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<sup>462</sup> PWSA St. No. C-1R at (Weimar) at 3.

<sup>463</sup> Partial Settlement at Section III.ZZ.

actions PWSA will take if circumstances arise that forestall PWSA from meeting an agreed-to deadline for a specific task.<sup>464</sup>

***c. The terms of the Partial Settlement are in the Public Interest***

The terms of the Partial Settlement are an important part of PWSA's progression toward compliance because they establish concrete reporting requirements for PWSA. The filing of the Compliance Plan Progress Reports also ensures that the Commission as well as interested parties are kept informed of the status of these issues. The parties were specifically focused on ensuring that the new requirements agreed to as part of this proceeding were listed in this one section to provide transparency about future reports. Moreover, the agreement of PWSA to include each of the referenced specific items in this report was an integral part of enabling all the parties to achieve settlement regarding the particular topic. For all these reasons, adopting the terms of the Partial Settlement related to PWSA's Compliance Plan Progress Reports is in the public interest.

**L. Other Issues**

PWSA has not identified any additional issues to be addressed.

**IV. CONCLUSION**

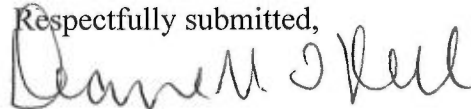
After extensive discovery and discussion, that this Partial Settlement resolves all but a few of issues between the Joint Petitioners in both the Compliance Plan and LTIP proceedings. The Partial Settlement establishes a comprehensive, rational and reasonable plan for transition to full PUC regulatory compliance and reduces the administrative burden on the Commission and the litigation costs of all of the active parties. Accordingly, for the reasons set forth above and in the Joint Petition, PWSA (a) submits that the Partial Settlement is reasonable and in the public

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<sup>464</sup> Partial Settlement at Section III.AAA.

interest; and, (b) requests that the ALJs and the Commission: 1) approve the Partial Settlement without modification; 2) resolve the Litigation Issues; and 3) permit PWSA to file a Compliance Tariff that includes the tariff supplement<sup>465</sup> annexed as Exhibit 2 to the Partial Settlement as well other revisions needed to support implementation of the Commission's final order.

Respectfully submitted,



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<sup>465</sup> PWSA Exh. JAQ/C-17