

Deanne M. O'Dell
717.255.3744
dodell@eckertseamans.com

March 6, 2020

Via Electronic Filing

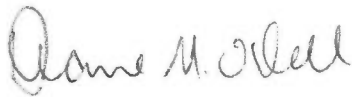
Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Building
2nd Floor, North
400 North Street
Harrisburg, PA 17120

Re: Pittsburgh Water & Sewer Authority - Water – R-2020-3017951
Pittsburgh Water & Sewer Authority - Wastewater – R-2020-3017970

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Pittsburgh Water and Sewer Authority's ("PWSA") Petition for Consolidation of Water and Wastewater Rate Proceedings and for Authorization to Use Combined Water and Wastewater Revenue Requirements 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: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

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

Via Hand Delivery and Email

Sharon Webb, Esq.
Erin K. Fure, Esq.
Office of Small Business Advocate
Forum Place Building
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov
efure@pa.gov

Christine Maloni Hoover, Esq.
Erin L. Gannon, Esq.
Lauren E. Guerra, Esq.
Office of Consumer Advocate
555 Walnut St., 5th Fl., Forum Place
Harrisburg, PA 17101-1923
choover@paoca.org
egannon@paoca.org
lguerra@paoca.org

Gina L. Miller, Esq.
John M. Coogan, Esq.
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North St., 2nd Floor West
Harrisburg, PA 17120
ginmiller@pa.gov
jcoogan@pa.gov

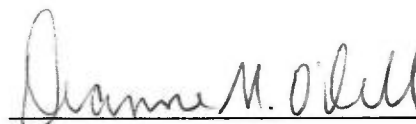
Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
The Pennsylvania Utility Law Project
118 Locust St.
Harrisburg, PA 17101
pulp@palegalaid.net

Michael A. Gruin, Esq.
Stevens & Lee
17 North Second St., 16th Fl.
Harrisburg, PA 17101
mag@stevenslee.com

Via First Class Mail and Email

Dimple Chaudhary, Esquire
Peter J. DeMarco, Esquire
Cecilia Segal, Esquire
Natural Resources Defense Council
1152 15th Street, NW, Ste. 300
Washington, DC 20005
dchaudhary@nrdc.org
pdemarco@nrdc.org
csegal@nrdc.org

Brian Kalcic
Excel Consulting
225 S. Meramec Ave., Suite 720T
St. Louis, MO 63105
Excel.consulting@sbcglobal.net



Deanne M. O'Dell, Esq.

Dated: March 6, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

V.

PITTSBURGH WATER AND SEWER
AUTHORITY

:
: Docket No. R-2020-3017951 (Water)
: R-2020-3017970 (Wastewater)
:
:
:
:
:
:

**PETITION OF THE PITTSBURGH WATER AND SEWER AUTHORITY FOR
CONSOLIDATION OF WATER AND WASTEWATER RATE PROCEEDINGS AND
FOR AUTHORIZATION TO USE COMBINED WATER AND WASTEWATER
REVENUE REQUIREMENTS**

Pursuant to Section 1311(c) and 3202(b) of the Public Utility Code and 52 Pa. Code §§ 5.41, 5.81, The Pittsburgh Water and Sewer Authority (“PWSA” or “Authority”) respectfully requests that the above-captioned proceedings be formally consolidated into a single proceeding and that the Pennsylvania Public Utility Commission (“PUC” or “Commission”) authorize (or grant a waiver) so as to permit the use of a consolidated, water/wastewater revenue requirement by PWSA, in the above-captioned proceedings for the requested base rate increases.¹ In support of this Petition, PWSA states as follows:

I. Background

1. PWSA is a municipal authority organized and existing under the laws of the Commonwealth of Pennsylvania that is regulated as a public utility by the Commission.² PWSA is responsible for producing and supplying water along with maintaining and operating the water

¹ PWSA is also simultaneously filing a Petition to consolidate its Distribution System Infrastructure Charge (“DSIC”) Petition filed at P-2020-3019019 with the rate case dockets.

² See 66 Pa.C.S. §§ 102, 3201, 3202(a).

and sewage infrastructure in most of the City of Pittsburgh. PWSA also manages stormwater that is conveyed both through its combined sewer systems and separate storm sewer systems.

2. The contact information for PWSA’s counsel is as follows:

Deanne O’Dell, Esquire
Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717.237.6000
dodell@eckertseamans.com
dclearfield@eckertseamans.com

3. On February 14, 2012, Act 11 was signed into law. That Act, *inter alia*, amends Chapter 13 (Rates and Distribution Systems) of the Public Utility Code establishes an exemption from the general prohibition on utilities combining different types of utility service for ratemaking purposes.³ The benefits of this provision are that the costs of necessary upgrades to wastewater systems to maintain safe and reliable service, which can be substantial on a stand-alone basis, can be spread among the common customer base of the water and wastewater utilities.

4. In its Final Implementation Order, issued on August 2, 2012, the Commission clarified that 1311(c) applies to both a single company that provides water and wastewater service, as well as utilities owned by a single parent company that provide water and wastewater service separately.⁴

³ 66 Pa.C.S. § 1311(c); *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered August 2, 2012. Act 11 went into effect on April 16, 2012.

⁴ *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered August 2, 2012, at p. 9. *See, e.g., Petition of The York Water Company for Authorization to Present Combined Filings for General Rate Increases under 66 Pa.C.S. § 1308(d) Covering Both Its Water and Wastewater Revenue Requirements Pursuant to 66 Pa.C.S. § 1311(c)*, Docket No. P-2017-2582839, Opinion and Order entered February 10, 2017.

5. PWSA is simultaneously filing with this Petition its base rate case filing, docketed at Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater) (“Rate Filing”). Pursuant to the Rate Filing, PWSA is asking the Commission to approve a multiyear rate plan to increase its combined water and wastewater rates for 2021 by \$43.4 million and \$12.6 million for 2022. This total amount of rate increases includes assessment of a 10% DSIC.⁵ The proposed increase in revenues is the minimum necessary to enable PWSA to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability and customer service levels.

II. Request for Consolidation of Proceedings

6. For the reasons set forth herein, PWSA requests that the above-captioned proceedings be formally consolidated into a single proceeding.

7. 52 Pa. Code § 5.81(a) provides that: “The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.”⁶

⁵ On March 3, 2020, PWSA filed its Petition for Authority for Waiver of Provisions of Act 11 to Increase the DSIC CAP, to Permit Levelization of DSIC Charges, and to Authorize the Pay-As-You-Go Method of Financing (“DSIC Petition”). Pursuant to the DSIC Petition, PWSA asks that the Commission: (1) approve a cap of 10% of intrastate revenue as the maximum allowed DSIC (not including any reconciliation recovery); (2) waive statutory provisions to permit DSIC revenue to recover capital improvements through the “pay-as-you-go” or debt service/debt service coverage methods of financing; and, (3) permit PWSA to use an annual, levelized charge as the basis for establishing a DSIC, subject to subsequent true-ups for actual experience.

⁶ Cases have been consolidated for adjudication, *Re Middletown Taxi Co.*, 50 Pa. PUC 263 (1976); for hearing, *City of York v. York Telephone and Telegraph Co.*, 43 Pa. PUC 240 (1967); for briefing, *Clepper Farms, Inc. v. Grantham Water Co.*, 41 Pa. PUC 749 (1965); or for all purposes, *Commonwealth of Pennsylvania et al. v. Respond Power LLC*, Docket No. C-2014-2427659 and *Pa. PUC v. Respond Power LLC*, Docket No. C-2014-2438640 (Interim Order dated October 28, 2014)

8. Among the considerations for consolidation are: (a) whether additional issues exist that could cloud the determination of common issues; (b) whether consolidation will reduce litigation costs and decision-making for the parties and the Commission; (c) whether the issues in one proceeding go to the heart of an issue in the other proceeding; (d) whether consolidation will unduly protect a hearing or produce a disorderly or unwieldy record; (e) whether different statutory and legal issues are involved; (f) whether the party with the burden of proof differs in the proceedings; (7) whether consolidation will unduly delay the resolution of one of the proceedings; and (8) whether supporting data in both proceedings will be repetitive.⁷ As the Commission has previously determined, no single consideration, nor group of these considerations, is dispositive of consolidation. Rather, all factors must be evaluated, and a balancing of those favoring and disfavoring consolidation is required.⁸

9. The above-captioned proceedings are interrelated and raise common issues of law and fact. PWSA tariff filings and rate requests contain coordinated plans, rate design changes and tariffs for PWSA's water and wastewater conveyance services. In recognition of this, PWSA is also requesting as part of this Petition that the Commission permit it to use a combined revenue requirement under 66 Pa.C.S. § 1311(c). As explained further below in Section III, PWSA has, in the past, developed water and wastewater rates using combined revenue requirements; and the use of 1311(c) continues the prior accounting and ratemaking practice of PWSA.

⁷ See *Pa. Pub. Util. Comm'n v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366, at p. 3-4 (Second Prehearing Order Nov. 26, 2012) ("*Lancaster Sewer Fund Prehearing Order*").

⁸ *Id.* at 3.

10. Formal consolidation of the above-captioned proceedings for all purposes is warranted and in the public interest, the interest of the parties and the interest of the Commission. Consolidation of the above-captioned proceedings will promote the efficient use of the time and resources of the parties and the Commission and will not delay the resolution of either proceeding. The above-captioned water and wastewater proceedings share the same full suspension period.⁹ Within that shared timeframe, consolidation will advance administrative economy. For example, consolidation for purposes of the discovery and hearing will avoid the need for the parties to submit testimony in two different proceedings. Similarly for purposes of briefing and adjudication, consolidation will avoid the need for two briefs to be filed, two initial decisions to be served and two Commission orders to be entered. Thus, consolidation of the above-captioned proceedings will avoid unnecessary costs or delay and is plainly in the public interest.

III. Request for Consolidated Revenue Requirement

11. For the reasons set forth herein, PWSA further requests that the Commission authorize a combined revenue requirement by PWSA under 66 Pa. C.S. § 1311(c) or grant a waiver under 3202(b)¹⁰ so as to permit the use of a consolidated revenue requirement by PWSA for the purposes of this general rate increase request.

⁹ The rate case was filed on March 6, 2020. The application of the full suspension period (60 days plus 7 months) will end on December 5, 2020. Since rates could be placed into effect before the end of December 2020, the first month that rates could be placed in effect is December 2020. *See* 66 Pa.C.S. § 315(e).

¹⁰ Under Section 3202(b) of the Public Utility Code, “Upon request of [PWSA], the Commission may suspend or waive the applicability of any provision of [the Public Utility Code] to [PWSA], except for this section [Section 3202].” 66 Pa.C.S. § 3202(b).

12. PWSA provides water and wastewater conveyance service as a single entity and, therefore, is eligible to combine its revenue requirements under 66 Pa. C.S. § 1311(c).¹¹

13. This is PWSA's second rate case filing with the Commission. The Commission granted PWSA's request to consolidate its water and wastewater proceedings and authorized PWSA to use of a consolidated, water/wastewater revenue requirement in its initial rate case filing.¹² PWSA has, in the past, always determined water and wastewater revenue requirement and rates using combined information.¹³ The use of 1311(c) continues the prior accounting and ratemaking practice of PWSA. The timing and costs associated with an independent base rate filing for the wastewater utility make any other approach to filing impossible.

14. Moreover, PWSA's bonds and other financial instruments apply to the combined water/wastewater conveyance system and are evaluated by bond rating agencies on a consolidated company basis. There is no practical way in which to fully separate PWSA's bonds or its revenue requirement between water and wastewater conveyance without creating risks of violating PWSA's bond covenants which require that PWSA attain certain financial metrics on an integrated system basis.

¹¹ See footnote 4, *supra*. See also *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water And Sewer Authority*, Docket No. M-2018-2640802 and M-2018-2640803, Final Implementation Order entered March 15, 2018, adopting, Tentative Implementation Order entered January 18, 2018, at p. 5, 16-17, 18 (suggesting that PWSA's revenue requirements are subject to petition for a combined revenue requirement under 66 Pa. C.S. § 1311(c)).

¹² See Prehearing Order issued July 20, 2018, in *PUC v. PWSA – Water*, Docket No. R-2018-3002645 et al.; *PUC v. PWSA – Wastewater*, Docket No. R-2018-3002647 (approving Petition of PWSA for consolidation of proceedings and to use combined water and wastewater revenue requirements).

¹³ PWSA also manages stormwater that is conveyed both through its combined sewer systems and separate storm sewer systems. However, as previously explained, PWSA does not separately bill customers for stormwater management, rather the costs associated with stormwater management are recovered from customers through the sanitary sewer charges. See PWSA's Comments to Tentative Implementation Order, dated February 7, 2018, which is available at: <http://www.puc.state.pa.us/pcdocs/1552657.pdf>.

15. PWSA is not seeking any determination at this time as to the reasonableness or prudence of any specific costs, but instead requesting an increase in both water and wastewater conveyance charges. PWSA intends to present specific costs and revenue requirements for both the water and wastewater conveyance utilities, as well as the appropriateness of any allocation of the wastewater revenue requirement to the combined customer base, in the combined general base rate proceeding before the Commission. Therefore, no party will be prejudiced by the granting of this Petition.

IV. Request for Expedited Approval

16. PWSA is proposing that the Commission grant the requested relief in an expedited manner. This relief is integral to the rate case, which PWSA anticipates will be subject to extensive informal and/or formal discovery and, if a suspension and investigation order is issued, must be fully decided before December 5, 2020.¹⁴

17. If the Commission were to deny this Petition, PWSA respectfully requests that the Commission permit it to revise its financial presentation. While the data to do this is being submitted with the rate case filing package, such revision would require the expenditure of extensive time and resources and would not make a material change to PWSA's financial statistics nor change its revenue requirement or overall rate increase request. For these reasons, PWSA submits that this alternative is not the best use of resources and urges the Commission to grant the relief in this Petition as requested.

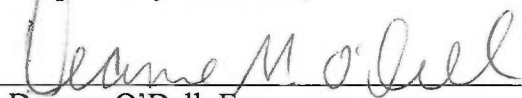
¹⁴ The rate case was filed on March 6, 2020. The application of the full suspension period (60 days plus 7 months) will end on December 5, 2020. Since rates could be placed into effect before the end of December 2020, the first month that rates could be placed in effect is December 2020. *See* 66 Pa.C.S. § 315(e).

18. PWSA has served copies of this Petition on the following: the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, the Commission's Office of Special Assistants, and the Commission's Bureau of Technical Utility Services. If the Commission concludes that additional notice is necessary, PWSA will provide such additional notices as the Commission may direct.

V. Conclusion

WHEREFORE, PWSA respectfully requests that the Commission: (1) consolidate the above-captioned proceedings into a single proceeding; (2) authorize (or grant a waiver) so as to permit PWSA to use a consolidated revenue requirement in the above-captioned proceeding; and, (3) take any other action deemed to be in the public interest.

Respectfully submitted,



Deanne O'Dell, Esq.
(PA Attorney ID No. 81064)
Daniel Clearfield, Esq.
(PA Attorney ID # 26183)

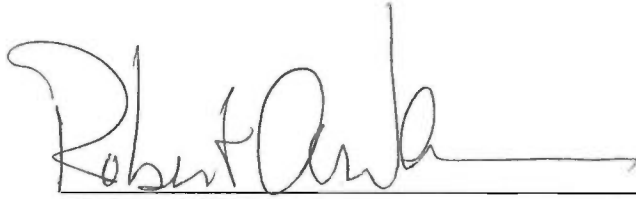
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717.237.6000
717.237.6019 (fax)
dodell@eckertseamans.com
dclearfield@eckertseamans.com

Dated: March 6, 2020

Counsel for
The Pittsburgh Water and Sewer Authority

VERIFICATION

I, Robert A Weimar, am the Executive Director for The Pittsburgh Water and Sewer Authority ("PWSA" or "Authority"), and I hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief and that I expect the Authority to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to sworn falsification to authorities).

A handwritten signature in black ink, appearing to read "Robert A. Weimar", written over a horizontal line.

Robert A Weimar
Executive Director
The Pittsburgh Water and Sewer Authority