



March 20, 2020

Via Electronic Filing

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

Re: Pa. PUC v. Pittsburgh Water and Sewer Authority, Docket No. R-2020-3017951

Dear Secretary Chiavetta,

Enclosed for electronic filing, please find a ***Petition to Intervene of Pittsburgh UNITED*** in the above referenced matter.

Copies of this petition will be circulated in accordance with the attached Certificate of Service.

Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for Pittsburgh UNITED

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CC: Per Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
: **Docket Nos. R-2020-3017951**
v. : **R-2020-3017970**
: **Pittsburgh Water and Sewer Authority** :
:

PETITION TO INTERVENE OF
PITTSBURGH UNITED

PENNSYLVANIA UTILITY LAW PROJECT

Counsel for Pittsburgh UNITED

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March 20, 2020

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.76, Pittsburgh UNITED, through its legal counsel at the Pennsylvania Utility Law Project (PULP), hereby petitions the Commission to intervene in the above-captioned proceeding. In support thereof, Pittsburgh UNITED states as follows:

Petition to Intervene

1. On March 6, 2020, Pittsburgh Water and Sewer Authority (PWSA) filed a base rate case pursuant to 66 Pa. C.S. § 1308(d).¹ In the filing, PWSA sets forth a proposed tariff, which outlines the rates, policies, programs, and procedures which will govern the distribution of water services to its customers. PWSA’s proposed tariff seeks approval of a multi-year rate increase that will substantially increase its water and wastewater distribution rates for all customer classes.

2. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72, which provides in relevant part that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

3. Section 5.72 further provides that the right or interest may be one “which may be directly affected and which is not adequately represented by existing participants, and as to which

¹ See 66 Pa. C.S. § 3204. Act 65 of 2017, codified in Chapter 32 of the Public Utility Code, was signed into law on December 21, 2017. The effect of the Act was to bring PWSA under the jurisdiction of the Commission. To facilitate the transition to Commission oversight, the Act explicitly required PWSA to file a tariff with PUC within 90 days of the effective date of the Act. See *id.* On July 2, 2018, in compliance with the statutory mandate set forth in Chapter 32 of the Public Utility Code, Pittsburgh Water and Sewer Authority (PWSA) filed a base rate case pursuant to 66 Pa. C.S. § 1308(d). (Pa. PUC v. PWSA, Opinion and Order, Docket Nos. R-2018-3002645, R-2018-3002647 (order entered Feb. 27, 2019). A Joint Settlement was filed on November 29, 2018 by PWSA, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and Pittsburgh UNITED. (*Id.*) The Joint Petition for Settlement was adopted in full by the Commission in their Order entered February 27, 2019. (*Id.*)

the petitioner may be bound by the action of the Commission in the proceeding.” 52 Pa. Code. § 5.72(a)(2).

4. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members . . . as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.”²

5. Pittsburgh UNITED is a coalition of community, labor, faith, and environmental organizations committed to advancing the vision of a community and economy that works for all people.

6. Pittsburgh UNITED members work collectively to build a community whereby all workers are able to care for themselves and raise their families, sharing in the prosperity generated by economic growth and development.

7. Pittsburgh UNITED is located at 841 California Ave., Pittsburgh, PA 15212.

8. Pittsburgh UNITED has a critical interest in ensuring, on behalf of its members, that PWSA’s transition to Commission oversight is conducted in a timely and organized manner to protect the interests of Pittsburgh’s residents, particularly low-income Pittsburgh families who struggle most to connect to and maintain water service.

9. Pittsburgh UNITED, its member organizations, and the individuals and families those organizations serve are located within PWSA’s service territory and will be directly affected by the outcome of this proceeding. Particularly, this proceeding will affect the price that Pittsburgh

² Energy Cons. Council of Pa. v. Pa. PUC, 995 A.2d 465, 476 (Pa. Commw. Ct. 2010) (alteration in original) (citing Tripps Park v. Pa. PUC, 415 A.2d 967 (Pa. Commw. Ct. 1980); Parents United for Better Schools v. School Dist. of Phila., 646 A.2d 689 (Pa. Commw. Ct. 1994)).

UNITED members pay for water service, as well as the safety, reliability, and quality of that service.³

10. Pittsburgh UNITED has standing to intervene because several of its members have or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding. See Energy Cons. Council of Pa., 995 A.2d at 476.

11. Pittsburgh UNITED is represented in this proceeding by counsel at the Pennsylvania Utility Law Project:

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12. The Pennsylvania Utility Law Project consents to the service of documents by electronic mail, as provided in 52 Pa. Code § 1.54(b)(3).

Answer

13. Pittsburgh UNITED has preliminarily reviewed PWSA's tariff filing, and generally objects thereto. While additional issues may arise as a more comprehensive review of PWSA's filing takes place, Pittsburgh UNITED has identified a number of issues present in PWSA's filing that require further investigation and hearings. Without investigation, PWSA's tariff filing could result in unjust and unreasonable terms, conditions, and rates for critical water services that would

³ A list of Pittsburgh UNITED's member organizations is available at <http://pittsburghunited.org/>. (Several member organizations are PWSA customers.)

impose severe hardship on the health, safety, and economic stability of Pittsburgh residents.

14. PWSA's rate proposal would increase residential rates by 25.4%, or \$43.8 million, beginning in 2021, and 6.4%, or \$12.6 million, beginning in 2022 for its water and wastewater conveyance base rates, and its Distribution Systems Improvement Charge (DSIC). (Notice of Proposed Rate Changes, Vol. I, Tab 2).

15. Pittsburgh UNITED asserts that terms, conditions, and rates for water service are not just and reasonable if they are not appropriately designed and implemented to ensure that all consumers are able to access safe and affordable water service, consistent with the laws and policies of the Commonwealth. A steep increase in rates such as the increase proposed by PWSA would have a disproportionate harmful impact on low-, fixed-, and moderate-income households.

16. Not only does rate unaffordability threaten individual households, it can also have a lasting impact on the health and economy of communities as a whole. Preliminary review of PWSA's filing suggests that PWSA's proposed changes to its low income programs are inadequate to remediate the effect of the proposed rate increase on low income customers. (See PWSA St. No. 8 at 15-16). In particular, PWSA does not propose restructuring its Bill Discount Program (BDP) so that bill amounts would be determined by income tiers or expanding the discount under the Program to the full bill, rather than just the fixed base charge. (Id. at 29). Further, PWSA does not propose arrearage forgiveness for BDP participants for debt accrued prior to entry into the Program. (Id. at 29-30). Without these programmatic design features, PWSA's program likely produces inconsistent and inequitable discount level – with small families on the high end of the poverty level faring far better than large families at the lowest end of the poverty scale. Further review is necessary to ensure that low income consumers have access to affordable services and are adequately protected against PWSA's proposed rate increase, and to ensure that PWSA's low

income programs are adequately designed to meet the needs of the communities PWSA serves.

17. Initial review of PWSA's filing also suggest that PWSA's proposed conservation efforts are insufficient to adequately address the needs of low income customers. In particular, PWSA fails to commit to a line repair and conversation program or to propose a way to fund a usage reduction program through rates. (Id. at 31). Nor does PWSA commit to performing a cost-benefit analysis for such programs. (Id.). Further investigation is necessary to determine if PWSA's proposed plan for conservation efforts is adequate to address the need of low income consumers for affordable and sustainable utility services, and to determine whether PWSA's failure to make such a proposal constitutes a breach of PWSA's settlement commitment in its last rate case.⁴

18. Further investigation is necessary to determine if PWSA's outreach plan related to its universal services and conservation programs is adequate to educate and communicate with customers about PWSA's low income programs. Initial review of PWSA's filing suggests that PWSA's outreach plan is insufficient to properly target a broad array of low income customers, particularly those customers with incomes between 0-50% the Federal Poverty Level. (See id. at 33).

19. Water safety and affordability are of paramount concern, and must remain in the forefront of the Commission's decision of whether to approve PWSA's proposed tariff. Pittsburgh UNITED intends to explore these issues throughout this proceeding to ensure that its members, and the individuals and families they represent, are protected from harm.

20. Pittsburgh UNITED asserts that the affordability and safety issues identified above,

⁴ See Pa. PUC v. PWSA, Opinion and Order, Docket Nos. R-2018-3002645, R-2018-3002647 (opinion and order entered Feb. 27, 2019).

along with any future modifications presented by intervening parties, must be thoroughly reviewed to ensure that all customers are able to access safe, affordable utility services within the PWSA service territory.

WHEREFORE, Pittsburgh UNITED respectfully requests that the Commission enter an order granting Pittsburgh UNITED full status as an intervener in this proceeding with active party status.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for Pittsburgh UNITED



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Dated: March 20, 2020

Verification

I, Jennifer Rafanan Kennedy, on behalf of Pittsburgh UNITED, hereby state that the facts contained in the foregoing *Petition to Intervene and Answer of Pittsburgh UNITED* are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect 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 10 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

On behalf of Pittsburgh UNITED

A handwritten signature in black ink, appearing to read 'Jenny Kennedy', with a horizontal line extending to the right.

Jennifer Rafanan Kennedy
Executive Director
Pittsburgh UNITED
jenny@pittsburghunited.org
724-809-9014

Date: March 20, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
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v. : **Docket Nos. R-2020-3017951**
:
Pittsburgh Water and Sewer Authority : **R-2020-3017970**
:
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Certificate of Service

I hereby certify that I have this day served copies of the **Petition to Intervene of Pittsburgh UNITED** upon the parties of record in the above-captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

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