



COMMONWEALTH OF PENNSYLVANIA

March 26, 2020

E-FILED

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

**Re: Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority
(Water) / Docket No. R-2020-3017951**

Dear Secretary Chiavetta:

Enclosed please find the Answer and Verification, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Daniel G. Asmus".

Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID No. 83789

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 : **Docket No. R-2020-3017951 (Water)**

**ANSWER OF THE OFFICE OF SMALL BUSINESS ADVOCATE
TO PETITION OF THE PITTSBURGH WATER AND SEWER AUTHORITY
FOR CONSOLIDATION OF WATER AND WASTEWATER PROCEEDINGS AND
FOR AUTHORIZATION TO USE COMBINED WATER AND WASTEWATER
REVENUE REQUIREMENTS**

Pursuant to 52 Pa. Code §5.61(e), the Office of Small Business Advocate (“OSBA”) hereby answers the Petition of the Pittsburgh Water and Sewer Authority (“PWSA” or “the Company”) for Consolidation of Water and Wastewater Rate Proceedings and For Authorization to Use Combined Water and Wastewater Revenue Requirements (“Petition”) filed with the Pennsylvania Public Utility Commission (“Commission”) on March 6, 2020, and avers the following in support thereof:

The OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Commission.

In the Petition, the Company seeks Commission approval to consolidate its Water and Wastewater Rate Proceedings filed at R-2020-3017951 (Water) and R-2020-3017970 (Wastewater) and Commission authorization to use a combined water/wastewater revenue requirement in the consolidated proceeding. In answer to the paragraphs of PWSA’s Petition, the OSBA avers as follows:

The first unnumbered paragraph of PWSA's Petition constitutes a prayer for relief and as such, no response is necessary.

I. BACKGROUND

1. Admitted.

2. No response is necessary.

3. It is admitted that Act 11 was signed into law on February 14, 2012. Act 11, being a writing, speaks for itself, and therefore no response is necessary. Any averments of PWSA regarding the benefits of Act 11 are denied, since Act 11 speaks for itself.

4. It is admitted that the Commission entered its Final Implementation Order on August 2, 2012. That Order, being a writing, speaks for itself, and therefore no response is necessary.

5. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

II. REQUEST FOR CONSOLIDATION OF PROCEEDINGS

6. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

7. The averments of this paragraph quote 52 Pa. Code §5.81(a), which, being a writing, speaks for itself, and therefore no response is necessary.

8. The averments of this paragraph paraphrase eight issues to be considered when evaluating a petition for consolidation, as set forth in a second prehearing order entered November 26, 2012 in *Pub. Util. Comm'n v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366. While the second prehearing order in that proceeding does address the

issues to be considered in a consolidation, the language comes from an analysis of other caselaw, as fully quoted from the second prehearing order:

In considering the consolidation of cases, the first criteria (set forth in the Commission's regulations) is that the proceedings must involve "a common question of law or fact". An examination of Commission precedent in such cases as *Applications of Philadelphia Electric Co.*, 43 Pa. PUC 781 (1968), *Pa. Public Utility Comm'n v. Bell Telephone Co. of Pennsylvania*, 46 Pa. PUC 568 (1973), and *Pa. Public Utility Comm'n v. Butler Twp. Water Co.*, 52 Pa. PUC 442 (1978), as well as those cited above, establishes that considerations in addition to the presence of common questions of law or fact must also be evaluated in ruling on a consolidation. These other considerations are:

1. Will the presence of additional issues cloud a determination of the common issues?
2. Will consolidation result in reduced costs of litigation and decision-making for the parties and the Commission?
3. Do issues in one proceeding go to the heart of an issue in the other proceeding?
4. Will consolidation unduly protract the hearing, or produce a disorderly and unwieldy record?
5. Will different statutory and legal issues be involved?
6. Does the party with the burden of proof differ in the proceedings?
7. Will consolidation unduly delay the resolution of one of the proceedings?
8. Will supporting data in both proceedings be repetitive?

No single consideration, nor group of these considerations, is dispositive of a consolidation, any more so than the presence of a common question of law or fact. Rather, the evaluation of all of them and a balancing of those favoring and disfavoring consolidation is required.¹

9. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

10. The averments of this paragraph state conclusions of law to which no response is necessary.

¹ *Pub. Util. Comm'n v. City of Lancaster Sewer Fund*, Docket No. R-2012-2310366 (Second Prehearing Order entered November 26, 2012) at 3-4.

III. REQUEST FOR CONSOLIDATED REVENUE REQUIREMENT

11. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

12. The averments of this paragraph state a conclusion of law to which no response is necessary.

13. Admitted in part. The first three sentences of this paragraph are admitted. The last two sentences of this paragraph state conclusions of law to which no response is necessary.

14. Denied. OSBA is without knowledge or belief as to the truth of the averments of this paragraph, and therefore, they are denied.

15. The averments of this paragraph constitute a prayer for relief, to which no response is necessary. To the extent that these averment state conclusions of law, no response is necessary.

IV. REQUEST FOR EXPEDITED APPROVAL

16. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

17. The averments of this paragraph constitute a prayer for relief, to which no response is necessary.

18. Admitted.

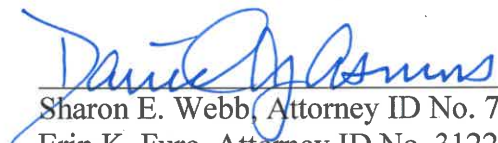
V. CONCLUSION

The averments of this paragraph constitute a prayer for relief to which no response is necessary.

WHEREFORE, in view of the foregoing, the Office of Small Business Advocate respectfully requests that the Pennsylvania Public Utility Commission:

- i. Direct the Office of Administrative Law Judge to hold hearings on the Petition and prepare an initial decision.
- ii. Deny approval of PWSA's Petition unless it is found to be reasonable and equitable to small business customers;
- iii. Grant such other relief as may be necessary or appropriate.

Respectfully submitted,


Sharon E. Webb, Attorney ID No. 73995
Erin K. Fure, Attorney ID No. 312245
Daniel G. Asmus, Attorney ID No. 83789
Assistant Small Business Advocates

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Date: March 26, 2020

VERIFICATION

I, John R. Evans, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief 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 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 03/26/20

John R. Evans
(Signature)

Pennsylvania Public Utility Commission

v.

**Pittsburgh Water and Sewer Authority
(Water & Wastewater)**

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: **Docket Nos. R-2020-3017951**
: **R-2020-3017970**
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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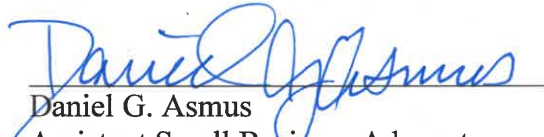
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