



VIA E-FILE

April 21, 2020

The Honorable Mary Long
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, Pennsylvania 15222
malong@pa.gov

The Honorable Emily DeVoe
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, Pennsylvania 15222
edevoe@pa.gov

Re: PA Public Utility Commission v. Pittsburgh Water and Sewer Authority
Docket Nos. R-2020-3017951; R-2020-3017970

Dear Judge Long and Judge DeVoe:

Enclosed, please find the **Prehearing Conference Memorandum of Pittsburgh UNITED** in the above-captioned proceeding.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ria M. Pereira".

Ria M. Pereira
Counsel for Pittsburgh UNITED

CC: Certificate of Service
Secretary Rosemary Chiavetta

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3017951
	:	R-2020-3017970
	:	
Pittsburgh Water and Sewer Authority	:	
	:	

Certificate of Service

I hereby certify that I have this day served copies of the **Prehearing Conference Memorandum 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.

VIA EMAIL

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The Honorable Mary Long Administrative Law Judge Pennsylvania Public Utility Commission 301 5 th Avenue, Suite 220 Pittsburgh, Pennsylvania 15222	The Honorable Emily DeVoe Administrative Law Judge Pennsylvania Public Utility Commission 301 5 th Avenue, Suite 220 Pittsburgh, Pennsylvania 15222

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Respectfully submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for Pittsburgh UNITED



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April 21, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : **Docket No. R-2020-3017951**
: **R-2020-3017970**
Pittsburgh Water and Sewer Authority :

PREHEARING CONFERENCE MEMORANDUM OF PITTSBURGH UNITED

Counsel for Pittsburgh UNITED

Ria Pereira, Esq., PA ID: 316771
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Date: April 21, 2020

I. INTRODUCTION

On April 17, 2020, a Prehearing Conference Order was issued by Administrative Law Judge Mary Long, setting a call-in prehearing conference for Wednesday, April 22, 2020 at 10:00 a.m. and requiring the parties to file a Prehearing Conference Memorandum no later than Tuesday, April 21, 2020 by noon. In response, Pittsburgh UNITED, through its counsel at the Pennsylvania Utility Law Project, hereby files this Prehearing Conference Memorandum in the above-captioned matters.

II. HISTORY OF PROCEEDING

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 its 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. On March 20, 2020, Pittsburgh UNITED filed a Petition to Intervene in the above-referenced matters. In its Petition to Intervene, Pittsburgh UNITED identifies a number of issues present in PWSA's filing that require further investigation and hearings. Such issues are discussed in further detail below.

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.*)

III. ISSUES TO BE PRESENTED

While additional issues may arise as a more comprehensive review of PWSA's filing takes place, on preliminary review of PWSA's tariff filing, Pittsburgh UNITED has identified the following issues present in PWSA's filing that require further investigation and hearing:

1. Further investigation is necessary to determine whether the terms, conditions, and rates set forth in PWSA's tariff filing are just and reasonable. After preliminary review of PWSA's tariff filing, Pittsburgh UNITED asserts that the terms, conditions, and rates for water services set forth in the instant filing are neither just nor reasonable, as they are not appropriately designed to ensure that all consumers are able to access safe and affordable water service and would have a disproportionate impact on low-, fixed-, and moderate-income households.
2. 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, Pittsburgh UNITED is concerned that PWSA does not propose to structure its Bill Discount Program in a manner that will produce a consistent level of affordability capable of improving bill payment behavior and reducing uncollectible expenses. (See id. at 2930). 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 that PWSA serves.
3. Initial review of PWSA's filing further suggests that PWSA's proposed conservation efforts are insufficient to adequately address the usage reduction needs of low income

customers. In particular, PWSA fails to commit to a line repair and conversation program, to propose a way to fund a usage reduction program through rates, or to commit to performing a cost-benefit analysis for such programs. (Id. at 31). Further investigation is necessary to determine if PWSA's proposed plan for conservation efforts is adequate to address the needs of low income consumers for affordable and sustainable utility services, and to determine whether PWSA's failure to make such a proposal constitutes a material breach of PWSA's settlement commitment in its last rate case.²

4. Further investigation is necessary to determine if PWSA's outreach plan related to its universal service and conservation programs is adequate to communicate with and educate customers about PWSA's low income programs, particularly those customers with incomes between 0-50% the Federal Poverty Level. (See id. at 33).

Pittsburgh UNITED asserts that the affordability and safety issues identified above, along with any future issues identified by interested parties, must be thoroughly reviewed to ensure that all PWSA customers are able to access safe and affordable utility services. Without investigation of the above-stated issues, PWSA's tariff filing could result in unjust and unreasonable terms, conditions, and rates for critical water services that would impose severe hardship on the health, safety, and economic stability of Pittsburgh residents.

IV. CONSOLIDATION WITH COOPERATION AGREEMENT

On April 17, 2020, PWSA filed a Petition to Consolidate Rate Case Proceeding and Cooperation Agreement Proceeding. After review of PWSA's Petition, Pittsburgh UNITED does not object to the request for consolidation of the cooperation agreement with the current matter.

² See Pa. PUC v. PWSA, Opinion and Order, Docket Nos. R-2018-3002645, R-2018-3002647 (opinion and order entered Feb. 27, 2019).

V. REPRESENTATION OF PITTSBURGH UNITED AND SERVICE

For the purpose of the Prehearing Conference, Pittsburgh UNITED will be primarily represented by Ria Pereira, Esquire. Pittsburgh UNITED is represented in this proceeding by counsel at the Pennsylvania Utility Law Project, and requests consolidated service as follows:

Ria Pereira, Esq.
Elizabeth R. Marx, Esq
John W. Sweet, Esq.
PENNSYLVANIA UTILITY LAW PROJECT
118 Locust Street
Harrisburg, PA 17102
Telephone: 717-236-9486
Facsimile: 717-233-4088
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Pursuant to the Commission's Emergency Order issued on March 20, 2020, Pittsburgh UNITED requests service by email during the pendency of the Proclamation of Disaster Emergency in Pennsylvania. After the Proclamation of Disaster Emergency is lifted, Pittsburgh UNITED requests that parties serve both an electronic and a single hard copy of all documents served in this proceeding on the Pennsylvania Utility Law Project, as listed above.

I. DISCOVERY

On April 17, 2020, PWSA filed a Motion for Protective Order. Pittsburgh UNITED does not object to the terms of the Motion for Protective Order.

Pittsburgh UNITED supports the standard discovery modifications proposed by the Office of Consumer Advocate.

II. WITNESSES AND TESTIMONY

Pittsburgh UNITED intends to present the following witness to testify in this matter, and reserves the right to call additional witnesses as may be warranted upon proper notice to Your Honor and the parties:

Olivia Wein, Esq.
National Consumer Law Center
1001 Connecticut Avenue, NW, Suite 510
Washington, DC 20036
202-452-6252
owein@nclc.org

Ms. Wein will address the issues identified above, as well as other issues that may arise in the course of this proceeding.

III. EVIDENCE TO BE PRESENTED

Pittsburgh UNITED expects to present written direct, rebuttal, and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Pittsburgh UNITED intends to rely on PWSA's filings, testimony of PWSA's witnesses and the witnesses of other parties, exhibits, responses and answers to discovery, Commission orders and other filings from prior and/or ongoing proceedings before the Commission or other government bodies or courts, reports and/or documents submitted to the Commission, and public documents related to the issues and sub-issues raised above. Pittsburgh UNITED reserves the right to present evidence of any issues that arise through the course of the proceeding, including but not necessarily limited to the issues identified above or by the other parties to this proceeding. Any and all evidence presented by Pittsburgh UNITED will be directed so as to ensure that low income consumers are adequately and appropriately protected.

IV. LITIGATION SCHEDULE

Pittsburgh UNITED is actively involved in discussions with PWSA and other parties to the proceeding to reach a mutually agreeable litigation schedule in this matter. On March 31, 2020, the Bureau of Investigation and Enforcement (I&E) filed a Motion to extend the suspension period in the current matter in lights of the unprecedented emergency caused by COVID-19. On April 6, 2020, Pittsburgh UNITED filed an Answer in Support of I&E's Motion, and additionally asserted

that PWSA should be required to make an updated filing after expiry of the extension period which would set forth changes to the filing as a result of the economic impacts of COVID-19. As of the filing of this Prehearing Conference Memorandum, and despite good faith efforts, the parties have not yet reached a settlement regarding I&E's Motion. We are continuing to work diligently with PWSA and other parties to arrive at a settlement of this issue, and would request that I&E's Motion and the Answers filed thereto be held in abeyance for one week to allow the parties time to work through this issue.

V. SETTLEMENT

Pittsburgh UNITED is ready and willing to engage in settlement discussions in an attempt to resolve or narrow the issues in this proceeding, with any and all parties, and encourages the parties to engage in settlement early in the process.

VI. CONCLUSION

Pittsburgh UNITED respectfully submits this Prehearing Conference Memorandum and requests that it be entered into the record of this proceeding.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for Pittsburgh UNITED



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Dated: April 21, 2020