



COMMONWEALTH OF PENNSYLVANIA

April 21, 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 /
Docket No. R-2020-3017951, R-2020-3017970**

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings. I respectfully request that a copy of any documents filed in this case be shared as well with our Witness at the address below.

Brian Kalcic
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225 S. Meramec Avenue, Suite 720 T
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excel.consulting@sbcglobal.net

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

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

Sincerely,

/s/ Daniel G. Asmus

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

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3017951 (water)
	:	Docket No. R-2020-3017970(wastewater)
Pittsburgh Water & Sewer Authority	:	

**OFFICE OF SMALL BUSINESS ADVOCATE
PREHEARING MEMORANDUM**

I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (“Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter are Assistant Small Business Advocates Sharon E. Webb, Erin K. Fure and Daniel G. Asmus. Please address all correspondence as follows:

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Erin K. Fure, Esquire
Daniel G. Asmus, Esquire
Office of Small Business Advocate
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II. FILING BACKGROUND

On March 6, 2020, the Pittsburgh Water and Sewer Authority (“PWSA” or the “Company”) filed Supplement No 1 to Tariff Water Pa. P.U.C. No. 1 (“Supplement No. 1W”) and Supplement No. 1 to Tariff Wastewater PA P.U.C. No. 1 (“Supplement No. 1WW”) (collectively “Tariffs”). The proposed Tariffs are seeking approval of a multi-year rate plan which, if approved by the Commission, would increase the Company’s water and wastewater rates by approximately \$43.4 million per year in 2021, and an additional \$12.6 million in 2022.

On March 19, 2020, the OSBA filed a Complaint alleging that PWSA’s proposed rates, rate design, and cost and revenue allocation may be insufficient to justify the rate increase requested and that the Company’s present and proposed rates, rules, and conditions of service may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law, particularly as they pertain to small business customers, in violation of, *inter alia*, Sections 1301 and 1304 of the Public Utility Code, 66 Pa. C.S. §§ 1301 and 1304, and may be contrary to appropriate public policy and sound ratemaking considerations, and may not be supported by the materials filed by PWSA.

A formal complaint was also filed by the Office of Consumer Advocate (“OCA”) on March 24, 2020, and an intervention was filed by Pittsburgh United on March 20, 2020. The Commission’s Bureau of Investigation and Enforcement (“BIE”) filed a Notice of Appearance on March 9, 2020.

By Order entered April 16, 2020, the proposed Tariffs were suspended by operation of law until December 5, 2020. The Commission ordered an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Tariffs. The Commission also ordered an investigation into the reasonableness of PWSA’s existing rates, rules, and regulations.

Administrative Law Judge (“ALJ”) Mary A. Long was assigned to this proceeding. ALJ Long informed the parties by email on April 9, 2020, that the initial Prehearing Conference in this

case would be held telephonically on April 22, 2020. This Prehearing Memorandum is being served pursuant to ALJ Long's instructions in that email.

It should be noted that several additional and related filings have been made by PWSA and responded to by the parties. These filings, also made on March 6, 2020, include a Petition to consolidate PWSA's previously filed petition to waive the DSIC CAP (Docket No. P-2020-3019019) with the instant water and wastewater base rate filings, and Petitions to consolidate these water and wastewater base rate filings. As of this writing, these filings have not been ruled on by the Commission.

Additionally, on March 31, 2020, BIE filed a Motion for an Extension of the Statutory Suspension Period for these (as yet unconsolidated) rate cases. As of this writing, the parties are negotiating a resolution of that Motion, but the issue has not been resolved.

III. WITNESS

Assisting in the development and presentation of OSBA's position in this proceeding will be:

Brian Kalcic
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(314) 725-2511
excel.consulting@sbcglobal.net

The OSBA requests that all parties provide courtesy copies of all documents, including discovery, testimony and briefs, upon Mr. Kalcic, simultaneously with service upon the OSBA.

IV. IDENTIFICATION OF ISSUES

The OSBA is participating in this case to ensure that the interests of small business customers of PWSA are adequately represented and protected. As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of PWSA and other parties, primarily through discovery, cross-examination of witnesses appearing for those parties, filing of testimony, and briefing of the issues that arise in this proceeding.

The OSBA will particularly focus on issues where the impact upon the interests of PWSA's small business customers would be unjustifiably different from or disproportionate to the impact on other classes of customers, or is otherwise lacking in reasonableness or basic fairness.

At this time, the OSBA is concentrating on the following issues:

1. Whether PWSA's proposed allocation of its total claimed revenue requirement between water and wastewater service is appropriate;
2. Whether the methodology employed in PWSA's class cost-of-service study for water service (WCOSS) is appropriate;
3. Whether the customer class demand factors used in PWSA's WCOSS are reasonable;
4. Whether PWSA's proposed class revenue allocation for water service customers is cost based;
5. Whether the methodology used in PWSA's wastewater cost-of-service study is appropriate;
6. Whether PWSA's proposed class revenue allocation for wastewater service customers is cost based;
7. Whether PWSA's proposed water service rate design is reasonable and appropriate; and
8. Whether PWSA's proposed wastewater service rate design is reasonable and appropriate.
9. Whether PWSA's proposal to increase the DSIC CAP is necessary, reasonable and appropriate; and
10. Whether PWSA's proposal to implement a DSIC at the same time the Authority implements a base rate increase is permissible under the Public Utility Code.

The OSBA reserves the right to pursue additional issues as they may arise throughout the course of the proceeding. Pursuant to ALJ Long's instruction to the parties in her April 20, 2020, email, the OSBA believes that this proceeding is already far more complicated than a usual base rates case, having as it does the additional inclusion of DSIC CAP waivers for both companies and the consolidation of the water/wastewater proceedings. The further addition of the issue of the cooperation agreement into the base rates case, while not something the OSBA agrees with, would, at the very least, call for a hard look at the need for an extension of time in which to litigate this case.

V. SERVICE OF DOCUMENTS

The OSBA agrees to accept electronic mail delivery of documents on the due date as satisfying the in-hand requirement, *provided that such documents are followed by hard copy delivery to OSBA by first class mail*. Service by electronic mail *only* is not acceptable. The OSBA requests that such hard copies are also provided to its witness identified above.

In addition to hard copies of pleadings, briefs, and exceptions, the OSBA requests hard copies of responses to discovery propounded by the OSBA or any other party. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witness identified above.

VI. DISCOVERY

Discovery is ongoing. At the time of this writing, interrogatories have been served by the OCA. The OSBA will work with the Presiding Officers and the other parties to develop any mutually acceptable discovery modifications.

VII. SETTLEMENT

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

VIII. PROCEDURAL SCHEDULE

The OSBA will work with the Presiding Officers and the other parties to develop a mutually acceptable procedural schedule.

Respectfully submitted,

/s/ Daniel G. Asmus

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

For:

John R. Evans
Small Business Advocate

Office of Small Business Advocate
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Dated: April 21, 2020

Pennsylvania Public Utility Commission, et. al.	:	
	:	
v.	:	R-2020-3017951
	:	
Pittsburgh Water & Sewer Authority – Water	:	
	:	
Pennsylvania Public Utility Commission, et. al.	:	
	:	R-2020-3017970
v.	:	
	:	
Pittsburgh Water & Sewer Authority –	:	
Wastewater	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise 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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DATE: April 21, 2020

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