

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oa

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

October 15, 2020

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

Re: Implementation of Chapter 32 of the Public Utility
Code Regarding Pittsburgh Water and Sewer
Authority – Stage 1
Docket Nos. M-2018-2640802
M-2018-2640803

Petition of The Pittsburgh Water and Sewer
Authority for Approval of Its Long-Term
Infrastructure Improvement Plan
Docket Nos. P-2018-3005037
P-2018-3005039

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceedings.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Enclosures:

cc: Certificate of Service
*297894

CERTIFICATE OF SERVICE

Re:	Implementation of Chapter 32 of the Public Utility Code	:	Docket Nos.	M-2018-2640802
	Regarding Pittsburgh Water and Sewer Authority – Stage	:		M-2018-2640803
	1	:		
		:		
	Petition of The Pittsburgh Water and Sewer Authority for	:		
	Approval of Its Long-Term Infrastructure Improvement	:	Docket Nos.	P-2018-3005037
	Plan	:		P-2018-3005039

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 15th day of October 2020.

SERVICE BY E-MAIL ONLY

Gina L. Miller, Esquire
John M. Coogan, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Sharon E. Webb, Esquire
Erin K. Fure, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

Michael A. Gruin, Esquire
Stevens & Lee
17 North Second Street, 16th Floor
Harrisburg, PA 17101

Susan Simms Marsh, Esquire
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055

Peter Demarco, Esquire
Dimple Chaudhary, Esquire
Cecilia Segal, Esquire
Natural Resources Defense Council
1152 Fifteenth Street Northwest, Suite 300
Washington, DC 20005

Daniel Clearfield, Esquire
Sarah Stoner, Esquire
Eckert, Seamans, Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Michelle Naccarati Chapkis
Mayor's Blue Ribbon Panel on
Restructuring the PWSA Care of Women for
a Healthy Environment
5877 Commerce Street
Pittsburgh, PA 15206

/s/ Christine Maloni Hoover
Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org

Lauren E. Guerra
Assistant Consumer Advocate
PA Attorney I.D. # 323192
E-Mail: LGuerra@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: October 15, 2020
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public	:	Docket Nos.	M-2018-2640802
Utility Code Regarding Pittsburgh Water	:		M-2018-2640803
And Sewer Authority – Stage 1	:		
	:		
Petition of The Pittsburgh Water and Sewer	:	Docket Nos.	P-2018-3005037
Authority for Approval of Its Long-Term	:		P-2018-3005039
Infrastructure Improvement Plan	:		

OCA COMMENTS

The Office of Consumer Advocate (OCA), in general, agrees with the proposed Compliance Plan submitted by Pittsburgh Water and Sewer Authority (PWSA) on September 30, 2020 and acknowledges that PWSA has interacted reasonably with the active parties and the Community Lead Response Advisory Committee (CLRAC). The OCA has several suggestions and concerns, however, that we urge the Commission to take into account when responding to this proposed Compliance Plan.

The Commission's orders appear to require PWSA to undertake a mandatory termination of essential water and wastewater service to residential customers that do not respond to PWSA's efforts for contact and reach agreement to replace the private lead line service. The OCA remains concerned with the Commission's direction to terminate such essential service for failure of a customer to agree to replacement of a private service line. The concern with the implementation of this directive is not merely the procedural steps that the Commission mandated and that PWSA has in good faith proposed. Rather, the OCA's concern rests in this instance with the apparent lack of discretion granted to PWSA to determine on a case-by-case basis whether to terminate this

essential service under the conditions mandated by the Commission. Not every situation can be categorized by rule. Termination should not be mandated based solely on a completion of various notices. The OCA urges the Commission to grant PWSA the appropriate discretion that accompanies the current termination procedures and policies. There is nothing in Chapter 56 that mandates termination of service even if the notice and attempted contact procedures are completed as required. Rather, utilities have always had discretion, and have utilized that discretion, in the actual termination itself when faced with unusual situations that are not explicitly identified in the rules and regulations or situations that would implicate the safety of the residents and the public. The OCA submits that there is a need for discretion in the relatively few situations in which a residential customer may not respond, or respond negatively, to the need for a private line replacement. Providing PWSA discretion will permit PWSA to take into account the individual situations that PWSA may encounter.

In addition, the OCA specifically requests that any termination authorized by this Compliance Plan, including the refusal to reconnect the private-side LSL, should not occur during the emergency orders associated with the Pandemic, the winter termination moratorium, or other rights associated with the declaration of medical emergencies. The OCA submits that there are other accommodations that can be made in those situations.

While the OCA agrees with the overall approach outlined by PWSA in this Compliance Plan as a means to comply with the Commission's Order, the OCA urges PWSA to more fully explain its community outreach associated with situations in which the customer may refuse or fail to respond. PWSA could engage in more affirmative outreach to community organizations and public health and safety organizations at the City level to solicit their assistance for these

situations.¹ In this situation in which the health and safety of the household is of primary importance, we recommend that PWSA conduct a more affirmative outreach to appropriate agencies and organizations who agree to undertake their own efforts at personal contact with the customer. This approach might be more successful than a typical “utility” notice.

Furthermore, it is possible that customers may not understand why they are receiving a termination notice when they are current with their payment obligations. The lack of a connection between the termination notices and the lead line replacement program is another hurdle that needs to be addressed by PWSA. PWSA should explicitly notify customers that bill payment or overdue bills does not impact their qualification for assistance in lead line replacement. PWSA should ensure that its notices and outreach efforts affirmatively make these statements. These communications should take the form of positive statements concerning the benefits to the customer and the customer’s household and the lack of any connection between this program and its benefits with the customer’s current payment obligation for bills to PWSA.

The OCA also recommends that PWSA consider the development of accommodations to customers who cannot respond, in the case of tenants, to the required notices. Possible accommodations could include the provision of potable water for the household if termination is occurring as a result of the failure of a third party to respond or agree. Other accommodations should be explored based on PWSA’s analysis of its interactions with customers who have in the past refused or failed to respond to outreach. The situation when the Landlord has the obligation to provide permission for the replacement and fails to respond, thus threatening the health and safety of the tenant calls for accommodations. It is unfair and unreasonable for tenants to suffer these consequences. PWSA should be empowered to take legal action against the Landlord. The

¹ This would not involve the sharing of customer specific billing and payment information.

OCA's recommended approach in this regard is similar to the approach that PWSA has recommended for certain "tangled lines" in which the property that must be crossed to deliver the private line replacement to the customer is billed for the costs incurred, thus identifying the party that has the obligation and authority to respond and provide the necessary permission and access. It is the OCA's opinion that threats of termination are unlikely to obtain the desired result if they are the singular means of attempting contact and resolving the customer's basis for silence or refusal.

Regarding PWSA's proposed expedited complaint process, the OCA does not support a formal modification to the process due to the singular nature of this situation. The OCA submits that the expedited complaint process should not be implemented at this time. Rather, it might be appropriate for PWSA and BCS, with the Commission's approval, to negotiate an informal agreement to conduct a prompt investigation of these complaints with the due process required to be given to the customer and PWSA. Depending on the resources available to BCS, an informal agreement to provide a high priority to customer complaints of this nature would be reasonable. The establishment of an expedited complaint process may lead to a lack of due process for the consumer.

WHEREFORE, the Office of Consumer Advocate submits that certain accommodations should be included as outlined above and there should not be a new expedited complaint process established.

Respectfully Submitted,

/s/Christine Maloni Hoover

Christine Maloni Hoover

Senior Assistant Consumer Advocate

PA Attorney I.D. # 50026

E-Mail: CHoover@paoca.org

Counsel for:

Tanya J. McCloskey

Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: October 15, 2020
297863