



Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL 717 237 6000
FAX 717 237 6019
www.eckertseamans.com

Sarah C. Stoner
717.237.6026
sstoner@eckertseamans.com

October 26, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Implementation of Chapter 32 of the Public Utility Code Re: Pittsburgh Water
and Sewer Authority; Docket Nos. M-2018-2640802 and 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 and P-2018-3005039

Dear Secretary Chiavetta:

Enclosed for electronic filing please The Pittsburgh Water and Sewer Authority's Reply
Comments, with regard to the above-referenced matter.

Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Sarah C. Stoner

Sarah C. Stoner

Enclosure

cc: Hon. Conrad Johnson w/enc.
Hon. Mark Hoyer w/enc.
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the PWSA's Reply Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa.

Code Section 1.54.

Via Email Only

Sharon Webb, Esq.
Erin K. Fure, Esq.
Forum Place Building
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov
efure@pa.gov

Christine Maloni Hoover, Esq.
Erin L. Gannon, Esq.
Lauren E. Guerra, Esq.
Office of Consumer Advocate
555 Walnut St., 5th Fl., Forum Place
Harrisburg, PA 17101-1923
choover@paoca.org
egannon@paoca.org
lguerra@paoca.org

Gina L. Miller, Esq.
John M. Coogan, Esq.
Bureau of Investigation &
Enforcement Commonwealth Keystone
Building 400 North St., 2nd Floor West
Harrisburg, PA 17120
ginmiller@pa.gov
jcoogan@pa.gov

Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
The Pennsylvania Utility Law Project
118 Locust St.
Harrisburg, PA 17101
pulp@palegalaid.net

Susan Simms Marsh, Esq.
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Susan.marsh@amwater.com

Michael A. Gruin, Esq.
Stevens & Lee
17 North Second St., 16th Fl.
Harrisburg, PA 17101
mag@stevenslee.com

Brian Kalcic
Excel Consulting
225 S. Meramec Ave., Suite 720T
St. Louis, MO 63105
Excel.consulting@sbcglobal.net

Dimple Chaudhary, Esquire
Peter J. DeMarco, Esquire
Cecilia Segal, Esquire
Natural Resources Defense Council
1152 15th Street, NW, Ste. 300
Washington, DC 20005
dchaudhary@nrdc.org
pdemarco@nrdc.org
csegal@nrdc.org

Michelle Nacarati Chapkis
Mayor's Blue Ribbon Panel on Restructuring
the PWSA Care of Women for a Healthy
Environment
5877 Commerce St.
Pittsburgh, PA 15206
michelle@womenforahealthyenvironment.org

Sarah C. Stoner

Sarah C. Stoner, Esq.

October 26, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the Public	:	Docket No.	M-2018-2640802 (water)
Utility Code Regarding Pittsburgh Water and	:		M-2018-2640803 (wastewater)
Sewer Authority – Stage 1	:		

Petition of The Pittsburgh Water and Sewer	:	Docket No.	P-2018-3005037 (water)
Authority for Approval of Its Long-Term	:		P-2018-3005039 (wastewater)
Infrastructure Improvement Plan	:		

**REPLY COMMENTS OF
THE PITTSBURGH WATER AND SEWER AUTHORITY**

The Pittsburgh Water and Sewer Authority (“PWSA”) hereby submits these Reply Comments to the Comments of the Office of Consumer Advocate (“OCA”) and Pittsburgh UNITED (“UNITED”) filed on October 15, 2020 in connection with PWSA’s Compliance Proposal made by the Authority pursuant to the Commission’s Opinion and Order entered June 18, 2020 in the above captioned proceeding.

I. INTRODUCTION

On October 15, 2020, the OCA and UNITED filed comments in response to the filing of a Compliance Proposal in this matter. In their comments, the OCA and UNITED generally support many aspects of the approach outlined in PWSA’s Compliance Proposal.¹ More specifically, OCA and UNITED support or do not oppose PWSA’s proposals to: (1) reserve issues related to Chapter 15, subchapter B to Stage 2 of PWSA’s Compliance Plan proceeding; (2) address tangled title situations; (3) handle situations in which a private-side lead service line (“LSL”) crosses the boundary of a neighboring property and where the owner refuses access; and (4) address circumstances in which unsafe structural or sanitary conditions exist in a residence.²

¹ OCA Comments at 1; UNITED Comments at 1.

² PWSA Compliance Proposal at 10, 12-14, 21-24; OCA Comments; UNITED Comments at 8, 10-11, 15-16.

Both OCA and UNITED suggest modifications to several components of PWSA's Compliance Proposal. PWSA appreciates these parties' good faith suggestions designed to craft reasonable and fair procedures in the areas covered by the Compliance Proposal. The suggested modifications cover: (1) pre-termination notice requirements and tenant-occupied properties with unresponsive landlord; (2) curtailment of in-person notice due to threats from occupants; (3) legal services/community organization referral information; (4) notice and outreach where PWSA does not complete a private-side LSL replacement due to an emergency repair and a non-responsive property owner; and (5) properties with high restoration costs. In these Reply Comments, PWSA provides its response and feedback to the suggested modifications on those topics.

PWSA also responds to OCA and UNITED's opposition to PWSA's proposals on two important issues. The first issue involves PWSA's proposed approach to replacing LSLs when an independent legal restriction exists that prohibits service termination due to non-payment of utility bills. The second issue is the resolution of complaints filed regarding terminations of service in the LSL context.

The last segment of these Reply Comments urges the Commission to reject UNITED's proposal that would require PWSA to consult with both the Community Lead Response Advisory Committee and the Low Income Assistance Advisory Committee on "all aspects" of LSL related terminations.

II. REPLY TO COMMENTS OF THE OCA AND UNITED

A. OCA and UNITED Support Several Components of PWSA's Compliance Proposal

OCA agrees with PWSA's "overall approach" in its Compliance Proposal as a means to comply with the Commission's Order.³ While PWSA's proposal was crafted to comply with the Commission's Order, PWSA fully supports OCA's request that the Commission grant "PWSA the appropriate discretion that accompanies the current termination procedures and policies."⁴ OCA aptly points out that "not every situation can be categorized by rule" and that PWSA should have the discretion to determine on a case-by-case basis whether to terminate service under the conditions directed by the Commission.⁵ There are unique situations that PWSA has and will continue to face in its replacement efforts that do not squarely fit into the parameters of a single rule, regulation or PWSA Tariff provision. Accordingly, PWSA requests appropriate discretion to handle the unique situations it may encounter in its lead remediation efforts.

It is noteworthy that there are several components of PWSA's Compliance Proposal that both OCA and UNITED support or do not oppose. Those components are identified in Attachment A and are identified below. PWSA appreciates the support offered for the following proposals:

- Reserving issues related to Chapter 15, subchapter B to Stage 2 of PWSA's Compliance Plan proceeding;⁶
- PWSA's willingness to accept certain legal risks of replacing private-side LSLs in tangled title situations;⁷
- PWSA's proposal to address situations in which a private-side LSL crosses the property boundary of a neighboring property and where the owner refuses access

³ OCA Comments at 2.

⁴ OCA Comments at 2.

⁵ OCA Comments at 2.

⁶ PWSA Compliance Proposal at 10; UNITED Comments at 8.

⁷ PWSA Compliance Proposal at 14; UNITED Comments at 10.

by: (1) evaluating solutions to install conforming service lines; and/or (2) if installing conforming service lines is not viable or economic, to commence procedures to terminate service to the neighboring property owner's property pursuant to PWSA's Tariff;⁸ and

- PWSA's proposal to address circumstances in which unsafe structural or sanitary conditions exist in a residence by: (1) evaluating engineering solutions at the property and connecting property owners to resources to help rectify the issue; (2) if the property is unoccupied and engineering solutions are not feasible, following termination procedures; or (3) if the property is occupied and engineering solutions are not feasible, performing a partial replacement and providing filters, filter cartridges, flushing instructions and testing kits.⁹

PWSA believes the aforementioned proposals are reasonable general solutions based on its extensive evaluation of potential approaches to the unique issues raised. PWSA urges the Commission to adopt the proposals of PWSA that are supported or not opposed by both OCA and UNITED.

B. Response to OCA and UNITED's Proposed Modifications to PWSA's Compliance Proposal

OCA and UNITED support components of PWSA's Compliance Proposal with modifications. For the Commission's reference, Attachment B hereto provides an overview of the components of PWSA's Compliance Proposal that OCA and UNITED recommend be modified. Those components are discussed below.

1. Pre-Termination Notice Requirements & Tenant-Occupied Properties With Unresponsive Landlord

PWSA agrees with several recommendations offered by OCA and UNITED relating to pre-termination notice requirements in the LSL context. Those recommendations are:

⁸ PWSA Compliance Proposal at 12-14; UNITED Comments at 10-11.

⁹ PWSA Compliance Proposal at 21-24; UNITED Comments at 15-16.

- OCA’s recommendation that PWSA explicitly notify customers that bill payment or overdue bills does not impact their qualification for assistance in LSL replacement;¹⁰
- UNITED’s suggestion that PWSA’s initial authorization packet include information directed at tenants in its cover letter and in a standalone insert;¹¹
- UNITED’s proposal that for the 3-day notice of termination, PWSA attempt to contact the customer through alternative means (such as a phone call) if personal contact at the property is unsuccessful;¹² and
- UNITED’s recommendation that PWSA clarify that property owners whose water service is terminated following a partial LSL replacement may still be eligible for the income-based reimbursement program and provide residents information on how to participate in the program.¹³

PWSA submits that the above-referenced recommendations are reasonable modifications to its proposed procedures and would provide adequate notice and outreach to both property owners and tenants. UNITED also recommended that PWSA mail the initial authorization packet to service addresses, as well as billing addresses.¹⁴ PWSA’s current procedures include mailing the initial authorization packet to service addresses as well as billing addresses, so no modification of its current procedures is required to conform to this request.

OCA recommended that PWSA consider accommodations for tenants who cannot respond to the notices of termination and request for consent to replace a private-side LSL. While PWSA is open to evaluating certain accommodations for tenants, it does have some reservations regarding OCA’s suggestion that PWSA could accommodate tenants who are facing termination of service by providing potable water for the household.¹⁵ PWSA is open to exploring solutions for tenants but, ultimately, the burden should fall on landlords. Landlords

¹⁰ OCA Comments at 3.

¹¹ UNITED Comments at 2, 7.

¹² UNITED Comments at 5.

¹³ UNITED Comments at 2, 7.

¹⁴ UNITED Comments at 2, 7.

¹⁵ OCA Comments at 3-4.

have obligations under lease agreements, and the tenant (not PWSA) is empowered to take legal action against the landlord.

2. *Curtailment of In-Person Notice Due to Threats from Occupants*

UNITED encourages PWSA to clarify its proposal to curtail in-person notice at a residence prior to termination when a PWSA employee or contractor has been threatened.¹⁶

While PWSA understands UNITED's desire to establish formal standards for when PWSA will curtail in-person notice when a PWSA worker is threatened, PWSA recognizes the complicated nature of these situations and that a one-size-fits-all approach is not feasible.

Customer threats to PWSA workers typically occur in-person when the worker approaches the residence; however, threats are also made during telephone calls. PWSA should not be placed in a position where the safety of its workers is jeopardized because a policy does not envision a threat as viable. Evaluating a threat requires fact-specific analysis, and PWSA should have the discretion to determine what threats warrant curtailment of in-person notice. If UNITED's suggestion was adopted, a customer raising their voice on a customer service call would not warrant curtailment of in-person notice.¹⁷ The suggestion seems reasonable on its face, but what if the customer raises their voice on a customer service call and says "You'll be sorry if you step foot on my property!" or "If you come to my house, I will shoot you."? What is clear is that the Authority needs to have discretion in these matters to protect the safety of PWSA employees or agents. There are endless situations that its workers may confront, and a rigid policy is not necessary or appropriate.

¹⁶ UNITED Comments at 2, 5-6.

¹⁷ UNITED Comments at 6.

PWSA currently records threats in its system and intends to continue that practice. While PWSA is willing to share at the quarterly Community Lead Response Advisory Committee (“CLRAC”) meetings the number of times PWSA has curtailed in-person notice due to customer threats, PWSA will not detail the circumstances and justify the curtailment to the CLRAC and Low Income Assistance Advisory Committee (“LIAAC”) as UNITED suggests.¹⁸ For the reasons expressed above, it would not be beneficial for CLRAC and LIAAC to delineate standards for when in-person notice should or should not be curtailed due to threats to PWSA workers. While consulting with law enforcement officials may be helpful to PWSA, the CLRAC and LIAAC members do not have the expertise that would be beneficial in these circumstances; this issue is far outside the experience and expertise of the two advisory committees.

3. Legal Services/Community Organization Referral Information

PWSA proposes to include legal services/community organization referral information in the initial LSLR packet and the 30-day posting.¹⁹ UNITED recommends expanding this proposal so that referral information would be included with each termination notice.²⁰ PWSA is inclined to adopt UNITED’s recommendation and is willing to provide legal services/community organization referral information with each termination notice.

PWSA is receptive to other suggestions offered by UNITED and OCA on legal services/community organization referrals. UNITED offered that PWSA should provide referral information during canvassing and community meetings and that it should invite representatives from local legal services, community organizations and social services providers to attend

¹⁸ UNITED Comments at 6, 17, 19.

¹⁹ PWSA Compliance Proposal at 7-8, 15.

²⁰ UNITED Comments at 2, 4-5.

community meetings with PWSA.²¹ OCA suggests that PWSA could engage in more affirmative outreach to community organizations and public health and safety organizations at the City level to solicit their assistance when a customer refuses or fails to respond to PWSA's offer to replace a private-side LSL. PWSA continues to be interested and amenable to discussing novel outreach efforts with OCA and UNITED.

OCA requested that PWSA more fully explain its outreach efforts in situations where a customer may refuse or fail to respond to an offer to replace a private-side LSL at no cost to the customer.²² In addition to the various termination notices, PWSA contacts customers by telephone several times. PWSA also utilizes robocall reminders to unresponsive property owners. PWSA provides various door hangers at locations where the property owner is unresponsive, conducts canvassing efforts and in-person outreach when an occupant is observed entering or exiting a property. PWSA's outreach efforts also include various community meetings, advertisements, press releases and social media updates. PWSA's multi-faceted approach to customer outreach regarding LSL replacements has been a substantial endeavor, and PWSA will continue to confer with the CLRAC regarding these efforts.

4. *Notice and Outreach Where PWSA Does Not Complete Private-Side LSL Replacement Due to An Emergency Repair and a Non-Responsive Property Owner*

PWSA's Compliance Proposal identified the notice and outreach procedures PWSA proposes to follow in the event of an emergency repair.²³ In emergency repair situations, PWSA installs temporary service connections when feasible to allow ample time and opportunity for

²¹ UNITED Comments at 5.

²² OCA Comments at 2.

²³ PWSA Compliance Proposal at 18.

outreach and property owner agreement for private side replacements.²⁴ To comply with the Commission's termination directive, PWSA proposes to terminate service in accordance with its Tariff if it is not feasible to install a temporary service connection. If a temporary service connection is feasible, PWSA proposes to establish the connection, follow non-emergency termination procedures, and replace the private-side LSL if it receives a property owner agreement consenting to the replacement. If the property owner is not responsive, service to the residence will be terminated. UNITED proposes that property owners who have water service terminated after an emergency public-side LSL replacement be able to accept a free LSL replacement from PWSA within 30 days of termination of service.²⁵

PWSA has significant concerns with the 30-day timeframe proposed by UNITED as it presents a safety issue. UNITED's proposal would result in open excavation sites (a temporary service connection at the curb stop cannot be backfilled with soil) for an inordinate period of time. PWSA would need to leave the excavation site open for the temporary service and for the potential private-side LSL replacement. In instances where non-emergency termination procedures are followed, this could result in excavation sites remaining open for over two months, which is not in the public interest. PWSA personnel currently investigate and resolve complaints to the Mayor's Service Center/311, including open utility cuts. City residents report that open utility cuts impede ingress and egress and are dangerous to pedestrians, especially young children. UNITED's proposal would also delay PWSA's restoration efforts, including the restoration of public sidewalks. While PWSA cannot support UNITED's 30-day proposal, it is willing to provide customers who have water service terminated after an emergency public-side LSL up to 10 days after termination to provide the executed agreement consenting to a private-

²⁴ PWSA Compliance Proposal at 16, 18.

²⁵ UNITED Comments at 2, 12-13.

side LSL replacement. A 10-day period of time fairly balances providing ample opportunity to the customer, avoiding safety concerns due to open sidewalk excavations, and delays in restoring property and concluding work at the property.

UNITED also recommends that customers who have service terminated due to an emergency repair be eligible for PWSA's income-based reimbursement program if they later decide to replace their private-side LSL.²⁶ Customers are eligible for PWSA's income-based reimbursement program as indicated in its Lead Infrastructure Plan, so long as PWSA is not then-currently replacing the public-side of the line. PWSA has not proposed any limitation on the income-based reimbursement program that would impact customers who had their service terminated due to an emergency repair.

5. *Properties with High Restoration Costs*

PWSA's current policy when providing a property owner a private-side LSL replacement at no direct cost to the customer is to install the service line and backfill any excavations necessary to do so. PWSA restores public sidewalks that are disturbed during its LSL replacement efforts and patches the wall where the service line enters the residence. Because PWSA does not have the resources to both replace LSLs and pay for all restorative work, PWSA does not restore any landscape or hardscape (such as retaining walls, walk-ways, driveways, etc.). UNITED proposed that if PWSA's LSL replacement causes property damage that impairs a low-income customer's mobility, PWSA should fund the necessary repairs.²⁷ UNITED further suggests that PWSA work with CLRAC and LIAAC to develop eligibility criteria and program

²⁶ UNITED Comments at 2, 12-13.

²⁷ UNITED Comments at 3, 14.

terms, as well as submit a compliance filing to the Commission.²⁸ UNITED's proposal is a solution in search of a problem.

In the over 5,000 private-side LSL replacements completed to date, PWSA has not encountered a scenario in which its replacement efforts have caused private property damage that impairs a low-income customer's mobility. PWSA has been (and remains) committed to finding creative engineering solutions when it encounters a property with high restoration costs. PWSA makes reasonable changes, substitutions and extensions in or to service and facilities, such as exploration of less intrusive installation techniques or installing the service line in a different location on the property to avoid a disruption that may impose costs to the customer. PWSA's current Plan already conveys a significant benefit to a customer's property – the free replacement of a customer-owned lead service line. PWSA should not be required to incur additional resources and expenses to address what, in PWSA's experience, are esthetic issues.

While PWSA opposes UNITED's proposal relating to property restoration costs, it appreciates UNITED's alternative suggestion to: (1) evaluate engineering solutions to avoid high restoration costs; (2) put customers in contact with services that may help defray restoration costs; and (3) if sufficient assistance is unavailable, perform a partial replacement (in lieu of terminating service) and provide filters, filter cartridges, flushing instructions and testing kits. UNITED supports PWSA's proposal to consult with CLRAC to develop criteria for evaluating whether a customer's restoration costs are unduly burdensome and should result in a partial replacement.²⁹ While this proposed process may be a departure from the Commission's goal of

²⁸ UNITED Comments at 3.

²⁹ UNITED Comments at 3; PWSA Compliance Proposal at 18-21.

avoiding all partial LSL replacements, PWSA believes its proposal is a reasonable and equitable alternative and urges the Commission to approve this alternative approach.

C. Components of PWSA's Compliance Proposal Opposed by OCA and UNITED

A chart highlighting the components of PWSA's Compliance Proposal that are opposed by OCA and UNITED is provided in Attachment C. PWSA's responses to the comments of OCA and UNITED are provided below.

1. The Commission Left PWSA in an Unenviable Position When it Directed it to Choose Between Terminating Service in Situations Where Independent Legal Restrictions Apply and Hindering its Replacement of LSLs in its System

The Commission sought comments on two options that are available to PWSA “when encountering situations where there exist independent legal restrictions that prohibit service termination due to non-payment of utility bills: (1) the PWSA will not replace either the public-side LSL or the private-side LSL; or (2) the PWSA may proceed with the replacement of the public-side LSL and follow the directive in the Commission’s March 2020 Order to refuse the reconnection of the private-side LSL.”³⁰ The applicable situations include the winter moratorium, medical cases, and the Commission’s COVID-19 moratorium. In other words, the Commission offered PWSA the choice to hold off replacing public-side LSLs in its system (which the Commission emphasized should be of paramount concern) or terminate service to customers who are potentially in a vulnerable situation. Each choice presented has negative consequences. PWSA does not want to terminate service to potentially vulnerable customers, but it also is extremely concerned with the ramifications of not replacing public-side LSLs when it replaces its mains. Those ramifications range from ensuring that PWSA provides safe service

³⁰ PUC Reconsideration Order at 138-139.

as directed by the Public Utility Code to imposing unduly burdensome costs to ratepayers associated with demobilization and remobilization to the work sites. Other ramifications include that roadways will be unsightly and unrestored and that PWSA's ability to close out construction contracts (and PENNVEST loans) may be impacted.

In the aforementioned situations, PWSA proposed that it replace the public-side LSL and follow the Commission's March 26, 2020 directive to refuse the reconnection of the private-side LSL.³¹ PWSA has elected this option so that it can further its goal (and the Commission's goal) of eliminating as many lead lines as possible from its system. Both OCA and UNITED oppose PWSA's proposal.³² Both raised concerns about the effect on vulnerable customers of being without water service. Without providing specific details, OCA offered that other accommodations should be made in those situations.³³ PWSA implores the Commission to consider other alternatives to the two choices it set forth in its Reconsideration Order.

PWSA respectfully submits that a temporary partial replacement would resolve the concerns raised. A temporary partial replacement would avoid termination of service to potentially vulnerable customers and also permit PWSA to efficiently eliminate lead lines from its system. While this proposed solution may not be consistent with the Commission's goal of avoiding all partial LSL replacements, PWSA offers this proposed solution as a reasonable and equitable alternative to the two unenviable choices presented.

If the Commission does not approve PWSA's proposal to perform temporary partial replacements when it encounters situations where independent legal restrictions exist, PWSA

³¹ PWSA Compliance Proposal at 16.

³² OCA Comments at 2; UNITED Comments at 2, 11-12.

³³ OCA Comments at 2.

urges the Commission to permit it to replace the public-side LSL and follow the Commission's March 26, 2020 directive to refuse the reconnection of the private-side LSL in those situations.

2. *The Commission Should Establish a Fair Process to Resolve Complaints Regarding Lead Service Line Terminations that Protects Due Process Rights But Does Not Negatively Impact PWSA's Construction Progress and LSL Replacement Efforts*

PWSA's proposal for an expedited process to handle complaints regarding terminations of service in the LSL context was met with some resistance. Both OCA and UNITED oppose PWSA's proposal; however, OCA recognized the importance of an expedited process for resolution of customer complaints. OCA suggested that PWSA and the Bureau of Consumer Services, with the Commission's approval, "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."³⁴ OCA further offered that an "informal agreement to provide a high priority to customer complaints of this nature would be reasonable," depending on the resources available to BCS.³⁵

While PWSA appreciates OCA's suggestions, such a non-litigation type process would not be helpful unless, at the end of this informal process, PWSA would be permitted to proceed with termination of service. If it must await the outcome of a formal complaint process, PWSA is very concerned that such delays will impose significant additional postponements and costs on PWSA and its customers. As explained in PWSA's Compliance Proposal, if PWSA is required to suspend termination of service to a customer every time a complaint is pending, PWSA will not be able to disconnect the old water mains, resulting in the entire replacement effort being stayed until the complaint of a single individual was resolved. The resolution of a consumer

³⁴ OCA Comments at 4.

³⁵ OCA Comments at 4.

complaint can take months, and any delays in notice, scheduling or response time caused by the COVID-19 pandemic restrictions would only exacerbate the problem. These delays could severely impact the pace of lead service line replacements, create dangerous and unsightly “temporary” excavation sites in City streets and add unnecessary costs to the program as a result of contractor demobilization and remobilization to the work sites. Other ramifications include impacting PWSA’s ability to close out construction contracts and PENNVEST loans when those funds are utilized.

PWSA disagrees with UNITED’s interpretation that an Application or Petition is required to be submitted to the Commission for an establishment of an expedited complaint process.³⁶ Chapters 14 and 15 of the Public Utility Code and Chapter 56 of the Commission’s regulations are not directly applicable in the LSL-related terminations directed by the Commission. PWSA knows of no specific statutory or regulatory rule that would permit the Commission from enacting an expedited complaint resolution process. As such, PWSA urges the Commission to approve a solution for addressing consumer complaints that appeases due process concerns and permits PWSA to eliminate lead lines from its system in a timely, efficient, and cost-effective manner.

If the Commission does not endorse an expedited complaint process for LSL-related terminations, PWSA encourages the Commission to permit PWSA to replace the public-side LSL and reconnect the private-side LSL when a complaint is pending related to the service termination. This approach would eliminate due process concerns and allow PWSA to move forward with its small-diameter water main replacement program without significant delays.

³⁶ UNITED Comments at 17.

These customers would then be eligible to replace their own LSL and apply to PWSA for reimbursement in the future.

D. The Commission Should Reject UNITED's Proposal to Require PWSA to Consult with Both CLRAC and LIAAC Regarding Matters Addressed in PWSA's Compliance Proposal

PWSA respectfully requests that the Commission reject UNITED's request that PWSA be required to consult the CLRAC and the LIAAC regarding all aspects of LSL-related terminations. PWSA opposes UNITED's request seeking to have the Commission impose additional directives upon PWSA. Those directives include: (1) consultation with CLRAC and LIAAC on (a) how PWSA communicates the potential for termination to customers, (b) details regarding legal and social services referrals, and (c) design and implementation of other termination procedures; and (2) reporting on (a) the number of and circumstances leading to lead-related terminations, (b) the number of and circumstances leading to instances in which PWSA curtails in-person notice due to threats, and (c) progress of lead-related service terminations.³⁷ As described below, the requested directives are not necessary or appropriate.

Pursuant to the Partial Settlement in this proceeding, PWSA is already obligated to consult with the CLRAC regarding a variety of issues. A non-exhaustive list of the items PWSA consults with the CLRAC on includes: outreach efforts, LSL inventories, plans for replacing LSLs, prioritization of residences for LSL replacements based on factors recommended by the CLRAC, updates regarding the number of instances in which PWSA has been unable to replace a private-side LSL due to certain conditions, analysis of costs incurred by customers seeking reimbursements for private-side LSL replacements, efforts to secure additional funding for LSL replacements, and implementation of water filter policies. PWSA provides exceptionally

³⁷ UNITED Comments at 18.

detailed information regarding its lead remediation efforts at its quarterly CLRAC meetings and voluntarily exceeds the reporting requirements in the Partial Settlement.³⁸

It is important to note that the CLRAC was formed so that PWSA could consult with the advisory committee concerning delineated topics regarding lead remediation efforts on a quarterly basis.³⁹ UNITED proposes to not only expand the scope of matters to come before the CLRAC, but also to require PWSA to consult with the LIAAC on the exact same matters. UNITED's approach is duplicative, unnecessary, and overly burdensome for several reasons. First, some members of the CLRAC are members of LIAAC. Second, there are members of LIAAC that have no experience or background with LSL replacements, so it would be of little benefit to consult with LIAAC on "all aspects" of LSL related terminations. Third, UNITED did not present any compelling reasons to require PWSA to consult with the LIAAC on LSL matters (especially since the CLRAC exists and was specifically formed to address LSL matters).

The additional reporting requirements UNITED requests be imposed on PWSA would require the Authority to share specific data about circumstances surrounding service terminations and threats to PWSA employees and/or contractors. PWSA believes that sharing data of this nature with CLRAC and LIAAC will be of little value to the Authority or its customers. Similarly, updating CLRAC and LIAAC on the "progress of terminations" seems unnecessary since PWSA will be terminating service in accordance with its Tariff and the Commission's directives.

While PWSA appreciates input and advice from all advisory committee members, it is concerned that consulting with CLRAC and LIAAC on communications to its customers

³⁸ PUC Reconsideration Order at 149, n. 31.

³⁹ Joint Petition for Settlement, R-2018-3002645 et al.

regarding potential service terminations, specific details regarding legal and social services referrals, and design and implementation of other termination procedures will result in delays in implementation without materially improving the process. Unless the Commission provides PWSA several months to come in to compliance with its to-be-issued Order, the CLRAC may not even have a regularly scheduled meeting to discuss the aforementioned matters prior to implementation. If PWSA implements termination procedures that are later redesigned by CLRAC and/or LIAAC, PWSA may incur unnecessary expenses. PWSA does not view the items proposed by UNITED for CLRAC and LIAAC consultation as the most efficient ways to implement the Commission's to-be-issued directives. Consequently, PWSA respectfully requests that the Commission deny UNITED's request to expand the scope of the CLRAC and LIAAC.

III. CONCLUSION

WHEREFORE, PWSA respectfully requests that the Pennsylvania Public Utility Commission issue an Order accepting the Company's Compliance Proposal, as modified in these Reply Comments, for addressing termination of service in the lead service line replacement context and the associated lead service line replacement matters.

Respectfully submitted,

Sarah C. Stoner

Daniel Clearfield, Esq.
(PA Attorney ID No. 26183)
Sarah C. Stoner, Esq.
(PA Attorney ID No. 313793)
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717.237.6000
717.237.6019 (fax)
dclearfield@eckertseamans.com
sstoner@eckertseamans.com

Dated: October 26, 2020

Counsel for
The Pittsburgh Water and Sewer Authority

Attachment A

Attachment A - Components of PWSA's Compliance Proposal Supported or Not Opposed by OCA and UNITED

Issue / Topic	PWSA	OCA	UNITED
Issues relating to Chapter 15, subchapter B	<p>-PWSA does not believe that the specific rights of tenants under Chapter 15, subchapter B apply in this context (pg. 10)</p> <p>-Submits that it would be appropriate for the PUC to reserve this issue for Stage 2 of PWSA's Compliance Plan proceeding (pg. 10)</p>	DNC ¹	<p>- UNITED believes that the Discontinuance of Service to Leased Premises Act ("DSLPA") applies in this context (pgs. 8-9)</p> <p>-Issues surrounding Chapter 15, subchapter B (the Discontinuance of Service to Leased Premises Act) should be addressed in the context of PWSA's Stage 2 Compliance Plan proceeding (pg. 8)</p> <p>*While PWSA and UNITED disagree regarding the applicability of DSLPA, UNITED agrees with PWSA's proposal that issues surrounding Chapter 15, subchapter B be addressed in the Stage 2 Compliance Plan proceeding</p>
Tangled Titles	PWSA is willing to accept certain legal risks of replacing private-side LSLs in tangled title situations (pg. 14)	DNC	Supports PWSA's proposal (pg. 10)

¹ Did Not Comment (hereinafter "DNC").

Attachment A - Components of PWSA's Compliance Proposal Supported or Not Opposed by OCA and UNITED

Issue / Topic	PWSA	OCA	UNITED
Technical Property Issue: private-side LSL crosses one property to access another and neighboring property owner refuses access	<p>-Evaluate solutions to install conforming service lines</p> <p>-If PWSA is unable to obtain the neighboring property owner's consent and there is not a viable and economic solution to install conforming service lines – PWSA will commence procedures to terminate service to the neighboring property owner's property pursuant to its Tariff (pgs. 12-14)</p>	DNC	Supports PWSA's proposal (pgs. 10-11)
Partial Replacement of LSLs Where Unsafe Structural or Sanitary Conditions Exist in a Residence	<p>-PWSA to evaluate engineering solutions at each property and to connect property owners to resources to help rectify the issue</p> <p>-If the property is <u>unoccupied</u> and engineering solutions are not feasible, PWSA will follow termination procedures</p> <p>-If the property is <u>occupied</u> and engineering solutions are not feasible, PWSA proposes a partial replacement (pgs. 21-24)</p>	DNC	Supports PWSA's proposal (pgs. 15-16)

Attachment B

Attachment B - Components of PWSA's Compliance Proposal Supported by OCA and/or UNITED With Modifications

Issue / Topic	PWSA	OCA	UNITED
Pre-Termination Notice Requirements & Tenant-Occupied Properties w/ Unresponsive Landlords	See various proposals on pgs. 6-8 of PWSA's Compliance Proposal	<p>-PWSA should explicitly notify customers that bill payment or overdue bills does not impact their qualification for assistance in LSL replacement (pg. 3); PWSA's Reply Comments: PWSA agrees (pg. 5)</p> <p>-Suggests accommodations for tenants, including 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 (pg. 3); See PWSA's Reply Comments (pgs. 5-6)</p>	<p>-PWSA should mail the initial authorization packet to service addresses, as well as billing addresses; packet should include info directed at tenants in both its cover letter and in a standalone insert; PWSA should consult with CLRAAC and LIAAC in developing this information for tenants (pg. 2, 7); see PWSA's Reply Comments (pgs. 5, 16-18)</p> <p>-PWSA should make clear that property owners whose water service is terminated following a partial LSL replacement are still eligible for the income-based reimbursement program and provide residents information on how to participate in the program (pgs. 2, 7); PWSA's Reply Comments: PWSA agrees (pg. 5)</p> <p>-For the 3-day notice of termination, PWSA should attempt to contact the customer through alternative means (such as a phone call) if personal contact at the property is unsuccessful (pg. 5); PWSA's Reply Comments: PWSA is receptive to this recommendation (pg. 5)</p>

Attachment B - Components of PWSA's Compliance Proposal Supported by OCA and/or UNITED With Modifications

Issue / Topic	PWSA	OCA	UNITED
Curtailment of In-Person Notice Due to Threats from Occupants	If an occupant has previously threatened PWSA workers, the three-day notice prior to termination will be conducted via phone call instead of in-person (pg. 7)	DNC ²	<p>-PWSA should clarify its proposal for curtailing in-person notice at the residence immediately prior to termination when PWSA employees have been threatened; brandishing a weapon should qualify as a threat but slamming the door or raising one's voice should not (pgs. 5-6); See PWSA's Reply Comments (pgs. 6-7)</p> <p>-PWSA should specify the circumstances under which it will curtail in-person notice due to threats from occupants, record when it does so, and report to the CLRAC and LIACC on this issue (pgs. 2, 6, 17); See PWSA's Reply Comments (pgs. 6-7, 16-18)</p> <p>-PWSA should work with CLRAC and LIAAC to delineate standards for when in-person notice will be curtailed (pgs. 6, 19); See PWSA's Reply Comments (pgs. 6-7, 16-18)</p>

² Did Not Comment (hereinafter "DNC").

Attachment B - Components of PWSA's Compliance Proposal Supported by OCA and/or UNITED With Modifications

Issue / Topic	PWSA	OCA	UNITED
Legal Services/Community Organization Referral Information	Proposes to include referral information in the initial LSLR packet and the 30-day posting (pgs. 7-8, 15)	PWSA could engage in more affirmative outreach to community organizations and public health and safety organizations at the City level to solicit assistance; submits that other agencies and organizations can undertake their own efforts at personal contact (pgs. 2-3); PWSA's Reply Comments: PWSA is open to discussing novel outreach efforts with OCA and UNITED (pgs. 7-8)	<p>-PWSA should include referral information with each termination notice, not just the 30-day notice and the initial LSLR packet (pgs. 2, 4-5); PWSA's Reply Comments: PWSA is willing to adopt this recommendation (pgs. 7-8)</p> <p>-PWSA should provide referral information during canvassing and community meetings (pg. 5); PWSA's Reply Comments: PWSA is receptive to this recommendation (pgs. 7-8)</p> <p>-PWSA should invite representatives from local legal and social services providers to attend community meetings with PWSA (pg. 5); PWSA's Reply Comments: PWSA is receptive to this recommendation (pgs. 7-8)</p>

Attachment B - Components of PWSA's Compliance Proposal Supported by OCA and/or UNITED With Modifications

Issue / Topic	PWSA	OCA	UNITED
Notice and Outreach Where PWSA Does Not Complete Private-Side LSL Due to an Emergency Repair and a Non-Responsive Property Owner	PWSA will attempt to contact the property owner by calling and visiting the home; if those efforts are unsuccessful, PWSA will replace the public-side line and, if possible, establish temporary water service. If temporary water service cannot be established, PWSA will terminate service (pgs. 17-18)	DNC	Customers who have water service terminated following an emergency public-side LSL replacement should be able to accept PWSA's offer of a free LSL replacement within 30 days of service termination and be eligible for PWSA's income-based reimbursement program if they later decide to replace their line (pgs. 2, 12-13); See PWSA's Reply Comments (pgs. 8-10)
Properties with High Restoration Costs	PWSA evaluates engineering solutions to avoid high restoration cost, connects customers with services that may help defray restoration costs and, if assistance is unavailable, proposes to perform a partial replacement instead of terminating service (pgs. 18-21)	DNC	<p>-If PWSA's LSL replacement causes property damage that impairs a low-income customer's mobility, PWSA should fund the necessary repairs (pgs. 3, 14)</p> <p>-PWSA should work w/ CLRAAC and LIAAC to develop eligibility criteria and program terms, and it should be required to submit a compliance filing that explains the eligibility criteria and program terms (pg. 3)</p> <p>-If the PUC does not adopt UNITED's proposal, UNITED supports PWSA's proposal and recommends that PWSA work with CLRAAC to develop criteria for evaluating whether a customer's restoration costs are unreasonably burdensome and should result in a partial replacement (pgs. 14-15)</p> <p>See PWSA's Reply Comments (pgs. 10-12)</p>

Attachment C

Attachment C - Components of PWSA's Compliance Proposal Opposed by OCA and UNITED

Issue / Topic	PWSA	OCA	UNITED
Expedited Complaint Process	Proposes expedited complaint process for complaints re: terminations of service in the LSL context (pgs. 7-10)	<p>-Does not support PWSA's proposed expedited complaint process (pg. 4)</p> <p>-Suggests that it may be appropriate for PWSA and BCS, with the PUC's approval, to negotiate an informal agreement to conduct a prompt investigation of these complaints (pg. 4)</p> <p>See PWSA's Reply Comments (pgs. 14-15)</p>	<p>Does not support PWSA's proposed expedited complaint process (pgs. 3, 16-17)</p> <p>See PWSA's Reply Comments (pgs. 14-15)</p>
Independent Legal Restrictions That Prohibit Service Termination Due to Non-Payment of Utility Bills (winter moratorium, COVID-19 moratorium, medical certificates)	Proposes to proceed with replacing the public-side LSL and following the directive in the March 26, 2020 Order to refuse the reconnection of the private-side LSL (pgs. 15-16)	<p>Opposes PWSA's proposal and suggests that other accommodations can be made in those situations (pg. 2)</p> <p>See PWSA's Reply Comments (pgs. 12-13)</p>	<p>Opposes PWSA's proposal (pgs. 2, 11-12)</p> <p>See PWSA's Reply Comments (pgs. 12-13)</p>