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April 9, 2021

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 find the Pittsburgh Water and Sewer Authority's ("PWSA") Stage 2 Compliance Plan: Stormwater with regard to the above captioned matter. **Please note that the Attachments are being e-filed only.** They will be available, upon request, to interested stakeholders on Eckert Share File site.

Relatedly and under separate covers, **PWSA is also filing** today: (1) Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections; and, (2) a Petition for Amendment of the Commission's February 4, 2021 Final Order Regarding Procedural Process for Customer Service and Collections Issues. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Deanne M. O'Dell

cc: Certificate of Service (via email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PWSA's Stage 2 Compliance Plan:

Stormwater upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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April 9, 2021



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Pennsylvania Public Utility Commission
Stage 2 Compliance Plan:
Stormwater

The Pittsburgh Water & Sewer Authority

April 9, 2021

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Attachment A – PWSA Responses to EPA Regarding MS4 Stormwater Permit

Attachment B – Wet Weather Feasibility Study

Attachment C – Long Term Wet Weather Control Plan (includes Appendices A-G_

Attachment D – Green First Plan

Attachment E – PWSA System Map, Storm Sewers Overview (March 2021)

Attachment F – PWSA Green Infrastructure Project Locations Overview (March 2021)

INTRODUCTION

I. Procedural Summary¹

On December 21, 2017, pursuant to Act 65 of 2017, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) was granted jurisdiction over the provision of water, wastewater, and stormwater utility service by entities created by Pennsylvania cities of the second class under the Municipality Authorities Act. At present, Pittsburgh is Pennsylvania’s only city of the second class. In accordance with Act 65, the Pennsylvania Public Utility Code Pa. Consolidated Statutes, (Title 66) was amended to establish regulatory deadlines, requirements, and obligations for subject entities, which are now codified in Chapter 32 of Title 66. Chapter 32 has prescribed a process for the regulation of the rates and service of subject utilities, including the Pittsburgh Water and Sewer Authority (PWSA or the Authority), and a process to transition to Commission jurisdiction. Chapter 32 also addresses the replacement and improvement of aging infrastructure and environmental compliance for those entities.¹

Effective April 1, 2018, PWSA formally became subject to the Public Utility Code and regulation by the Commission. Consistent with 66 Pa. C.S. § 3204(b) and Commission directives, PWSA filed its Compliance Plan on September 28, 2018. On November 28, 2018, the Commission issued a Secretarial Letter which: (1) referred PWSA’s September 28, 2018 Compliance Plan filing to the Office of Administrative Law Judge; and, (2) established two stages of review for PWSA’s Compliance Plan.² Pursuant to commitments from the

¹ A more complete description of the history of the Compliance Plan proceeding is set forth in the PWSA *Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections*, being filed simultaneously by PWSA.

Commission approved settlement of its *Initial Rate Case*,³ PWSA filed a Compliance Plan Supplement on February 1, 2019.

The Commission ultimately entered three orders regarding the Compliance Plan Stage 1 process. Consistent with the *March 2020 Stage 1 Order*, on April 27, 2020, PWSA filed a Revised Compliance Plan.⁴ As directed, the Revised Compliance Plan (hereinafter, “Stage 1 Compliance Plan”). PWSA’s Stage 1 Compliance Plan focused on its water/wastewater services and its overall operation as a PUC-regulated utility. The Revised Compliance Plan did not address issues related to Chapters 14 and 56, collections, the Discontinuance of Service to Leased Premises Act (“DSLPA”), 66 Pa.C.S. §§ 1521-1533, or stormwater.

The Commission’s *Stage 1 February 4, 2021 Order* directed PWSA to file Stage 2 Compliance Plans and provided further clarification about the Commission’s expectations regarding Stage 2 stormwater issues.⁵ More specifically, the Commission acknowledged its prior approval of a full settlement of the *Second Rate Case* which included the agreement of the parties to defer development of PWSA’s stormwater tariff to its anticipated 2021 rate case and to request that the Commission consolidate the Compliance Plan Stage 2 stormwater issues with that rate case.⁶ However, the Commission clarified that its orders were not intended to obviate PWSA’s responsibility to file a compliance plan for stormwater service and that the Commission would entertain any future motion or petition to address conflicts between a rate proceeding and the staged litigation of the Compliance Plan.⁷

This Stage 2 Compliance Plan is being submitted as directed in the *Stage 1 February 4, 2021 Order* and includes information specific to the Authority’s stormwater service and operations, including the implementation of a stormwater tariff and fee. The purpose of this Compliance Plan, consistent with Section 3204 of the Public Utility Code, is to describe the

extent to which PWSA's stormwater service and operations are compliant with the Public Utility Code and Commission regulations, and if necessary, to describe PWSA's plan for coming into compliance with the applicable requirements. PWSA is also planning to file a combined water, wastewater and stormwater base rate case on or about April 13, 2021 at docket numbers R-2021-3024773 (water), R-2021-3024774 (wastewater), and R-2021-3024779 (stormwater). Many of the issues discussed in this Stage 2 Compliance Plan will necessarily be addressed in the forthcoming rate case. Given the overlap of issues as identified herein with the forthcoming rate case, PWSA is simultaneously filing a Motion to Hold in Abeyance this Stage 2 Stormwater Compliance Plan pending resolution of the base rate case. This would allow the full range of stormwater issues to be addressed in the base rate case, and subsequently any remaining issues would be addressed through the Stage 2 Stormwater Compliance Plan proceeding.

II. Appendices

As part of the Settlement of PWSA's Stage 1 Compliance Plan, PWSA agreed to provide certain documents related to stormwater service.⁸ Those documents are attached to this Stage 2 Compliance Plan to the extent possible.

PWSA does not currently have a formal written plan for an inventory of stormwater assets and conditions. As part of the Municipal Separate Storm Sewer System ("MS4") permit requirements, for which PWSA and the City of Pittsburgh are co-permittees, PWSA has mapped stormwater infrastructure, including outfalls and observation points. PWSA and the City are required to update and submit this information to the Pennsylvania Department of Environmental Protection (PA DEP) annually in their Annual MS4 Status Report. This information is updated based on repair records. PWSA and the City have also developed a Pollution Reduction Plan for the MS4 System that includes data on the location of MS4 infrastructure that continues to be updated.

Additionally, the Memorandum of Understanding between PWSA and the City of Pittsburgh regarding the maintenance of stormwater infrastructure is still begin developed. PWSA and the City are developing a detailed agreement to negotiate and resolve any issues outside of MS4 requirements. The focus of this agreement will be other stormwater management responsibilities of PWSA's Stormwater Division and the required coordination and cost-sharing with the City. This will include the planning, design, implementation, and maintenance of stormwater-related capital projects that may reduce localized flooding and CSOs at the rivers while improving water quality and the health of streams and waterways. The content and timeline for the additional agreement is still being determined.

Attachment A provides PWSA's responses to the U.S. Environmental Protection Agency in September 2017 regarding PWSA and the City's MS4 stormwater permit.

Attachment B is PWSA's Wet Weather Feasibility Study dated July 2013.⁹

Attachment C is PWSA's Long Term Wet Weather Control Plan, also known as the PWSA Feasibility Study, dated October 2008 (includes Appendices A-G).

Attachment D is PWSA's Green First Plan, dated November 2016.¹⁰

Attachments E and F are maps of PWSA's stormwater system, including an overview of PWSA's storm sewers and locations of green infrastructure projects, respectively.

III. Summary of Compliance Plan

In general, because PWSA operates its stormwater operations as part of its "combined" water/wastewater operations, its stormwater operations are and will be consistent with the Public Utility Code and Commission regulations and orders to the same extent as they are for PWSA's other areas of operations. Accordingly, for the most part, its prior Stage 1 Compliance Plan previously submitted to and approved by the Commission for its water and wastewater operations also is applicable to its stormwater operations. To the extent PWSA has identified

any instances in which its plan for compliance with a particular PUC regulation needs to be modified because of the nature of stormwater service, that modification is discussed in this Plan.

This Plan also discusses PWSA's plans for compliance in areas that are unique to stormwater operation: the provision of a separate stormwater Tariff, with rates, terms and conditions of service applicable to stormwater service, and the process of identifying the stormwater-specific costs and investment applicable to stormwater service and which are to be recovered in separate stormwater rates. However, since these portions of PWSA's Stormwater Compliance Plan will be part of PWSA's forthcoming rate case to be filed at docket number R-2021-3024779, review and approval of these items will occur in the context of that proceeding.

PWSA PROVISION OF STORMWATER RELATED SERVICES

I. Prior Filed Stormwater Related Information

A. Municipal Segregated Storm Sewer System Assets

The Commission's Final Implementation Order (FIO) directed PWSA to show the costs associated with its MS4 system as part of the cost of service study to be filed with its *Initial Rate Case*. The purpose was to provide a functional level cost allocation to apportion costs between the MS4 and the sanitary systems to demonstrate a projection of the revenue requirement attributable to the MS4 system.¹¹ PWSA provided this information both in its *Initial Rate Case* and its *Second Rate Case*.¹²

B. Pro Forma Stormwater Tariff

The Commission's FIO directed PWSA to file a stormwater tariff and a compliance plan no later than the next wastewater base rate filing after its July 2018 base rate filing.¹³ Accordingly, PWSA submitted a *pro forma* stormwater tariff and supporting testimony tariff as PWSA Exh. BD-3 with its *Second Rate Case* filed on March 6, 2020.¹⁴ At that time, PWSA did

not seek to implement a stormwater fee but sought approval of the other terms set forth in the *pro forma* stormwater tariff. Ultimately, the parties in the *Second Rate Case* concluded that considering a tariff without the proposed rates was not optimal and, therefore, the parties proposed as part of their settlement agreement to defer development of PWSA's stormwater tariff to PWSA's anticipated 2021 rate case and to request that the Commission consolidate the Compliance Plan Stage 2 stormwater issues with that 2021 rate case.¹⁵ As explained previously, the Commission later clarified its approval of the *Second Rate Case Settlement* and directed PWSA to file this Stormwater Compliance Plan. The 2021 rate case as anticipated in the *Second Rate Case Settlement* will be filed on or about April 13, 2021 at docket numbers R-2021-3024773 (water), R-2021-3024774 (wastewater), R-2021-3024779 (stormwater). As part of this forthcoming rate case filing, PWSA will propose a stormwater fee.

II. Description of Stormwater Issues Generally

Stormwater is rain or snowmelt that does not infiltrate into the ground. When precipitation falls on an impervious area, it runs off the property rather than being absorbed. When precipitation falls on undeveloped areas, it is primarily absorbed into the ground or slowly runs off into streams, rivers or other water bodies. However, developed areas that are impervious, such as rooftops and paved areas, prevent water from being absorbed and create a faster rate of runoff. This development often causes localized flooding or other water quantity or quality issues and an increased total runoff volume. In addition, stormwater can carry harmful pollutants (such as such as oil, dirt, chemicals, and lawn fertilizers) that adversely affect water quality. Stormwater can cause flooding, erode topsoil and stream banks, and destroy habitats. All properties receive precipitation in the form of rain or snow. Accordingly, all properties produce stormwater runoff that must be managed. Even if a property has never flooded and there is no

nearby stormwater infrastructure, the stormwater that flows off of a property must be managed so that it does not contribute to pollution and flooding downstream.

III. Description of PWSA's Stormwater System

PWSA's overall wastewater conveyance system is composed of over 1,200 miles of sewer lines, 4 pump stations, and approximately 25,000 catch basins. PWSA has two types of wastewater conveyance systems – a combined system, and a separate system. Stormwater is conveyed in different ways by each type of system.

First, approximately 75% of the PWSA system, or approximately 900 miles of sewer lines, is the combined sewer system. This is generally the older areas of the system where wastewater and stormwater are conveyed in the same pipe. During times of dry weather, all flow is conveyed to the Allegheny County Sanitary Authority ("ALCOSAN") for treatment. When it rains, the capacity of the system to convey flow can be limited, which causes localized flooding, basement sewer backups, and overflows to streams and the river.

Second, newer or more recently redeveloped communities have separated sanitary and storm sewer systems.¹⁶ In a separated system, wastewater is conveyed to the ALCOSAN for treatment via one pipe, and when it rains stormwater is discharged directly to a nearby stream or river via another pipe. The separate stormwater conveyance system ("MS4")¹⁷ is not connected to either the combined wastewater system or the sanitary sewer system, and only carries stormwater. Approximately 25% of the PWSA system is separated, and has approximately 172 miles of sanitary sewer and 140 miles of stormwater pipes. These two systems (combined sewer and MS4) currently work to control stormwater runoff from the City of Pittsburgh.

A. PWSA Stormwater Management Operations

Stormwater runoff has a direct effect on PWSA's ability to provide reasonable, safe and adequate wastewater service, and uncontrolled stormwater runoff can impact the quality of life

for residents. The recent trend of increased amounts of total annual rainfall as well as frequency of large rainfall events will result in an even greater need to adequately manage stormwater. In addition, local rivers are the primary source of drinking water in the region, yet are also the receiving waters for polluted stormwater runoff. Therefore, the Authority has undertaken numerous efforts to manage stormwater and to mitigate its adverse effects in order to provide adequate, efficient, safe and reasonable stormwater service. PWSA has and will continue to make those efforts in conjunction with its water/wastewater operations. PWSA, thus, is operated as a combined, “water/wastewater/stormwater utility.”

B. PWSA’s Goals for Stormwater Management Service

PWSA’s goal is to deliver efficient, high-quality stormwater management service for our customers, and to protect and improve the water quality in local streams and rivers. PWSA will provide an efficient, responsive, and equitable level of service by addressing Pittsburgh’s unique challenges of topography with innovative, flexible, sustainable, and cost-effective solutions. This will enhance the livability and resiliency of our neighborhoods, while also addressing the recent trend of more frequent and intense rainfall events. Finally, PWSA will continue to collaborate with local partners to find solutions together to our urban stormwater challenges.

IV. Recovering the Costs of Stormwater Management Service

Historically, the costs of stormwater service have been included in PWSA’s wastewater rates and assessed based upon water consumption. Funds have been expended primarily to address combined sewer overflow (“CSO”) abatement. There are several problems with this approach:

1. Impervious surface relates to runoff volume, peak runoff rate, and pollution. Basing stormwater rates on water consumption does not account for different volumes of runoff from properties based on their different amounts of impervious surface.

2. Charging the costs of stormwater abatement through wastewater rates lessens responsiveness to manage stormwater runoff and wet weather problems.
3. Focusing primarily on CSO abatement increases exposure to regulatory water quality violations in MS4 areas of the service area.
4. Limiting abatement activity to CSOs means lost opportunities to realize significant city-wide economic, social, and environmental benefits.
5. Tracking and funding stormwater capital, operational, and maintenance costs separately from wastewater costs allows for more targeted budgeting to achieve regulatory compliance and to address stormwater problems.

Establishing a fully-fledged stormwater management program, which necessarily requires the implementation of a stormwater tariff and stormwater fee, will better address these issues and funding needs.

APPLICABLE PUC POLICIES OR LAWS

The Commission currently has no regulations or policies specifically related to stormwater management. Additionally, because of its municipal nature, PWSA's stormwater responsibilities differ from those that may exist for other investor-owned public utilities under the Commission's jurisdiction and will raise issues unique to PWSA. Accordingly, the Public Utility Code's general rules and regulatory requirements will apply to PWSA's stormwater management operations, although there may be some instances in which PWSA and the PUC will be required to work together to determine applicable regulatory requirements and obligations. In addition, the Commission directed that the Compliance Plan address, *inter alia*, the future implementation of a stormwater tariff,¹⁸ and PWSA's plan for compliance with this directive is discussed below.

I. General Compliance

As noted above, PWSA currently operates as a “combined” water/wastewater/stormwater utility and was providing stormwater management services to customers at the time that it came under the jurisdiction of the Commission in 2018. Accordingly, PWSA’s earlier statements of compliance, set forth in its Stage 1 Compliance Plan,¹⁹ generally apply per force to its stormwater operations and are hereby incorporated by reference. To the extent that the nature of stormwater operations affects the nature or extent of compliance with a particular general requirement, that difference is discussed below.

II. Stormwater Tariff

While PWSA has an ongoing stormwater maintenance, mitigation and control program, the costs of that program currently are recovered in the Authority’s wastewater charges. As noted, the PUC’s FIO directed PWSA to prepare and file a separate stormwater tariff in order to separately identify and charge stormwater-related costs to customers.²⁰ PWSA’s *pro forma* stormwater tariff filed with the *Second Rate Case* contained no rates and set forth initial proposals regarding terms and conditions that would apply to stormwater service. A proposed stormwater tariff and fee will be included with the forthcoming rate case to be filed at Docket No. R-2021-3024779 on or about April 13, 2021.

A necessary prerequisite to establishing a reasonable stormwater fee is the allocation of costs between the three services – water, wastewater and stormwater – which, in turn, produces a stormwater revenue requirement to be recovered from the stormwater fee. As noted previously, in its last two rate cases, PWSA submitted an illustrative allocation of wastewater costs between stormwater and wastewater. In its forthcoming rate case to be filed at Docket No. R-2021-3024779, PWSA will be submitting a detailed cost allocation study which will enable the Commission to clearly identify the portions of PWSA’s plant in service and expenses that support each service “bucket.” The stormwater revenue requirement is the starting point for stormwater fee development. While the stormwater tariff and fee as well as the service cost allocation will be reviewed and approved in PWSA’s forthcoming rate case to be filed at Docket No. R-2021-3024779, the following provides a description of the development and structure of the tariff fees and structure it intends to propose.

A. Developing the Stormwater Tariff

In order to ensure symmetry among all of PWSA’s tariffs (and in recognition of the interrelated nature of the services), PWSA used its wastewater tariff format as the working outline for its stormwater tariff. By doing this, PWSA is ensuring that all of its rates, definitions and other common tariff sections are located in the same place across all three tariffs. PWSA also considered the existing definitions and structure contained in its wastewater tariff to determine whether or not the same language could be utilized in the stormwater tariff. Again, to the extent the terms reasonably carried over from the wastewater tariff to the stormwater tariff, PWSA elected to do so. Where terms needed to be altered or were not appropriate for the stormwater tariff, they were not utilized. Having outlined the stormwater tariff consistent with PWSA’s existing tariffs, PWSA then looked to the Commission’s model tariff, which was shared

with PWSA on November 7, 2019, to help inform the stormwater-specific terms that PWSA would propose to include in our tariff. PWSA also reviewed stormwater tariffs and/or ordinances utilized by other entities assessing a stormwater fee to further inform the terms and conditions in the proposed tariff. Some of the other stormwater tariffs or ordinances PWSA reviewed include: Philadelphia Water Department;²¹ Northeast Ohio Regional Sewer District;²² the Metropolitan Sewer District of Greater Cincinnati;²³ Charlotte, North Carolina;²⁴ Carlisle Borough, Pennsylvania;²⁵ and Dallas, Texas,²⁶ among others.

PWSA has convened a Stormwater Advisory Group (“SWAG”) which developed a series of recommended findings to help guide the development of the stormwater rate structure.²⁷ The SWAG is composed of a diverse group of twenty stakeholders from the public and private sectors. PWSA continues to meet with various stakeholders and has considered and incorporated their feedback throughout the process. The knowledge and experience of the stormwater group has helped to shape the development of the tariff as it evolved. PWSA has also bolstered its internal capabilities with the experience of consultants and legal experts that have expertise in establishing stormwater utilities and tariff experience with the PUC. PWSA will continue to do significant outreach and education efforts within the community as it proposes and implements a stormwater tariff and stormwater fee.²⁸

B. Proposed Stormwater Rate Structure

In its forthcoming rate case to be filed at Docket No. R-2021-3024779, PWSA will be proposing separate stormwater rates for residential and non-residential customers. Residential customers will be charged one of three flat rates (commonly referred to as tiers). A customer’s tier will be based on the impervious surface area found on the residential lot. PWSA has measured the impervious surface area found on each residential lot and found substantial

variability in impervious area – from properties with about 400 square feet of impervious area to properties with more than 4,000 square feet of impervious area. This large variability and the availability of the data on impervious area made the tiered approach more equitable to the individual ratepayer. This approach also is more supportive of a credits program that could grant fee credits to residential ratepayers who undertake measures on their lots to reduce their stormwater demand.

For non-residential customers, the impervious area found on a typical residential property in the service area is called the Equivalent Residential Unit of impervious area, or ERU. PWSA will be proposing to bill non-residential customers a fee based on the rate per ERU times the number of ERUs found on the property. ERU-based rate structures that charge for impervious surfaces are by far the most common across the United States and balance fairness with simplicity. Impervious surface relates to runoff volume, peak runoff rate, and pollution. These factors most closely relate to demand in the service area.

C. Stormwater Credits

PWSA's forthcoming rate case to be filed at Docket No. R-2021-3024779 will also include a proposal to allow customers to earn credits to reduce their stormwater rates. For non-residential customers, PWSA will be proposing a credit program consisting of credits for customers who capture and detain runoff on-site, meeting or exceeding the recent development standards in place in Pittsburgh. For residential customers, the Authority will be proposing a similar credit. The non-residential credit will be a percentage discount. The residential credit will be a "tier reduction" for ratepayers not already in the lowest tier, meaning that qualifying customers will be charged at the tier one step below their assigned tier. For customers already in the lowest Tier 1, those customers will receive a percentage discount.

PWSA carefully considered many credits approaches and sought to take the simplest approach that met the Stormwater Advisory Group's interests and the Authority's desire to be fair and keep administrative burdens low while being consistent with the types of mitigation efforts currently or expected to be built relatively soon.

D. Stormwater Fee

The stormwater program revenue requirements are the total costs associated with stormwater management, including flood control, strategic planning, and water quality related regulatory compliance. The revenue requirements for FY2022 total approximately \$36.7 million.

This figure includes:

- Costs associated with control of combined sewer overflows;
- Costs associated with separate storm sewer operation and maintenance;
- Rate-funded stormwater capital projects;
- 50% of costs associated with combined system maintenance and existing debt service;
- Future debt service based on stormwater capital projects in the CIP; and
- Administrative costs shared between water, wastewater, and stormwater.

In developing the stormwater revenue requirement, stormwater-only costs were allocated to the stormwater revenue requirement, and other shared costs were allocated based on the stormwater utility's proportionate share of costs. This allocation of costs will be presented in PWSA's forthcoming rate case to be filed at Docket No. R-2021-3024779.

The PWSA proposed stormwater fee to be included in its forthcoming rate case at Docket No. R-2021-3024779 will propose to recover the stormwater revenue requirement based on the impervious area on a customer's property. Using ArcGIS mapping software, impervious area was identified in PWSA's service territory using 2017 imaging of Allegheny County. The impervious area was overlaid with parcel polygons and was used to calculate each property's total impervious area. An analysis of single family residential properties was conducted, which found that the median impervious area is approximately 1,650 square feet. Therefore, PWSA

will propose to utilize 1,650 square feet as the value of 1 ERU. As explained above, single family residential customers will be charged one of three tiers of stormwater fees based on impervious area, while the fee for non-residential customers will be calculated by the number of ERUs multiplied by the rate per ERU. This approach will be subject to further review as part of the forthcoming rate case to be filed at Docket No. R-2021-3024779.

OTHER STORMWATER COMPLIANCE TOPICS

As noted, because PWSA operates its stormwater operations as part of its “combined” water/wastewater operations, its prior Stage 1 Compliance Plan, previously submitted and approved by the Commission for its water and wastewater operation also applies to its wastewater operations. However, because of the nature of stormwater management service, PWSA notes certain areas in which its compliance might need to be different or specialized. Those potential areas are discussed below.

I. 52 Pa. Code, Chapter 56

Chapter 56 describes standards and billing practices for residential utility service. As discussed above, PWSA will be addressing other Stage 2 Compliance Plan topics – including PWSA’s compliance with Chapter 56 of the Commission’s regulations; compliance with the Discontinuance of Service to Leased Premises Act (“DSLPA”), 66 Pa. C.S. §§ 1521-1533; and PWSA’s plan for collections processes – as part of a separate filing. PWSA’s stormwater operations will comply with the Commission’s Chapter 56 regulations in the same way as discussed in this separate Stage 2 Compliance Plan filing. Any compliance items specific to stormwater service are discussed herein.

52 Pa. Code §§ 56.81 – 56.118, and 56.321 – 56.361: Termination of Service

According to Section 56.81, authorized termination of service may occur after notice has been provided in the following circumstances: nonpayment of an undisputed delinquent account; failure to complete payment of a deposit or provide a guarantee of payment or establish credit; failure to permit access to meters, service connections, or other property of the public utility for purposes of replacement, maintenance, repair, or meter reading; or failure to comply with the material terms of a payment agreement. PWSA currently uses these circumstances as grounds for authorized service termination.

Sections 56.91 through 56.100 lay out the notice procedures required prior to termination, including general notice provisions and what information must be included in a termination notice, procedures to follow immediately prior to termination, immediate termination policies, and winter termination procedures. Additionally, Sections 56.111 through 56.118 highlight the emergency provisions for terminating, postponing termination, and restoring service to customers, with which PWSA currently complies. Finally, Section 56.131 provides for third-party notification allowing customers to designate a third-party to receive notices from the utility. Sections 56.321 to 56.361 include similar terms applicable to victims of domestic violence.

PWSA Compliance Plan

For its currently existing utility services – water and wastewater conveyance – PWSA fully discusses its compliance with Chapter 56 including the termination of service provisions in the Stage 2 Compliance Plan: Chapter 14 & 56, DSLPA and Collections, which is being filed simultaneous with this Stormwater Compliance Plan. Once PWSA's stormwater proposal to

operate a separate stormwater utility is approved, PWSA's stormwater processes regarding termination of service will proceed in the same manner.

Regarding termination of service for non-payment of stormwater fees, in the forthcoming rate case to be filed at docket number R-2021-3024779, PWSA will propose to terminate water service if a customer fails to pay PWSA's stormwater charges similar to its current processes when a customer fails to pay PWSA's wastewater conveyance charges. In addition to its ability to terminate water service for a failure of a customer to pay his or her bill, PWSA is a municipal authority and pursues municipal liens pursuant to the Municipal Claims and Tax Liens statute ("Municipal Lien Law") on property where water and/or wastewater charges remain unpaid.² While the Commission lacks jurisdiction over issues related to municipal liens themselves, such as the imposition of the lien, the validity of the lien, and the enforcement or removal of the lien,³ the ability of PWSA to lien is an important component of its overall collections toolbox and – for stormwater only customers – will be the only tool available to seek payments of its stormwater charges.

II. 52 Pa. Code § 65.14: Measurement

The Commission does not have specific regulations regarding the method of measurement to be used to calculate the amount of stormwater service that an individual customer receives. Nor is there any direction as to the calculation of customer bills for

² 53 P.S. § 7107.

³ *See, e.g., David Fasone v. Philadelphia Gas Works*, Docket No. C-2012-2322684, Final Order (Act 294) entered November 30, 2012 adopting Initial Decision dated October 12, 2012 ("[A]ny challenges to the validity of the lien and the enforcement of the lien are all within the jurisdiction of the Court of Common Pleas, pursuant to the [MCTLL]. No provision of the [MCTLL] grants the Commission jurisdiction over any aspect of a municipal lien proceeding. Municipal lien proceedings, pursuant to the [MCTLL], are exclusively within the jurisdiction of the Court of Common Pleas, not the Commission. The Commission simply lacks jurisdiction over any aspect of a municipal lien proceeding, pursuant to either the Public Utility Code or the [MCTLL]").

stormwater. As discussed above, PWSA will propose to calculate customer bills based on impervious area in the forthcoming rate case to be filed at Docket No. R-2021-3024779 and address the following factors relevant to stormwater fee calculation:

- Identification of the method of measurement to be used in the calculation of customer bills (i.e., impervious/pervious parcel surface area).
- Periodic evaluation of measurement accuracy.
- Ability for customers to verify accuracy of measurement.
- Procedure to refund/recoup costs if method of measurement was inaccurate.

Accordingly, as set forth in its Motion to Hold in Abeyance this Stage 2 Stormwater Compliance Plan, PWSA recommends that compliance with any regulatory requirements regarding measurement should be deferred until the completion of its forthcoming rate case at Docket No. R-2021-3024779.

III. 52 Pa. Code § 65.2: Accidents

Section 65.2 states that public utilities shall submit a report regarding each reportable accident involving the facilities or operations of the utility to the Secretary of the Commission. Reportable accidents are those that result in the following circumstances: death of a person; injury that requires immediate treatment at a hospital emergency room or in-patient admittance to a hospital; occurrences of an unusual nature that result in a prolonged and serious interruption of normal service; or occurrences of an unusual nature, including attempts at cyber security measures, that cause an interruption of service or more than \$50,000 in damages.

PWSA Compliance Status

As part of its Stage 1 Compliance Plan, PWSA agreed to certain enhancements and protocols regarding compliance with this Section.²⁹ With those enhancements, PWSA's current operations, including those applicable to stormwater operations, are fully in compliance with Section 65.2. In determining whether an occurrence of an unusual nature causing more than \$50,000 in damages is a reportable accident related to stormwater, such as flooding associated

with a severe storm, PWSA will only consider damage related to stormwater that has entered PWSA's system. PWSA cannot be responsible for every rain event or all property damage from stormwater runoff, as there is no legal basis for this and doing so would potentially expose PWSA to hundreds of millions of dollars of damages claims across the City. Rather, PWSA will consider damages related to stormwater that has already entered the system or that is otherwise directly related to the system when determining whether a reportable accident has occurred under Section 65.2.

IV. 52 Pa. Code § 65.4: Records

Section 65.4 requires public utilities to keep complete maps, plans, or records of its entire distribution system that show the size, character, and location of each main, street valve, and each company service line. The maps, plans, and records must be kept current, so that the utility is able to furnish copies of maps and information promptly and accurately, upon request by the Commission. These records shall be kept and preserved in accordance with the April 1974 edition of *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Utilities*.

PWSA Compliance Status

As part of its Stage 1 Compliance Plan, PWSA agreed to certain enhancements and protocols regarding compliance with this Section. With those enhancements, PWSA's current operations and practices, including those applicable to stormwater operations, are fully in compliance with Section 65.4. For example, PWSA's stormwater service area is the same as its wastewater service area. A map of this area can be provided upon request. Maps of PWSA's storm sewer system and current green infrastructure projects are attached as Appendices E and F.

V. 52 Pa. Code § 65.16: System of Accounts

Section 65.16 mandates that a public utility, having an annual operating revenue of \$750,000 or more shall keep its accounts in conformity with the most recent *Uniform System of Accounts for a Class A Water Utilities* (USOA), as prescribed by the National Association of Regulatory Utility Commissioners (NARUC).

PWSA Compliance Status

In general, PWSA is in compliance with the requirement and has converted to using the NARUC system of accounts. However, the NARUC system of accounts does not include a system specific to stormwater accounts.

PWSA Compliance Plan

PWSA intends to comply with this section with respect to its stormwater operations in the same manner as it is complying for water/wastewater. As noted, PWSA operates its water/wastewater/stormwater operations as a combined system. Accordingly its accounting practices will not differ.

VI. 52 Pa. Code § 65.19: Filing of Annual Financial Reports

Section 65.19 specifies that a public utility, subject to the jurisdiction of the Commission, shall file annual financial reports with the Commission by April 30 immediately following the reporting year, for reports based upon the calendar year; or by July 31 immediately following the reporting year, for reports permitted to be based upon the fiscal year ending May 31. A request for an extension of time for filing an annual report shall be submitted to the Commission prior to the filing dates.

PWSA Compliance Status

PWSA is currently in compliance with this requirement and intends to comply with this requirement for the stormwater utility as well. As part of its forthcoming rate case to be filed at

Docket No. R-2021-3024779, PWSA will present a proposed allocation of all elements of cost of service, including debt, plant in service, and operating expenses among water, wastewater and stormwater operations. Those allocations, together with PWSA's proposed stormwater fee, will be reviewed by the Commission and, upon approval, are anticipated to become effective in the first quarter of 2022. PWSA will file its first annual report reflecting these approved allocations and rates by April 30, 2023.

VII. 52 Pa. Code § 73.3: Annual Depreciation Reports

Section 73.3 stipulates that public utilities that have gross intrastate revenues in excess of \$20 million per year shall file a depreciation report with the Bureau of Fixed Utility Services annually. For water utilities, the depreciation report is due on or before June 30 each year, and reports shall be prepared in a manner consistent with the formats and filing deadlines specified in Chapter 73. In years when depreciation reports and service life study reports are both due, public utilities must notify the Secretary of their intent to file both reports on or before August 31. Finally, the utility shall file a copy of its depreciation report with the Office of the Consumer Advocate and the Office of the Small Business Advocate at the same time as the report is filed with the Office of Special Assistants.

PWSA Compliance Status

As part of the Stage 1 Compliance Plan, PWSA agreed to become fully compliant with the Commission's annual depreciation reporting requirements by 2024 (for 2023) and has started submitting partial reports on an interim basis starting in 2020.

PWSA Compliance Plan

PWSA intends to comply with this section with respect to its stormwater operations in the same manner as it is complying for water/stormwater. As noted, PWSA operates its

water/wastewater/stormwater operations as a combined system. Accordingly its accounting practices will not differ. PWSA will therefore submit depreciation reports in compliance with its earlier Compliance Plan commitments that will include any plant-in-service associated with stormwater.

VIII. 52 Pa. Code § 73.4: Format for Filing the Annual Depreciation Report

Section 73.4 highlights the filing requirements for a public utility's annual depreciation report. These requirements include: an executive summary, inclusive of an explanation of the depreciation methods used; a comparison with the prior year's annual depreciation report; explanations of extraordinary events occurring over the last year; the plant database used in the most recent service life study; a summary of the depreciation calculations at the end of the calendar year by function or account; a summary of book reserve entries by function or account; a summary of retirements by function or account; and additional information if requested by the Commission.

PWSA Compliance Status

PWSA is working toward providing annual depreciation reports on the schedule described above in Section 73.3.

PWSA Compliance Plan

PWSA intends to comply with this section with respect to its stormwater operations in the same manner as it is complying for water/wastewater. As noted, PWSA operates its water/wastewater/stormwater operations as a combined system. Accordingly its accounting practices will not differ.

IX. 52 Pa. Code § 73.5: Service Life Study Report

Section 73.5 stipulates that public utilities that have gross intrastate revenues in excess of \$20 million per year shall file a service life study report with the Office of Special Assistants every five years. For water utilities, the service life study report is due on or before August 31 of the appropriate year, and reports shall be prepared in a manner consisted with the formats and filing deadlines specified in Chapter 73 and based on the same body of historic data used in the annual depreciation reports. Finally, the utility shall file a copy of its depreciation report with the Office of the Consumer Advocate and the Office of the Small Business Advocate at the same time as the report is filed with the Office of Special Assistants.

PWSA Compliance Status

PWSA plans to comply with the requirements listed in Section 73.5 and file a service life study report with the Office of Special Assistants every five years, filing its first report within 5 years from the beginning of its PUC regulation, by April 1, 2022.

PWSA Compliance Plan

PWSA intends to comply with this section with respect to its stormwater operations in the same manner as it is complying for water/wastewater. As noted, PWSA operates its water/wastewater/stormwater operations as a combined system. Accordingly its accounting practices will not differ.

X. 52 Pa. Code § 73.6: Format for Filing Service Life Study Report

Section 73.6 highlights the filing requirements for a public utility's annual depreciation report. These requirements include: an explanation of methods used in selecting average service lives and survivor curves, any significant changes since the last service life study report, and the impact of the proposed service lives on annual depreciation expense; an explanation by account or category of the individual factors used in selection of an average service life; an exhibit

detailing the calculations done to develop plant data for survivor curve or other depreciation parameter comparisons; interim service life studies on individual accounts when circumstances indicate that a significant service life estimate change may be warranted; an exhibit of depreciation calculations by function, account, or rate category; and additional information if requested by the Commission.

PWSA Compliance Plan

At such time PWSA files its first service life study report, PWSA plans to comply with the standards and requirements listed in Section 73.6 for its water, wastewater and stormwater investments and operations.

XI. 52 Pa. Code § 73.7: Capital Investment Plan Report

Section 73.7 indicates that public utilities that have gross intrastate revenues in excess of \$20 million per year shall file a capital investment plan report with the Office of Special Assistants every five years. For water utilities, the capital investment plan report is due on or before August 31 in the year in which it is due, and reports shall be prepared in a manner consisted with the formats and filing deadlines specified in Chapter 73. Finally, the utility shall file a copy of its capital investment plan report with the Office of the Consumer Advocate and the Office of the Small Business Advocate at the same time as the report is filed with the Office of Special Assistants.

PWSA Compliance Status

In its Final Compliance Plan, PWSA agreed to comply with the standards and requirements listed in Section 73.7 and 73.8 starting in 2020 and every five years thereafter.

PWSA Compliance Plan

PWSA's 2025 report will show capital improvements on a water/wastewater/stormwater basis.

XII. 52 Pa. Code § 73.8: Format for Filing the Capital Investment Plan Report

Section 73.8 provides an overview of the filing requirements for a public utility's capital investment plan report. These requirements include: a summary with an overview of plans for major project expansion, modification, or other alteration of current and proposed facilities; a discussion of each major project expansion, modification, or other alteration of current and proposed facilities; a discussion of anticipated major expansions, modifications, or other alterations of the facilities that are not addressed under this chapter; and additional information if requested by the Commission.

PWSA Compliance Status

In its Final Compliance Plan, PWSA agreed to comply with the standards and requirements listed in Section 73.7 and 73.8 starting in 2020 and every five years thereafter.

PWSA Compliance Plan

PWSA's 2025 report will show capital improvements on a water/wastewater/stormwater basis.

XIII. 52 Pa. Code § 101.3: Emergency Response Plan Requirements

Section 101.3 outlines the four types of documented emergency response plans a utility must create: a physical security plan, a cyber-security plan, an emergency response plan, and a business continuity plan. The physical security plan must include a facility protection program for facilities deemed "mission critical" (defined as "essential equipment or facilities to the organization's ability to perform necessary business functions"). The cyber security plan must

include appropriate backup for software and data, as well as backup methods for “meeting critical functional responsibilities” if information technology systems are compromised. The business continuity plan must include a guideline for restoring utility operations after an emergency, as well as a detailed process addressing “business recovery” (e.g. implementing operations following an emergency), “business resumption” (e.g. the restarting of normal operations following emergency by prioritizing time-sensitive functionality), and “contingency planning” (e.g. emergency preparedness planning). The emergency response plan must include the following three steps: 1) Assessment of the problem; 2) Mitigation of the problem in a timely manner; and 3) Notification of emergency service organizations as appropriate. To ensure that the emergency plan is up-to-date and practical as conditions change, the utility must test and update the plan annually. To demonstrate compliance with Section 101.3, the utility must submit a “Self Certification Form” to the Secretary’s Bureau.

PWSA Compliance Status

PWSA is currently in compliance with Section 101.3, and has now developed a physical security plan, a cyber-security plan, an emergency response plan, or a business continuity plan that meet the requirements laid out by the Commission.

PWSA Compliance Plan

PWSA’s existing cyber security and emergency response plans are applicable to all aspects of PWSA’s operations, including its present stormwater operations.

XIV. 52 Pa. Code § 101.4: Reporting Requirements

The filing of the Self Certification Form discussed in Section 101.3 must occur at the same time as each Annual Report is filed (see Chapter 71 for more information regarding the annual financial report requirements).

PWSA Compliance Status

PWSA is now meeting the reporting requirements detailed in Section 101.4. PWSA submitted the Self-Certification Form in Section 101.3 as of February 28, 2020.

PWSA Compliance Plan

PWSA's current Self-Certification applies to all aspects of PWSA's operations, including stormwater.

CONCLUSION

PWSA appreciates the opportunity to present this information and looks forward to working with the Commission and interested stakeholders to finalize this process.

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- ¹ 66 Pa. C.S. § 3205.
- ² *Assignment of the Pittsburgh Water and Sewer Authority Compliance Plan to the Office of Administrative Law Judge*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), dated November 28, 2018 Corrected (“November 28, 2018 Secretarial Letter”).
- ³ *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2018-3002645 (water) and R-2018-3002647 (wastewater) Final Order entered February 27, 2020 (“Initial Rate Case”).
- ⁴ *Implementation of Chapter 32 of the Public Utility Code Regarding Pittsburgh Water and Sewer Authority – Stage 1, Opinion and Order*, Docket Nos. M-2018-2640802, M-2018-2640803, P-2018-3005037, and P-2018-3005039 (entered March 26, 2020) (“March 2020 Stage 1 Order”).
- ⁵ *Stage 1 February 4, 2021 Order* at 65.
- ⁶ *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater), Joint Petition for Settlement dated September 20, 2020, Section III.B at 7 (“Second Rate Case Settlement”).
- ⁷ *Stage 1 February 4, 2021 Order* at 65.
- ⁸ *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, P-2018-3005037, and P-2018-3005039, Joint Petition for Partial Settlement (dated Sept. 13, 2019), at 35 (subsequently approved by the Opinion and Order entered Mar. 26, 2020).
- ⁹ The Executive Summary of the 2013 Wet Weather Feasibility Study is also available on PWSA’s website at <https://www.pgh2o.com/your-water/stormwater>.
- ¹⁰ The Green First Plan is also available on PWSA’s website at <https://www.pgh2o.com/your-water/stormwater>.
- ¹¹ *FIO* at 28-29.
- ¹² See PWSA Exhibits HJS-1WW through HJS-6WW (July 2, 2018), Docket Nos. R-2018-3002645 (water) and R-2018-3002647 (wastewater); PWSA Exhibits HJS-1 through HJS-6 (Mar. 6, 2020), Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater).
- ¹³ *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority*, Final Implementation Order (entered Mar. 15, 2018), Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater), at 31.
- ¹⁴ *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater) Final Order entered December 3, 2020 (“Second Rate Case”).
- ¹⁵ *Pennsylvania Public Utility Commission v. Pittsburgh Water and Sewer Authority*, Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater), Joint Petition for Settlement dated September 20, 2020, Section III.B at 7 (“Second Rate Case Settlement”).
- ¹⁶ Due to uneven patterns and timelines of real estate development, some areas have been built as separated systems, but must connect to an older combined system downstream because they do not have direct access to ALCOSAN sanitary sewer lines (for sanitary flow) or a body of water (for stormwater flow), resulting in a patchwork of infrastructure types.
- ¹⁷ “MS4” stands for Municipal Separate Storm Sewer System. See 25 Pa. Code § 92a.2. Municipalities and other entities that meet certain standards must obtain National Pollutant Discharge Elimination System (“NPDES”) permit coverage for discharges of storm water from their MS4s. See, e.g., the Storm Water Management Act, 32 P.S. §§ 680.1, *et seq.* See also 40 CFR 122.26(b) (relating to definitions).
- ¹⁸ See *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water And Sewer Authority*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Final Implementation Order entered March 15, 2018, at Ordering Paragraph 6.
- ¹⁹ PWSA Revised Compliance Plan (Apr. 27, 2020), Docket Nos. M-2018-2640802 and M-2018-2640803.
- ²⁰ See *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water And Sewer Authority*, Docket No. M-2018-2640802 (water) and M-2018-2640803 (wastewater), Final Implementation Order entered March 15, 2018, at Ordering Paragraph 6.
- ²¹ See <https://www.phila.gov/water/wu/stormwater/Pages/default.aspx>.
- ²² See <https://www.neorsd.org/>.
- ²³ See <http://www.msdbg.org/>.

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- ²⁴ See <https://charlottenc.gov/StormWater/Pages/default.aspx>.
- ²⁵ See https://www.carlislepa.org/residents/stormwater_management/index.php.
- ²⁶ See <https://dallascityhall.com/departments/trinitywatershedmanagement/wheredoesitgo/Pages/default.aspx>.
- ²⁷ See PWSA St. No. 9, Direct Testimony of Beth Dutton (Mar. 6, 2020), Exhibit BD-2, Docket Nos. R-2020-3017951 (water) and R-2020-3017970 (wastewater).
- ²⁸ The stormwater fee is the amount a customer is charged for stormwater service. The fee is calculated based on the customer's impervious area and the rate for PWSA stormwater service as stated in the tariff.
- ²⁹ PWSA Revised Compliance Plan (Apr. 27, 2020), at 46-48, Docket Nos. M-2018-2640802 and M-2018-2640803.