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February 3, 2022

**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:

On January 20, 2022, the Pittsburgh Water and Sewer Authority ("PWSA") filed its Revised Stage 2 Compliance Plan: Stormwater as directed by the Commission's May 20, 2021 Order in the above-captioned proceeding. Enclosed for electronic filing please find PWSA's Unopposed Petition to Separate Stormwater Issues from Other Stage 2 Compliance Plan Issues. **PWSA requests expedited consideration of this Petition to provide guidance as soon as possible and prevent any disruption or delay in the ongoing Stage 2 litigation on customer service and collections issues.**

The purpose of the Petition is to request separation of the Stormwater Compliance issues from the current customer service and collection issues of Stage 2 which are in active litigation with evidentiary hearings scheduled for February 15-16, 2022. PWSA is concerned about the practical difficulties that would be caused by folding any identified Stage 2 stormwater issues into the current proceeding at this late stage given the Commission directed May 25, 2022 deadline for issuance of a Recommended Decision. By granting the Petition, the Commission can ensure sufficient time to address any remaining issues on stormwater service as may be identified by the Bureau of Technical Utility Services ("TUS") without disrupting the current litigation process regarding the customer service and collections issues which are on track for issuance of a Recommended Decision on May 25, 2022.

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

Sincerely,

A handwritten signature in blue ink that reads "Deanne M. O'Dell". The signature is written in a cursive, flowing style.

Deanne M. O'Dell

Enclosure

cc: Hon. Eranda Vero w/enc. (via email only)  
Hon. Gail M. Chiodo w/enc. (via email only)  
Patty Wiedt, Esq. (via email pwiedt@pa.gov only)  
Certificate of Service (via email only)

## **CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of **PWSA's Unopposed Petition to Separate Stormwater Issues from Other Stage 2 Compliance Plan Issues** 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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Deanne M. O'Dell, Esq.

Dated: February 3, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Chapter 32 of the	:	
Public Utility Code Re Pittsburgh Water	:	Docket No. M-2018-2640802 (water)
And Sewer Authority	:	M-2018-2640803 (wastewater)
	:	
And	:	And
	:	
Petition for The Pittsburgh Water and	:	Docket No. P-2018-3005037 (water)
Sewer Authority for Approval of Its Long-	:	P-2018-3005039 (wastewater)
Term Infrastructure Improvement Plan	:	

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**UNOPPOSED PETITION OF THE PITTSBURGH WATER  
AND SEWER AUTHORITY TO SEPARATE STORMWATER  
ISSUES FROM OTHER STAGE 2 COMPLIANCE PLAN  
ISSUES**

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Pursuant to 52. Pa. Code § 5.41, The Pittsburgh Water and Sewer Authority (“PWSA” or the “Authority”) hereby petitions the Pennsylvania Public Utility Commission (“Commission”) to modify its existing Orders to separate any remaining stormwater issues from the customer service and collections issues currently being addressed in the Stage 2 Compliance Plan litigation, and provide additional time necessary for a review of those remaining stormwater issues as part of the Stage 2 Compliance Plan proceeding. PWSA requests expedited consideration of this Petition to provide guidance as soon as possible and prevent any disruption or delay in the ongoing Stage 2 litigation on customer service and collections issues. PWSA is authorized to represent that the Bureau of Investigation and Enforcement (“I&E”) supports this Petition, and the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate

(“OSBA”), Pittsburgh United (“United”) and the City of Pittsburgh who are all parties of the current proceeding do not oppose this petition.

PWSA submits that the current schedule and Commission-directed deadlines for the Stage 2 Compliance Plan litigation on customer service and collections issues do not provide adequate time for consideration of any remaining stormwater issues, which are yet to be identified. As discussed in detail below, attempting to fold stormwater topics into the existing Stage 2 litigation, the hearing stage of which is almost completed, raises a number of practical concerns, particularly given the Commission’s direction that a Recommended Decision must be issued in the Stage 2 proceeding by May 25, 2022. PWSA submits that the current litigation and Commission-directed Recommended Decision schedule does not provide sufficient time to address any remaining issues on stormwater service as may be identified by the Bureau of Technical Utility Services (“TUS”) in its forthcoming directed questions, particularly given that this may raise stormwater issues that are being considered for the first time by the parties and the Commission.

Specifically, PWSA requests that the Commission: (1) separate the stormwater issues from the customer service and collections issues currently being addressed in the ongoing Stage 2 litigation; (2) provide an extension of time for the investigation of any remaining stormwater issues; (3) provide additional time for TUS to identify any issues to be addressed through a second set of directed questions; (4) provide an opportunity for stormwater issues to be resolved through a collaborative approach, by giving interested stakeholders an opportunity to comment on the revised Stormwater Compliance Plan and scheduling one or more workshops on stormwater topics; and (5) to the extent any issues remain for litigation, direct that those issues be forwarded to the Administrative Law Judges with instructions to establish a reasonable

litigation schedule that is not constrained by the existing deadlines. The Authority further requests consideration of this Petition on an expedited basis. PWSA submits that these modifications will give the parties and the Commission adequate time to address any remaining stormwater issues without delaying resolution of the ongoing litigation on Stage 2 customer service and collections issues.

In support of this Petition, PWSA submits as follows:

## **I. BACKGROUND**

1. On April 1, 2018, the PWSA's water<sup>1</sup> and wastewater<sup>2</sup> operations became subject to regulation by the Commission pursuant to Section 3202(a)(1) of the Public Utility Code.<sup>3</sup>

2. On September 28, 2018, as directed by the Chapter 32 of the Public Utility Code,<sup>4</sup> PWSA filed both its Compliance Plan<sup>5</sup> and its LTIP<sup>6</sup> with the Commission.<sup>7</sup>

3. The parties were able to reach an agreement on a vast majority of the issues on Stage 1 of the Compliance Plan, and on September 13, 2019, the parties filed a Joint Petition for Partial Settlement ("Joint Petition" or "Partial Settlement").

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<sup>1</sup> PWSA provides water service to approximately 80,000 residential, commercial and industrial customers in: portions of the City of Pittsburgh (Pittsburgh or City); the Borough of Millvale; and portions of Reserve, O'Hara, and Blawnox Townships, Allegheny County.

<sup>2</sup> PWSA provides wastewater conveyance service to customers located in the City and conveys wastewater for portions of twenty-four (24) neighboring communities.

<sup>3</sup> 66 Pa. C.S. § 3202(a)(1).

<sup>4</sup> 66 Pa. C.S. § 3201 to 3209. On December 21, 2017, Governor Wolf signed Act 65 of 2017 into law whereby the Pennsylvania Public Utility Code was amended to add new language to 66 Pa. C.S. § 1301 and to add a new Chapter 32 consisting of Sections 3201 through 3209, 66 Pa. C.S. § 3201, et seq. ("Act 65" or "Chapter 32").

<sup>5</sup> Docket Nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater).

<sup>6</sup> Docket Nos. P-2018-3005037 (water) and P-2018-3005039 (wastewater).

<sup>7</sup> See 66 Pa. C.S. § 3204(b). The Commission established a due date of September 28, 2018, for the filing by PWSA of a Compliance Plan and a LTIP. See *Implementation of Chapter 32 of the Public Utility Code*, Docket Nos. M 2018-2640802 (water) and M-2018-2640803 (wastewater), (Final Implementation Order entered Mar. 15, 2018 ("FIO")).

4. Through its *February 2021 Order*, the Commission issued its third and final order regarding the Partial Settlement, the Commission provided resolution of the remaining Stage 1 Compliance Plan issues not otherwise been deferred to Stage 2 and gave direction regarding the commencement of Stage 2 of the Compliance Plan proceeding by reiterating directives originally set forth in a Secretarial Letter dated January 24, 2020 (“*January 2020 Secretarial Letter*”).

5. In the *January 2020 Secretarial Letter*, the Commission directed that Stage 2 of PWSA’s Compliance Plan shall proceed as follows:

- Filing of Stage 2 Compliance Plan by PWSA within 60 days;
- Filing of comments by stakeholders within 20 days after filing of Stage 2 Compliance Plan;
- Issuance of Secretarial Letter by the Commission assigning Stage 2 to the OALJ, including Staff’s directed questions relating to: (a) PWSA compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission’s regulations, and (b) PWSA operations as a regulated stormwater utility, within 45 days after filing of Stage 2 Compliance Plan;
- Evidentiary hearings conducted by OALJ to address the Stage 2 Initial Report and directed questions; and
- Issuance of Recommended Decision by OALJ within 9 months of receiving the assignment of Stage 2 Compliance Plan.

6. PWSA simultaneously filed two Stage 2 Compliance Plans – one for Stormwater and one for Customer Service Issues – on April 9, 2021. On that same date, PWSA filed a Petition for Amendment of the Commission’s February 4, 2021 Final Order Regarding Procedural Process for Customer Service and Collections Issues requesting a modified procedural process for customer service issues.

7. On April 13, 2021, PWSA filed a combined water, wastewater, and stormwater base rate case.<sup>8</sup> As part of that rate case, PWSA submitted a proposed stormwater tariff and sought to implement stormwater rates for the first time.

8. Also on April 13, 2021, PWSA filed a Motion to Hold in Abeyance the Stage 2 Stormwater Compliance Plan. Through the Motion, PWSA requested that the Stormwater Compliance Plan be held in abeyance pending resolution of PWSA's base rate case in order to allow the full range of stormwater issues to be addressed part of the rate case, and then to proceed with any remaining issues regarding the Stormwater Compliance Plan after the base rate case was concluded.

9. On May 20, 2021, the Commission issued an Order suspending PWSA's stormwater tariff until January 12, 2022 and issuing the Technical Staff Report and Directed Questions on Stage 2 stormwater issues.

10. Also on May 20, 2021, the Commission entered a separate Opinion and Order granting the Motion to hold the Stormwater Compliance Plan in abeyance ("*May 2021 Order*"). The *May 2021 Order* directed PWSA to file a revised Stormwater Compliance Plan after the entry of a final Commission Order resolving the 2021 base rate case, but no later than January 31, 2022, incorporating any changes or requirements resulting from the 2021 rate case. The Commission also directed that, to the extent any issues remain pending in the Stormwater Compliance Plan, TUS will issue a second set of directed questions identifying the remaining issues within thirty (30) days of PWSA filing the revised Stormwater Compliance Plan.

11. The *May 2021 Order* also granted in part and denied in part PWSA's Petition for Amendment of the Commission's February 4, 2021 Final Order Regarding Procedural Process

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<sup>8</sup> Docket Nos. R-2021-3024773 (water); R-2021-3024774 (wastewater); and R-2021-3024779 (stormwater).



for Customer Service and Collections Issues, by extending the time period for formal and informal discovery pertaining to the Stage 2 customer service issues by seventy-five (75) days. The Order directed, *inter alia*, that the matter be assigned to OALJ no later than August 9, 2021 (120 days after PWSA filed its Stage 2 Compliance Plan on customer service issues) and that a recommended decision be issued by May 25, 2022.

12. On May 28, 2021, a Secretarial Letter was issued scheduling two additional workshops regarding PWSA's Stage 2 Compliance Plan on Chapters 14 & 56, DSLPA and Collections. The workshops were held on June 17, 2021 and June 25, 2021. PWSA provided follow-up written information as requested by BCS staff and parties during the workshops.

13. On August 25, 2021, the Commission issued a Secretarial letter assigning the Stage 2 Compliance Plan: Chapters 14 & 56, DSLPA and Collections to the OALJ. Included with the Secretarial Letter was the Report and Directed Questions Stage 2 dated August 5, 2021, which focused on customer services issues (not stormwater).

14. A Prehearing Conference was held on September 9, 2021. In a Prehearing Order dated September 28, 2021, the following litigation schedule was established for Stage 2:

DATE	EVENT
October 15, 2021	PWSA Direct Testimony
November 16, 2021	Pre-Identification of Issues among Parties (informal)
December 1, 2021	Non-Company Direct Testimony (and List of Prior Testimony for Inclusion in Record)
Settlement Workshops	
January 21, 2022	Rebuttal Testimony
January 31, 2022 (estimated)	PWSA Revised Stormwater Compliance Plan filing
February 7, 2022	Surrebuttal Testimony

February 10, 2022	PWSA Written Rejoinder or Rejoinder Outline and Formal Stipulation of Legal Issues and Proposed Testimony from other cases to be included in the record
February 15-16, 2022	Evidentiary Hearings
March 2, 2022 (estimated)	TUS Directed Questions #2 re: Stormwater Compliance Plan
March 12, 2022 (estimated)	Prehearing Conference to address Stormwater Compliance Plan litigation
March 14, 2022	Main Briefs (or Joint Petition for Settlement and Statements in Support) due
March 28, 2022	Reply Briefs due
May 25, 2022	Recommended Decision

15. As of the date of this Petition, evidentiary hearings on the Stage 2 customer service and collections issues will be held in less than two weeks and main briefs are due in less than six weeks.

16. On November 18, 2021, the Commission approved a full settlement of the 2021 rate case, including approval of PWSA's initial stormwater tariff, stormwater rates, stormwater credit program, and a broad range of items related to stormwater service. PWSA's stormwater rates and stormwater tariff became effective on January 12, 2022.

17. In compliance with the *May 2021 Order*, PWSA submitted its revised Stormwater Compliance Plan on January 20, 2022. The revised Stormwater Compliance Plan reflects stormwater-related issues that were resolved through the *2021 Rate Case* and provides updated information on any remaining issues to be addressed through the Stage 2 proceeding. The filing also includes an appendix with PWSA's responses to each of the TUS Directed Questions.

## II. PETITION

18. PWSA now files this Petition requesting that the Commission separate any remaining stormwater issues from the customer service and collections issues that are currently being addressed in the Stage 2 Compliance Plan. This is necessary to provide PWSA, the parties, and the Commission with adequate time to identify and address any remaining stormwater compliance issues, without delaying resolution of the litigation on customer service and collections issues which is well underway.

19. PWSA and the parties have been diligently working through the customer service and collections issues in the ongoing Stage 2 proceeding including engaging in discovery, preparing written testimony and discussing settlement. As noted above, under the existing Stage 2 litigation schedule, evidentiary hearings are scheduled for February 15-16, 2022, and a Recommended Decision is due by May 25, 2022.

20. Pursuant to the *May 2021 Order*, to the extent that any stormwater compliance issues remain pending, TUS has been directed to issue a second set of directed questions identifying those issues to be referred to the Stage 2 Compliance Plan proceeding (if any) within 30 days of the revised Stormwater Compliance Plan filing. Under the existing Stage 2 schedule, however, this results in the second set of directed questions being due the week after the evidentiary hearings on the Stage 2 customer service and collection issues. (Evidentiary hearings are to be held on February 15-16, 2022, while the second set of Directed Questions are due by February 21, 2022.)

21. PWSA fully supports continuing to move forward regarding the customer service and collections issues consistent with the litigation schedule already established for the current phase of the ongoing Stage 2 proceeding. However, PWSA is concerned about the practical

difficulties that would be caused by folding any identified Stage 2 stormwater issues into the current proceeding given the Commission's direction that a Recommended Decision must be issued by May 25, 2022. PWSA submits that the current litigation and Commission-directed Recommended Decision schedule does not provide sufficient time to address any remaining issues on stormwater service as may be identified by TUS, particularly given that this may include stormwater issues that are being addressed by the parties and the Commission for the first time.

22. For this reason, PWSA respectfully requests that the Commission separate the stormwater issues from the customer service and collections issues currently being addressed in the ongoing Stage 2 litigation, and provide an extension of time for the investigation of any remaining stormwater issues. PWSA requests that this include providing additional time for TUS to identify any issues to be addressed through a second set of directed questions, as well as providing interested stakeholders an opportunity to comment on the revised Stormwater Compliance Plan. Further, prior to scheduling evidentiary hearings, PWSA requests that the Commission schedule one or more workshops to provide an opportunity for stormwater issues to be resolved through a collaborative approach. If issues that should be subject to litigation remain, PWSA requests that those issues be forwarded to the ALJs with instructions to establish a reasonable litigation schedule that is not constrained by the existing deadlines. PWSA submits that these modifications will allow PWSA, the Commission, and the parties to efficiently identify and address any remaining stormwater compliance issues without delaying the ongoing Stage 2 litigation on customer service and collections issues.

### III. CONCLUSION

WHEREFORE, The Pittsburgh Water and Sewer Authority respectfully requests that the Commission: (1) grant this Petition on an expedited basis; (2) directed that consideration of any remaining stormwater issues be separated from the customer service and collections issues currently being addressed in the ongoing Stage 2 litigation; (3) provide an extension of time for the investigation of any remaining stormwater issues; (4) provide additional time for TUS to identify any issues to be addressed through a second set of directed questions; (5) provide an opportunity for stormwater issues to be resolved through a collaborative approach, by giving interested stakeholders an opportunity to comment on the revised Stormwater Compliance Plan and scheduling one or more workshops on stormwater topics; and (6) to the extent any issues remain for litigation, direct that those issues be forwarded to OALJ with instructions to establish a reasonable litigation schedule that is not constrained by the existing deadlines; and (7) grant any other relief deemed appropriate.

Respectfully submitted,



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