



February 28, 2023

VIA E-FILING

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

Re: Policy Statement on Public and Private Fire Protection; Docket No. M-2022-3033054
Comments of the National Association of Water Companies - Pennsylvania Chapter

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission (“Commission”) are the Comments of the National Association of Water Companies – Pennsylvania Chapter on the Proposed Policy Statement Order.

Please contact me if you have any questions or concerns about this filing.

Sincerely,

COZEN O'CONNOR

BY: DAVID P. ZAMBITO
Counsel for *National Association of Water Companies*

DPZ:kmg
Enclosure

cc: Stephanie Wilson, Esq. (*Law Bureau*)
James Mullins, Esq. (*Law Bureau*)
Karen Thorne (*Law Bureau*)
Per Certificate of Service
J.T. Hand, President, NAWC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Policy Statement on Public and Private Fire : Docket No. M-2022-3033054
Protection :

COMMENTS OF THE NATIONAL ASSOCIATION OF WATER
COMPANIES – PENNSYLVANIA CHAPTER

AND NOW COMES the National Association of Water Companies – Pennsylvania Chapter (“NAWC”), to submit comments in response to the Proposed Policy Statement Order, which was entered in this matter on November 10, 2022 and published in the *Pennsylvania Bulletin* on January 14, 2023. 53 Pa. B. 379 (January 14, 2023). NAWC respectfully submits the following comments for consideration by the Pennsylvania Public Utility Commission (“Commission”).

I. INTRODUCTION

NAWC is a trade organization whose members are investor-owned water utilities in Pennsylvania that are regulated by the Commission.¹ Among other functions, NAWC provides members with a vehicle for expressing their position on legislative and regulatory developments before the General Assembly, the Commission and other regulatory agencies, as well as the courts. NAWC thanks the Commission for this opportunity to file comments.

¹ The members of NAWC are: Aqua Pennsylvania, Inc.; Columbia Water Company; Newtown Artesian Water Company; Pennsylvania-American Water Company; The York Water Company; and, Veolia Water Pennsylvania, Inc. (f/k/a SUEZ Water Pennsylvania Inc.). Newtown Artesian Water Company is a Class B water utility; the remaining members of NAWC are Class A water utilities. In addition to water operations, several members operate Commission-regulated wastewater systems.

II. HISTORY OF THE PROCEEDING

At the Commission’s public meeting of June 16, 2022, the Commission adopted the Motion of Commissioner Ralph V. Yanora calling for the development of a policy statement concerning those aspects of fire protection services subject to Commission oversight. On June 29, 2022, the Commission issued a Secretarial Letter seeking comment from Class A water companies responding to directed questions. On August 29, 2022, NAWC submitted comments, which included responses to the directed questions. NAWC incorporates its previous Comments by reference as fully as if set forth herein.

III. COMMENTS

A. Section 69.xx1(b)

This section states:

Fire protection services are often provided by Class A public water utilities. Class A water public utilities should operate with a sophisticated level of technical expertise including the use of modern water industry tools such as computerized hydraulic modeling software.

The second sentence of this section is very broad. NAWC is concerned that litigants could try to take this statement out of context and seek to use it against Class A water utilities in cases having nothing to do with fire protection. In order to mitigate the risk of this happening, NAWC suggests inserting the following at the beginning of the second sentence: “In providing fire protection services,”.

B. Section 69.xx2

The Commission proposes to define the term “discrete system” in the same way that term would be defined in the proposed regulations concerning water audit methodology (proposed 52 Pa. Code § 65.20a(b), *Proposed Water Audit Methodology Regulation 52 Pa. Code § 65.20a* –

Water Conservation Measures, Docket No. L-2020-3021932). In the water audit methodology proceeding, NAWC supported the Commission’s proposed definition of “discrete system,” with minor clarifications (*e.g.*, clarifying whether a “stand-alone pipe network” includes treatment works and revising the definition to include a large interconnected system with multiple water sources). NAWC supports the concept of defining “discrete system” the same way in both Sections 69.xx2 and 65.20a(b). Consequently, NAWC recommends that the Commission modify its definition here, as recommended in NAWC’s comments on Section 65.20a(b).

NAWC also suggests that the Commission add a definition of “fire protection connections,” a term that is used many times in the remainder of the proposed policy statement but is not currently defined in the Pennsylvania Public Utility Code, the Commission’s Regulations, or the proposed policy statement. Defining this term would improve the clarity of the proposal. NAWC believes the intent is to refer to a type of service (see, for example, Section 69.xx3(a), which talks about “fire protection connections and public and private fire hydrant service”), rather than meaning the point at which a fire protection customer is connected to the utility’s distribution system.

C. Section 69.xx3

Subsection (b)(1) states that a utility’s operating procedures should include minimum parameters for fire protection connections and public and private fire hydrant service. These parameters would be applied to “all fire protection connections and fire hydrants.” NAWC is concerned about establishing the same parameters for both new and existing assets. NAWC asks the Commission to confirm that a utility’s operating procedures can set different parameters for existing as compared to new fire protection connections and fire hydrants.

Subsection (b)(3) recommends that the water utility's operating procedures include a method to clearly mark each fire hydrant and fire protection connection that cannot provide service at minimum operating conditions. With regard to marking fire hydrants, NAWC recommends that hydrants not providing a minimum level of service be marked, but a complicated color-coding scheme to show expected levels of service should not be implemented. With regard to fire protection connections, Subsection (b)(3) as currently drafted is not clear as to what should be marked. (See the comments above, regarding the definition of the term "fire protection connection.")

Subsection (b)(5) provides that the operating procedures should include provisions for an acquisition due diligence process. Specifically, the operating procedures should require an acquiring utility to analyze the level of capital expenditures, and the timeframes necessary, to bring an acquired system up to the water utility's minimum acceptable operating characteristics. NAWC recommends that this provision be removed. Provisions regarding a utility's due diligence process are out of place in the utility's generic operating procedures for fire protection service. A utility's due diligence process should be addressed as a comprehensive whole, and any analysis of capital expenditures and timeframes for improvements to fire protection connections and fire hydrants should be considered in conjunction with the capital expenditures and timeframes for other necessary improvements in the system being acquired.

Finally, to improve clarity, NAWC recommends the following changes:

(3) A method to clearly mark and identify each fire hydrant and fire protection connection found to be not incapable of providing service at the water public utility's minimum operating characteristics for fire protection connections and fire hydrant service.

(4) An estimated schedule to remove, remediate, or replace a fire hydrant or fire service connection found to be not incapable of providing service at the water public utility's minimum parameters for fire protection connections and fire hydrant service.

(6) A written notification process to affected customers and local jurisdictions that may include property owners, the municipality and the local fire department of the location of any fire protection connection ~~of~~ or fire hydrant that does not ~~cannot~~ meet the water public utility's acceptable operating characteristics.

D. Section 69.xx4

NAWC recommends that the title of this section be changed to replace the term “required” with “recommended” because the Commission is proposing a policy statement rather than a regulation. A regulation establishes a binding norm and has the full force and effect of law, whereas a statement of policy “merely serves as an announcement to the public of a policy which the agency hopes to implement in future rulemaking or adjudications.” *Manor v. Dep’t of Pub. Welfare*, 796 A.2d 1020, 1026 (Pa. Cmwlth. 2002).

Subsection (a) is a broad statement that is not limited to fire protection services. Moreover, this subsection seems to be background information rather than an action item for utilities. NAWC believes subsection (a) is unnecessary and recommends that it be deleted.

NAWC supports the Commission’s proposal in Subsection (b) to allow each utility to develop a hydraulic modeling plan that meets its needs. The Commission, however, should clarify the interplay of Subsection (b) and Subsection (c)(1). Subsection (b) suggests that the hydraulic modeling plan should provide that each discrete water system have a computerized hydraulic model, but Subsection (c)(1) suggests that the hydraulic modeling plan may provide that discrete systems below a minimum size need not have a model.

Subsection (b) uses the term “discrete water system” rather than the defined term “discrete system.” For the sake of clarity, NAWC recommends that Section 69.xx4(b) be modified to use the defined term “discrete system.”

IV. CONCLUSION

NAWC thanks the Commission for the opportunity to submit these comments on the important topic of public and private fire protection.

Respectfully submitted,



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Date: February 28, 2023