

COMMONWEALTH OF PENNSYLVANIA



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August 28, 2023

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

Re: Proposed Water Audit Methodology
Regulation 52 Pa. Code § 65.20a Water
conservation measures – statement of
policy-Reopened Public Comment Period
Docket No. L-2020-3021932

Dear Secretary Chiavetta:

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

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Certificate of Service

4861-6564-1081

CERTIFICATE OF SERVICE

Proposed Water Audit Methodology Regulation :
52 Pa. Code § 65.20a Water conservation : Docket No. L-2020-3021932
measures – statement of policy – Reopened Public :
Comment Period :

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

Dated this 28th day of August 2023.

SERVICE BY E-MAIL ONLY

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Dated: August 28, 2023
4890-4372-0057

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Revisions to Water Audit	:	
Methodology 52 Pa. Code § 65.20	:	Docket No. L-2020-3021932
Water Conservation Measures - Statement	:	
Of Policy	:	

THE OFFICE OF CONSUMER ADVOCATE’S
COMMENTS IN THE REOPENED PUBLIC COMMENT PERIOD
FOR THE NOTICE OF PROPOSED RULEMAKING

I. Introduction

The Office of Consumer Advocate (OCA) submits these Comments in the reopened public comment period for the Notice of Proposed Rulemaking (NOPR) in the water audit methodology rulemaking at 52 Pa. Code § 65.20. The Public Utility Commission (PUC or Commission) reopened the public comment period by Order entered on July 13, 2023 (July 2023 Order). The Order was published in the Pennsylvania Bulletin on July 29, 2023. 53 Pa. Bull. 3973-75. The Commission reopened the public comment period in response to Comments filed by the Independent Regulatory Review Commission (IRRC) on December 5, 2022. July 2023 Order at 3-4. In its Comments, IRRC requested “additional information from the regulated community as to the costs required to comply with the proposed regulation as well as additional information from the PUC to clarify certain provisions of proposed regulation to determine if the provisions are reasonable and in the public interest.” July 2023 Order at 3. In its July 2023 Order, the Commission determined that additional input by interested parties would permit these issues to be fully considered. *Id.* The Commission provided ten questions for commenters to address.

July 2023 Order at 4-7. As set forth below, the OCA is providing its input on Questions 1, 2, 6, 7, and 8.¹

II. Commission Questions

1) **What are the expected benefits of the proposed regulation? What are the possible adverse effects of the proposed regulation? What alternative do you recommend?**

The OCA generally supports the regulation because the expected benefit should be a more accurate, industry-approved method to determine water loss in the water systems. The OCA's expectation is that the data would be verified by the utility and reviewed for consistency by the Commission's Bureau of Technical Utility Services and/or the Bureau of Audits. The water audit information, using an industry-developed water audit tool, should be an important component of determining where to invest capital to replace and rehabilitate distribution lines. The OCA also expects that the water audit methodology would provide consistent results among the PUC-regulated water systems. Consistent data submitted by the water utilities that is readily available to the public on the Commission's website is important to ensure transparency. *See* OCA Advanced Notice of Proposed Rulemaking (ANOPR) Comments at 2, OCA NOPR Reply Comments at 4.

The OCA does not see any adverse effects on operations of the water systems. The Class A water utilities have been using the water audit methodology since the pilot program was implemented in 2008 (52 Pa.B. at 4406), so it does not appear that the regulation would result in any change for those systems. If the final regulation applies to Class B and C water utilities, there will be benefits in beginning to use an industry-accepted methodology to determine water loss

¹ Per the Commission's request, the OCA is following the numbering pattern of the questions in the July 2023 Order. July 2023 Order at 4.

to ensure an efficient use of water. One of the benefits of using that methodology is that it will be a more accurate method to determine if there are large water losses, which in turn should assist the water utility to determine what reasonable and cost-effective mitigation measures steps are necessary to address water loss. Training (via webinar or otherwise) for all PUC-regulated water utilities and stakeholders after the final rule is promulgated will be helpful to understand the requirements of the final rule. This training may address any perceived adverse impacts.

The OCA does not recommend an alternative, other than to keep the Section 500 portion of the Annual Report to the Commission until a final rule resulting from this NOPR is in place. That information, albeit with its own shortcomings, is the only information that is currently available for all PUC-regulated water systems.

2) A commentor recommended that the PUC require all jurisdictional water utilities to complete at least one water loss audit. If the PUC were to require all jurisdictional water utilities to complete one water loss audit, please identify the timeline and reporting schedule that would be feasible for Class B and Class C water public utilities to complete and submit the water loss audit to the PUC. Why or why not? If not, what proposal would be feasible?

As set forth in the OCA's November 24, 2020 Comments to ANOPR, if the PUC were to require all jurisdictional water utilities to complete one water loss audit, it may be reasonable to provide a longer time frame for Class B and Class C water utilities to complete the water audit. The OCA would recommend that there be a series of interactive trainings (via webinar or otherwise) with the Class B and C water utilities who may need assistance from the Commission staff regarding the use of the Water Audit Methodology software. Such trainings would be beneficial in providing a transition period for the Class B and C water utilities that would be required to complete the water loss audit. OCA ANOPR Comments at 3.

6) A commenter believes that it is “wholly inappropriate” for the PUC to continue to employ the unaccounted-for water (UFW) approach in the proposed regulation. The commenter asserts that the proposed UFW approach under proposed Section 65.20a(d), 52 Pa. Code § 65.20a(d), is “outdated and archaic” and, further, “lacks empirical and scientific legitimacy.” Provide responses to the following:

- a. What are the advantages and disadvantages of reporting UFW?**
- b. Can this approach be used by the water utility industry to improve system performance and reduce water loss on a discrete system basis? If so, how is UFW specifically used to identify the most deficient systems and system processes to be improved to achieve measurable results?**
- c. Is there a reliable correlation between UFW and the condition of a system as quantified by other performance indicators? If so, explain the correlation.**

a. Reporting UFW is an essential tool in ensuring that consumers do not pay for water loss associated with unaccounted for water where this loss would be detectable and preventable with reasonable and cost-effective mitigation measures. This requires a targeted, system-level approach to reporting that includes UFW. To that end, as discussed above, the OCA recommends that the requirement remain for the Section 500 portion of the Annual Report to the Commission until a final rule resulting from this NOPR is in effect. That information, albeit with its own shortcomings, is the only information that is currently available for all PUC-regulated water systems. Moreover, if the Commission does not require all Class B and Class C water utilities to use the water audit methodology in the final rule, the final rule should require that the Section 500 reporting requirements remain for those Class B and Class C water utilities who are not required to use the water audit methodology. In addition, if the Commission’s final rule does not require Class B and Class C water utilities to use the water audit methodology, the final rule should permit

those utilities to voluntarily use the water audit methodology as an alternative to compliance if they do not want to continue to use the Section 500 reporting.

7) **A commenter indicated that the proposed regulations would be improved if performance indicators were defined along with how priority areas are to be determined for a water public utility to address reducing future water loss. Provide responses to the following:**

a. **What industry-recognized performance indicators would best characterize the current financial and operational condition of a discrete water system on an annual basis? Why?**

b. **How should measurable benchmarks be established for each discrete water system using both operational and financial performance indicators (e.g., AWWA’s Real Loss and Loss Cost Rate)?**

c. **Quantify the proposed targets or goals for any proposed performance indicator and provide a justification for the proposed targets or goals and the timeframe for each proposed target or goal to be achieved.**

d. **How should the identified specific targets or goals for each performance indicator be utilized by a water public utility in developing its annual or long-term capital improvement plan(s)?**

The OCA supports an in-depth review of relevant performance indicators.² Using available studies may be a reasonable way to approach a more specific discussion of these issues. In addition, this discussion may be most efficiently accomplished by a technical working group.

8) **A commenter urged the PUC to include a formal validation process in the proposed regulation and indicated that without data validation, data from “self- reported” water audits can have questionable validity. Provide responses to the following:**

a. **What process should a water public utility be required to complete in order to ensure the data provided to the PUC eliminates, to the extent feasible, inaccurate information (e.g., by using the American Water Works Association Level 1 validation process)?**

b. **What are the advantages and disadvantages of requiring each water utility to validate its annual water loss audits?**

² <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/WLCCCKPIReport%202019.pdf?ver=2019-11-20-094638-933> and <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/WLCCAssessmentReport2019.pdf?ver=2019-11-20-094731-123>

c. What would be the additional annual expense required to complete a validation process on water loss audits?

Regarding data validation, according to a survey by the American Water Works Association (AWWA), the states vary in the requirement that the data be verified.³ OCA ANOPR Comments at 3. The OCA submits that, at a minimum, the data should be verified by the utility and that the Commission's Bureau of Technical Utility Services and/or the Bureau of Audits review the submissions to ensure that the data is validated on a regular basis (perhaps reviewing some subset of utility submissions each year so that all utility submissions are reviewed within a certain time period, e.g., every three years.). *Id.* In addition, data validation can be done at different levels of scrutiny. *See* Report on the Evaluation of Water Audit Data For Pennsylvania Utilities, prepared for Natural Resources Defense Council, by Kunkel Water Efficiency Consulting. (Feb. 15, 2017) www.nrdc.org/sites/default/files/pa-utilities-water-audit-data-evaluation-20170215.pdf. The OCA proposes that Level 1 validation and related costs should be considered, perhaps as part of a technical working group. *Id.*

³ <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/WLCstateofthestatesApr2016.pdf?ver=2016-04-06-092244-437>

III. Conclusion

The Office of Consumer Advocate appreciates the opportunity to provide its Comments on the Commission's Reopened Public Comment Period as set forth in the July 2023 Order. The OCA incorporates its prior Comments on issues not already addressed above.

Respectfully Submitted,

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