

What's in the PWSA's compliance plan?

Summary: The Pennsylvania Public Utility Commission (PUC) was given, through Act 65 of 2017, jurisdiction over the Pittsburgh Water & Sewer Authority (PWSA) in 2018 because of the authority's problems relating to high debt levels, poor infrastructure, unmetered accounts and questions about its relationship with city government. Prior *Policy Briefs* (Vol. 17, No. 49 and Vol. 18, Nos. 14, 29 and 49) discussed PWSA's troubles in detail. After much delay, the PWSA submitted a plan of corrective actions to the PUC and has received a response.

The PUC's oversight directive to the PWSA called for a compliance plan outlining the steps it will take to improve its operating and financial situation. That plan, due September 2018 was filed on September 28. In April 2019, the PUC's Bureau of Investigation and Enforcement, along with the Offices of Consumer Advocate, Office of Small Business Advocate, Pittsburgh United and Pennsylvania-American Water Company were all parties to the plan settlement.

Written and oral testimony was given at an evidentiary hearing in August 2019. The following month the joint petitioners filed the partial settlement for the plan. Finally, on March 26, 2020, the partial settlement of the PWSA's compliance plan was approved. However, several major issues still must be resolved.

The following items detail some of the major problems facing the PWSA.

Capital improvement plans and debt

The PWSA's capital improvement plan, covering the period FY 2020 through FY 2024, is estimated to cost \$1.29 billion. It's to be funded with \$1.27 billion in revenue bonds, \$134 million in cash and \$28.2 million in grant money from PENNVEST.

This new bond debt will be a massive addition to the more than \$700 million of outstanding bond debt already carried by the authority. Sharply climbing costs arising from principal and interest payments will undoubtedly require increased revenue from ratepayers. Without the added revenue, the authority could face a financial crisis.

1995 city-PWSA cooperation agreement

One of the largest hurdles facing the PWSA is the 1995 Cooperation Agreement with the city in which the PWSA pays the city an annual fee (\$7.15 million) for services (i.e. vehicle lease and fleet maintenance). The city receives 600 million gallons of water per year without charge.

Furthermore, because the water is not metered there is no way to know if the city *exceeded* the 600 million gallons per year. The city (government offices and city-owned properties) receives unlimited water without charge.

Other locations such as The Pittsburgh Zoo and PPG Aquarium, Phipps Conservatory, The National Aviary and city-owned swimming pools and fountains are all unmetered and receive unlimited quantities of water at no charge. The authority has been directed by the PUC to renegotiate a new cooperation agreement, which it resisted doing until December 2019.

Importantly, the PUC opposes the 1995 Cooperation Agreement, noting the PWSA lost approximately \$11.4 million in annual revenue from the city due to unbilled usage. Indeed, earlier this year the PUC's Office of Administrative Law Judge directed that the agreement be terminated and the PWSA and the City of Pittsburgh should operate at a "transactional arms-length basis."

Proposed new city-PWSA cooperation agreement

The PWSA's board proposed a new agreement in December 2019. Under this proposal, the city offered PWSA employees eligibility in the city's pension plan, fuel for PWSA vehicles, vehicle fleet maintenance services and 50 percent of street-sweeping costs starting Jan. 1, 2020.

This agreement would have also had the PWSA compensate the city for the above services and goods provided based on actual direct expenses. The city would be treated like other commercial customers with some exceptions. One of those being the PWSA and the city would "equally share" in the cost of meter vault installation in city parks larger than 50 acres.

Additionally, the city would be responsible for the total costs of all other water service lines and sewer laterals by 2025 and after. The PWSA proposed using a "phased approach" for billing water usage (0 percent paid by city in 2020, 20 percent in 2021, 40 percent in 2022, 60 percent in 2023, 80 percent in 2024, full price in 2025 and after).

The proposed new cooperation agreement would have continued to afford preferential treatment to the city. (Note that the administrative judge did not review the new proposed cooperation agreement (December 2019 version) because it wasn't submitted at the time of the law judge's review of the compliance plan.)

However, the PUC has overruled the PWSA's plan to phase in the billing increases through 2025 and to begin metering and charging for water usage. Further, the administrative law judge ruled that the city and the PWSA should invoice all services provided to one another at a fair-market cost.

Adding clarification, the PWSA was ordered by the law judge to revise the agreement to instead regard the city as a customer without any previous special, or preferential, privileges.

Metering

The PWSA's proposal to "equally share" in the cost of meter installation with the city regarding city parks runs contrary to the law judge's decision that the PWSA is responsible for the cost of meter installation for all customers, including the approximately 200-400 unmetered city-owned properties. The PUC specified the authority, as the utility, is responsible for the cost of meter installation.

Until the meters are installed, the PWSA must introduce a flat rate at minimum customer charge, based on the customer's class, for all currently unbilled customers until they are metered then immediately billed for full usage.

The PWSA contended that if it were to pay for meter installation it would create financial distress and limit its funding for other long-term projects. The "phased billing" approach was defended by claiming the city might be unable to immediately pay the full bill.

The administrative law judge reiterated that the PWSA was not responsible for whether the city could pay its water bills. The authority's responsibility was to meter and then immediately bill the full usage amount for all customers, including the city.

Residency requirement

The PWSA follows the city's Home Charter Rule language requiring all employees to be Pittsburgh residents. The PUC ruled the residency program does not promote the most cost-effective and qualified candidates for employment. However, the law judge ruled the PWSA's residency requirement is an optional business decision and PUC approval is not required.

Further litigation regarding a new cooperation agreement with the city, the PWSA's low-income assistance program, billing for the city's fire hydrants and additional issues will occur in the next stage of the compliance plan settlement.

PWSA's most current quarterly compliance plan progress report (Jan. 31, 2020)

The PWSA filed its most current progress report on Jan. 31, 2020. At the time the law judge had not approved the joint partial settlement of the PWSA's compliance plan. The progress report demonstrates some of the authority's "progress", but also reveals the sluggish pace of the PWSA's efforts. For instance, the PWSA is behind in its program to replace fire hydrants (only 76 of a promised 100 hydrants per year in 2019).

It is also behind schedule with meter testing. With an estimated 50,000 meters exceeding PUC's testing and replacement guidelines (every 20 years), the PWSA only tested/replaced 10,000 in 2019 with plans to do another 10,000 this year.

With large diameter meters, only 60 of 806 (7 percent) that have been in service for more than eight years were replaced in 2019. The PWSA will begin following PUC guidelines and within the next three years plans to complete testing/replacement of all large meters.

The authority will now follow a company-wide procurement policy and follow the Municipal Authorities Act, which requires projects costing more than \$20,600 to be competitively bid.

The authority plans to hire a contractor to assist with the inspection and installation of meters for municipal buildings and flat-rate customers by 2024. The PWSA estimates there are 200-400 unmetered municipal buildings and 500 flat rate customer locations.

To date 231 municipal customers and 174 flat rate customers have been inspected. PWSA estimates the metering program will cost approximately \$35 million and will take approximately five years to complete the project.

The PWSA finally ended its Pennsylvania American Water Company subsidy program for city customers in southern neighborhoods who use the private company because they are out of reach of PWSA lines. Based on billing data from May 2019, approximately 30 percent of all customers received no subsidy while 80 percent of residential customers were receiving a subsidy of \$1 or less. The average subsidy was less than 50 cents per month.

In summary, the scope of the PWSA's necessary infrastructure work is daunting as will be the cost associated. It will likely incur large amounts of debt and begin to raise the rates on customers. The sooner the authority establishes its independence from the City of Pittsburgh, the sooner it can begin to operate more efficiently and deal with its problems more effectively.

Additionally, the PWSA must make an honest effort to become compliant under PUC oversight. The time is far past for the PWSA to operate as an independent authority and not a political arm of the city.

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