

COMMONWEALTH OF PENNSYLVANIA



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December 19, 2016

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of The York Water Company for an
Expedited Order Authorizing Limited
Waivers of Certain Tariff Provisions and
Granting Accounting Approval to Record
Cost of Certain Customer-Owned Service
Line Replacements to the Company's
Services Account
Docket No. P-2016-2577404

Dear Secretary Chiavetta:

Enclosed please find the Answer of the Office of Consumer Advocate to the Petition of
the York Water Company in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christine Maloni Hoover
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Enclosure

cc: Office of Administrative Law Judge
Office of Special Assistants
Certificate of Service

*227986

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replacing its lead service lines over the past few years at more than 7% per year, but it plans to expedite replacement of its Company-owned lead service lines.³ Petition at 3.

As explained in the Petition, there are two parts to service lines; the first part is the Company-owned service line which runs from the water main to a curb stop or valve. Petition at 3-4. That portion is owned by York and maintained by York. Id. The other part is the portion that runs from the curb stop or valve to the customer's premises. Id. at 4. That portion is owned and maintained by the customer. Id.

York states that approximately 1,660 customers are served by Company-owned lead service lines which the Company intends to replace over the next four years. Petition at 4. As part of that plan, York proposes to replace any corresponding customer-owned service lines made of lead that the Company encounters, subject to the customer's permission and at the Company's cost. Petition at 4. York submits that it is in the best interest of the customers to replace customer-owned service lines when replacing the Company's lead service lines because, *inter alia*, it will eliminate this source of lead from affected premises. Petition at 4-5, 7-8. York also states that there would be some efficiencies and economies of scale by replacing both sides of the service line at the same time. Id. at 5. York states that it would capitalize the costs of replacing the customer-owned lead service lines as part of the service line replacement. Id. The Company does not propose to take ownership of the customer portion of the replaced service line and will not maintain that portion in the future. Id.

According to York's existing tariff, customers are responsible for the installation, maintenance and replacement of their service lines. York Water Tariff Water – Pa. P.U.C. No.

³ Regarding the other requirements, York states that it has begun the public education requirements. Petition at 2-3. York also states that it will be required to test every 6 months, rather than every three years and it will be required to take 100 samples, rather than 50 until the exceedances have been rectified and the samples meet the requirements for two sequential testing periods. Petition at 3.

14, Supplement No. 68, Fourth Revised Page No. 10, Tariff Rule 3.4. The Company is seeking a waiver of this tariff rule to allow it to replace the customer owned portion of the lead service line when it replaces the Company-owned portion of the same line. Petition at 5-6. The Company is also seeking permission to capitalize those costs. Id.

The Company also is seeking a limited waiver of Tariff Rule 3.4 to allow it to, “from time to time, replace lead customer-owned service lines whenever they are discovered, regardless of the material used for the Company-owned service line.” Petition at 5-6. In the Petition, York Water states that the waiver is limited to those customers with a lead service line and its request would not change the rules if the customer’s service line was leaking or otherwise defective. Id. at 6. York Water also proposes that it would offer to pay a fixed amount towards replacement cost of the customer-owned lead service line⁴ and asks that that amount be permitted to be capitalized. Id. The Company intends to file a separate Petition requesting approval to include the cost of the replacement of customer-owned lead service lines in its Distribution System Improvement Charge (DSIC). Petition at 9. The OCA notes that it will review that Petition when it is filed. The OCA also notes that York Water’s Long Term Infrastructure Improvement Plan (LTIP) is due to be filed on March 20, 2017.

York Water claims that these limited waivers are in the public interest because replacing the customer-owned lead service line at the same time as the Company-owned lead service line will eliminate that source of lead from the customer premises which will improve the quality and safety of its water service to the customers. Petition at 6. In addition, York Water states that it will be efficient for the Company to replace a lead customer-owned line at the same time as the

⁴ In its Petition, York states that it would pay an amount not to exceed the Company’s average incremental cost of replacing the customer-owned lead service line as part of the Company owned lead service line replacement plan. Petition at 6. The Company also indicates that it may engage plumbers to do the work and then York would bill the customers for any difference between the actual cost and the maximum payment amount. Id. at note 7.

Company-owned lead service lines because customer's water will need to be disconnected at the time of replacement. Id. The Company also states that recent studies have indicated that a "partial lead service line" replacement "may not significantly reduce the lead level at the customer's tap" and "may temporarily increase lead at the customer's tap due to disturbing the customer-owned service line during the partial replacement." Petition at 6. The Company also states that certain costs can be avoided if a full replacement is done rather than a partial replacement. See Petition at 7-8.

Additional reasons that the Company offers in support of its Petition include policy statements, issued by the American Water Works Association (AWWA) and the Environmental Protection Agency's National Drinking Water Advisory Council (NDWAC), recommending the complete removal and replacement of Company and customer owned lead service lines. Petition at 8. The Company states that the additional waiver it is requesting, allowing it to pay a portion of the replacement costs for customer-owned lead service lines, would enable it to implement the health and safety recommendations in the policy statements. Id. The Company also states that authorizing the additional waiver for the customer-owned lead service lines would mean "all customers with lead service lines would be treated equally." Petition at 8. Finally, the Company cites to two cases where it states that the Commission approved replacement of customer-owned service lines at the utility's initial expense due to safety concerns.⁵ Petition at 8.

II. ANSWER

As to York's first request for waiver of its tariff rule, the OCA does not oppose the concept of replacing the customer-owned lead service line at the same time as the Company-

⁵ Petition of Peoples Natural Gas Company for Approval of its Amended Second Revised Long-Term Infrastructure Improvement Plan, Docket Nos. P-2013-2344596 et al. (Order entered June 30, 2016) and Petition of Columbia Gas of Pa for Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement, Docket No. P-00072337(May 19, 2008).

owned lead service lines are replaced over the next four years. Coordinating the replacement of the Company and customer lead service lines is a reasonable way to address the health and safety issues presented by the identification of lead levels exceeding the action level as York develops its full compliance plan. The OCA does not oppose the Company's request to capitalize the costs related to the replacement of the customer-owned lead service lines that are replaced at the same time as the Company-owned lead service lines.⁶ The Petition does not state, and the Company may not know, however, the number of customer-owned service lines that it will encounter as it replaces the 1,660 Company-owned lead service lines. Given this uncertainty, the OCA recommends as follows:

- That York track the capital costs for the customer-owned service lines that are replaced as part of the Company-owned lead service line replacement program and provide that information on a semi-annual basis to the Commission and the OCA. This would allow the Commission and the OCA to know the ongoing costs of the customer-owned lead service line replacement program.
- That York explore available funding options, now and in the future, at the state and federal level that might alleviate some of the replacement costs that will ultimately be borne by its ratepayers.

With these two items, the OCA would not oppose York's first tariff waiver request.

York has made a second request for an additional waiver to set up a program that would permit the Company, from time to time to replace customer-owned lead service lines wherever they are discovered and regardless of the material used for the Company-owned service line. Petition at 6-7. The OCA has several concerns regarding the second waiver that the Company is

⁶ The OCA notes that some details will need to be discussed, such as the ratemaking treatment for customer owned lead service lines that may be replaced and on which the customer has coverage under the Water Service Line Protection Plan.

requesting. As the OCA understands the Company's request, this waiver would apply only when a customer wants to replace a lead service line and there are no other issues with the service line, such as a leak. In that instance York may provide its plumbers to do the work and would pay a portion of the replacement cost up to a maximum amount. Id.

Generally, York's second proposal does not yet have sufficient details to allow OCA to fully understand the possible scope of the waiver or how the program would work. With the information provided in the Petition, the OCA has preliminarily identified a number of concerns. First, it is hard to assess the scope of this request as York has not identified the potential number of customers that may be in this situation. Second, it is not clear how York Water will make its customers with lead service lines aware of this program. Without information, customers may not know of any potential problem or the help that may be available. The OCA would be pleased to work with York Water in developing information for and communicating with its customers about the program.

The Company has also indicated that for those customers who replace a lead service line and receive the payment amount, the Company will bill the customers for any difference between the total cost and the maximum payment amount. It is not clear, however, if that billing can be done on the water bill and it is not clear how York would triage requests for replacement of the customer-owned lead service line replacement. In addition, it is not clear what impact the stand alone customer-owned lead service line replacements that qualify for this program would have on the schedule for the Company-owned and customer-owned lead service line replacement program that is addressed in its first waiver request.

Further, York Water has not explained how or why the waiver is limited to those customers with a lead service line but without any other issues, such as a leak, on the lead service

line. For example, it appears that a customer with a lead service line and a leak would not be able to have the Company provide some amount of payment towards replacement that the customer would otherwise receive but for the leak. The public health and safety issues are the same for a customer with a lead service line that is leaking and one with a lead service line that does not leak because of the presence of the lead service line. It is not clear that York Water's proposed distinction is reasonable given the public health and safety issues that it outlines in its Petition. The NDWAC policy statement relied on by the Company (Petition at 8) recommends that water utilities "locate and replace all lead service lines completely, sharing responsibility for that replacement with customers."⁷

Addressing how to handle the remaining customer-owned lead service lines will take some additional work and the OCA would be pleased to work with the Company in that effort. Finally, the stand alone customer-owned lead service line replacement program also raises equity issues for those customers who have already replaced their lead service lines and who would not receive any benefit from the program. It is also not clear how this is fair to customers who replaced their lead service line in the recent past, perhaps just before the program will be implemented.

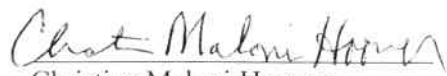
Finally, the OCA also recommends that York explore all funding options, both at the state and federal level, that may address the cost of replacement of lead service lines by water utilities.

The OCA is willing to work with York Water to develop a fair and equitable way to implement its program so that the public health and safety issues are fully addressed. The OCA submits that the Commission's Order should require answers to these questions and concerns.

⁷See <http://www.awwa.org/resources-tools/public-affairs/press-room/press-release/articleid/4069/awwa-board-supports-recommendation-for-complete-removal-of-lead-service-lines.aspx>.

WHEREFORE, the Office of Consumer Advocate generally supports portions of York Water's Petition for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Cost of Certain Customer-Owned Service Line Replacements to the Company's Services Account and asks the Public Utility Commission to issue an Order consistent with the OCA's Answer.

Respectfully Submitted,



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