

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 65]

[L-2020-3021932]

Proposed Revisions to Water Audit Methodology; Water Conservation Measures—Statement of Policy; Advanced Notice of Proposed Rule- making

Public Meeting held
September 17, 2020

Commissioners Present: Gladys Brown Dutrieuille, Chair-
person; David W. Sweet, Vice Chairperson; John F.
Coleman, Jr.; Ralph V. Yanora, statement as follows

*Proposed revisions to Water Audit Methodology;
52 Pa. Code § 65.20; Water Conservation
Measures—Statement of Policy; Doc. No. L-2020-3021932*

Advance Notice of Proposed Rulemaking Order

By the Commission:

The Public Utility Commission (Commission) adopts this Advance Notice of Proposed Rulemaking Order to solicit comments regarding the replacement of the Policy Statement at 52 Pa. Code § 65.20 with a Commission regulation to implement the International Water Association (IWA)/American Water Works Association (AWWA) Water Audit Methodology (Water Audit Methodology) as a best management practice in water loss control in Pennsylvania as directed by Commission Order on November 10, 2011 at Docket No. M-2008-2062697.

In light of the current challenges facing the water industry, namely: (1) rising cost imposed by the need to rehabilitate aging infrastructure; (2) increased energy costs for pumping; (3) increased costs of chemicals and other treatment necessary to meet ever more stringent Safe Drinking Water Act requirements; and (4) the limited availability financial resources for developing new sources of supply, among others, the Pennsylvania Public Utility Commission (Commission) seeks to implement the Water Audit Methodology which will help achieve a number of public interest benefits, including, preservation of water resources, limitation of water leakage, reduction of overall company risk, and enhanced customer service.

Background

A. The 2008 Order

On November 10, 2008, the Commission issued a Tentative Opinion and Order at Docket No. M-2008-2062697 (2008 Tentative Order) regarding a pilot program to implement the Water Audit Methodology. By way of the 2008 Tentative Order, the Commission invited all jurisdictional water utilities to voluntarily participate in a pilot program to implement the Water Audit Methodology. The 2008 Tentative Order became final on December 10, 2008 (2008 Order).

As stated in the 2008 Order, a critical aspect of efficient operations involves tracking levels of unaccounted-for

water (UFW).¹ Maintaining low levels of UFW helps prevent waste of a precious resource, avoids lost revenue, and indicates a well-managed water utility. Both the Commission and the Pennsylvania Department of Environmental Protection (DEP) monitor levels of UFW on an annual basis. In addition, as part of the Commission's rate case review process, expenses for power and chemicals may be disallowed when levels of UFW exceed 20 percent. Indeed, the Commission's current Policy Statement at Section 65.20 strongly suggests that an ongoing leak detection and repair program is an integral part of maintaining low levels of UFW.

For many years, the determination of UFW used by this Commission, jurisdictional water utilities, and throughout the country was a combination of a methodology established by William D. Hudson and a procedure set forth in the AWWA Training Manual.² Over time, however, it became apparent that differing interpretations and adjustments, along with the incorporation of different components, led to less than representative results.

As stated in the 2008 Order, an enhanced, more comprehensive method has since been developed, which gives every indication that it offers superior data and indicators for improved operational accountability. This Water Audit Methodology, not only assists utilities in identifying where the losses are occurring, but also expresses by volume how much is lost and at what cost.³ The term "unaccounted-for water" was replaced with the term "water audit" based on the concept and underlying procedure that virtually all water can be "accounted-for." The Water Audit Methodology was developed jointly by a five-country group formed by the IWA and the AWWA in 1997. In 2003, the AWWA's Water Loss Control Committee identified the Water Audit methodology as a world-wide best management practice in water loss control.⁴ In 2006, the AWWA released a Water Audit software package that is available free of charge on its website, broadening the new procedure's accessibility.⁵ A year later, the AWWA Research Foundation designated the Water Audit methodology as the current best practice.⁶ Today, its use continues to expand, consistent with widespread efforts to increase water supply sustainability, infrastructure remediation, and overall service reliability.

As noted in the 2008 Order, experience with the Water Audit methodology throughout the country has been growing. In Pennsylvania, the Philadelphia Water Department has been pioneering the procedure since its inception in 2000 and has achieved notable success. It is also noted that the Delaware River Basin Commission (DRBC) amended its Comprehensive Plan and Water Code in 2009 to implement an updated water audit

¹ UFW is, essentially, the amount of water that is "lost," when compared with the volume produced and the volume sold, taking into account, based on an estimated formula of water used, but not measured, in fire-fighting, hydrant and main flushing, and building construction, and/or due to theft, inaccurate meter recording and faulty meters, among other reasons. Ongoing leakage, particularly in older systems, is the most prevalent cause of UFW.

² Kozloff, Carol Allen (formerly, Allen, Carol J.), Smith, Roland Y. and Blatt, Harold C., The Pennsylvania Public Utility Commission Analysis and Rate Treatment of Unaccounted-For Water, May 1986.

³ Texas Water Development Board, Water Loss Audit Manual for Texas Utilities, March 2008.

⁴ Journal AWWA, Applying World-wide Best Management Practices in Water Loss Control, August 2003.

⁵ See <https://www.awwa.org/Resources-Tools/Resource-Topics/Water-Loss-Control>.

⁶ American Water Works Association Research Foundation Project 2811, Evaluating Water Loss and Planning Loss Reduction Strategies Report, March 2007.

approach consistent with the Water Audit Methodology and has been receiving annual water audits in the IWA/AWWA format.⁷

B. The 2012 Order

On November 10, 2011, the Commission issued a Tentative Opinion and Order at M-2008-2062697 (2011 Tentative Order) wherein the Commission ordered all Class A water utilities (over \$1,000,000 in annual revenues) to implement the Water Audit Methodology. The Tentative Opinion and Order became final January 27, 2012 (2012 Order).⁸ Specifically, the Commission concluded:

Based upon this Commission's tradition of establishing groundbreaking regulatory tools, such as the DSIC or single tariff pricing, we will order the implementation of this Water Audit methodology which will help achieve a number of public interest benefits, such as increased infrastructure reliability, help preserve water resources, limit water leakage, reduce overall company risk, and enhance customer service. We believe that this practice is a better tool than the current unaccounted-for-water method and in the public interest.

See, *In Re: Pilot Project to Implement The International Water Association/American Water Works Association Water Audit Methodology*, Docket No. M-2008-2062697 (Order entered November 10, 2011) at 11. To this end, the Commission ordered the five participating water utilities, namely, Aqua Pennsylvania, Inc., Pennsylvania-American Water Company, Superior Water Company, York Water Company and United Water Pennsylvania, Inc., to file annual Water Audit summaries with the Secretary of the Commission for the year ended December 31, 2011, no later than April 30, 2012, and on subsequent years no later than April 30.

In addition to ordering the five participating water utilities to file annual Water Audit summaries by April 30, 2012, the Commission specifically directed in the 2012 Order:

That all other Class A water utilities (over \$1,000,000 in annual revenues) commence to file the annual Water Audit summaries with the Secretary of the Commission for the year ended December 31, 2012 no later than April 30, 2013, and on subsequent years no later than April 30. These other Class A water utilities presently include Columbia Water Company, Newtown Artesian Water Company, CAN DO, Inc.-Water Division, United Water Bethel, Inc., and Audubon Water Company.

Id. at 12. Accordingly, the Water Audit Methodology was adopted by this Commission and all Class A water utilities have filed the requisite annual Water Audit summaries with the Secretary of the Commission since 2012.

The 2012 Order specifically directed the preparation of proposed regulations implementing the Water Audit Methodology. With this Order, the Commission proposes replacement of the Policy Statement at 52 Pa. Code § 65.20 with a regulation which would implement the Water Audit Methodology for all Class A water utilities (over \$1,000,000 in annual revenues).

Discussion

The Commission Policy Statement at Section 65.20 of its regulations states, in pertinent part:

§ 65.20. Water conservation measures—statement of policy.

In rate proceedings of water utilities, the Commission intends to examine specific factors regarding the action or failure to act to encourage cost-effective conservation by their customers. Specifically, the Commission will review utilities' efforts to meet the criteria in this section when determining just and reasonable rates and may consider those efforts in other proceedings instituted by the Commission.

See, 52 Pa. Code § 65.20. Subsection (4) of this section, which specifically addresses unaccounted-for-water, states:

Levels of unaccounted-for-water should be kept within reasonable amounts. Levels above 20% have been considered by the Commission to be excessive.

Id. The stated intent of this Policy Statement is to address water conservation measures by examining specific factors regarding the action or failure to act to encourage cost-effective conservation by water utilities and their customers.

In 2013, the Commission questioned whether it should "revise its existing regulations regarding unaccounted-for-water at 52 Pa. Code § 65.20, or, whether it is necessary for the Commission to adopt new regulations regarding the Water Audit methodology." See, Advance Notice of Proposed Rulemaking for Revision of the Commission's Regulations on Water Conservation Measures at 52 Pa. Code § 65.20 at Docket No. L-2012-2319361 (Order entered January 24, 2013). Five sets of Comments were filed as well as one set of Reply Comments. Based on the comments received and internal review, the Commission declined to further implement additional regulations or policy statement at that time. Staffing changes in Commission Bureaus, other issues taking priority, and the fact that utilities had already been implementing this methodology contributed to this issue remaining unchanged.

The Commission has determined that, rather than revising its existing Policy Statement at § 65.20, a new regulation addressing water conservation is necessary and this Advanced Notice of Proposed Rulemaking reflects this change. The Commission has formally adopted the Water Audit Methodology and all Class A Water utilities have been filing the annual Water Audit summaries each year. Consistent with the proposed regulation, the DEP's regulations regarding water loss require certain reporting of system unaccounted for water loss (exceeding 20%).⁹ Establishing a water loss regulation is also consistent with the guidance set forth by the Susquehanna River Basin Commission and Delaware River Basin Commission.¹⁰

Thus, by way of this Advance Notice of Proposed Rulemaking Order, the Commission seeks comments from interested persons regarding the replacement of its Policy Statement at § 65.20 with a Commission regulation which will enable the Commission to more comprehensively address public utility water loss in the Commonwealth. The Commission expects the comments to include proposed language for its consideration and subsequent review by the Independent Regulatory Review Commis-

⁷ Delaware River Basin Water Code, 18 CFR Part 410 at Section 2.1.6 (2013).

⁸ A Secretarial Letter finalizing the 2011 Tentative Order was issued on January 27, 2012, at Docket No. M-2008-2062697, after the only comments filed to the 2011 Tentative Order were withdrawn.

⁹ See 25 Pa. Code § 109.701(a)(3).

¹⁰ See 18 CFR § 806.25 and the Delaware River Basin Water Code, 18 CFR Part 410 at Section 2.1.6 (2013), respectively.

sion. Additionally, the Commission invites comments from the regulated community (particularly the participants in the 2008 pilot project and the other Class A water utilities that have been filing their annual Water Audits in April of each year since 2013) and other interested parties on the experienced benefits and costs of the Water Audit Methodology. More specifically, the Commission requests specific costs and/or savings associated with implementation of the Water Audit Methodology, including legal, accounting or consulting procedures which may be required. Finally, the Commission invites comments as to whether the Water Audit Methodology should be extended to the other jurisdictional water utilities.

Accordingly, pursuant to 66 Pa.C.S. § 501, the Commission issues this Advance Notice of Proposed Rulemaking for comment; *Therefore,*

It is Ordered That:

1. The Advance Notice of Proposed Rulemaking is issued for comment.

2. The Law Bureau shall deposit this Order with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

3. Interested parties may submit written comments, via the Commission's electronic filing system, referencing Docket No. L-2020-3021932 within 45 days of publication in the *Pennsylvania Bulletin*. Comments shall be filed consistent with the Commission's July 27, 2020 Secretarial Letter. Modification to Filing and Service Requirements Emergency Order, Docket No. M-2020-3019262 (Secretarial Letter issued July 27, 2020). Pursuant to this Secretarial Letter, all filings are to be made by e-filing or by electronic mail, unless they are considered confidential or proprietary. This information can be found on the Commission's website at <https://www.puc.state.pa.us/efiling/Secure/Login.aspx>.

4. The Secretary shall serve a copy of this Order on all jurisdictional water utilities, the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation and Enforcement, the National Association of Water Companies—Pennsylvania Chapter, the Department of Environmental Protection, the Office

of Regulatory Counsel, all regional offices, the Division of Water Use Planning, the Delaware River Basin Commission, the Susquehanna River Basin Commission, and the American Water Works Association, Pennsylvania Chapter.

5. The contact persons for this matter are James A. Mullins, Assistant Counsel, Law Bureau, (717) 787-5978, jamullins@pa.gov and Stephanie A. Wilson, Assistant Counsel, Law Bureau, (717) 787-1859, stepwilson@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

Statement of Commissioner Ralph V. Yanora

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is an Advance Notice of Proposed Rulemaking (ANOPR) regarding implementation of the International Water Association (IWA)/American Water Works Association (AWWA) Water Audit Methodology (Water Audit Methodology) as a best management practice in water loss control in Pennsylvania.

The Commission seeks to implement the Water Audit Methodology to achieve many public interest benefits, including, preservation of water resources, limitation of water leakage, reduction of overall company risk, and enhanced customer service. Overall, the Commission seeks to more comprehensively address public utility water loss in the Commonwealth consistent with our regulations at 52 Pa. Code § 65.20, DEP regulations, and the guidance set forth by the Susquehanna River Basin Commission and Delaware River Basin.

I thank the Commission's Law Bureau and Bureau of Technical Utility Services for their work on developing this ANOPR. I look forward to reviewing the input and comments received from all interested stakeholders, particularly regarding how the Water Audit Methodology may be improved or streamlined through this rulemaking process.

RALPH V. YANORA,
Commissioner

[Pa.B. Doc. No. 20-1389. Filed for public inspection October 9, 2020, 9:00 a.m.]