

1 HOUSE OF REPRESENTATIVES  
2 COMMONWEALTH OF PENNSYLVANIA

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4 House Bill 2075

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6 House Consumer Affairs Committee

7 Main Capitol Building  
8 Room B-31  
9 Harrisburg, Pennsylvania

10 Wednesday, May 23, 2018 - 9:44 a.m.

11 --oOo--

12 COMMITTEE MEMBERS PRESENT:

13 Honorable Robert Godshall, Majority Chairman  
14 Honorable Alexander Charlton  
15 Honorable Brian L. Ellis  
16 Honorable Joe Emrick  
17 Honorable Frank A. Farry  
18 Honorable Warren Kampf  
19 Honorable Carl Walker Metzgar  
20 Honorable Eric Nelson  
21 Honorable Mike Reese  
22 Honorable Martina White  
23 Honorable Thomas Caltagirone, Minority Chairman  
24 Honorable Ryan A. Bizzarro  
25 Honorable Frank Burns  
Honorable Marty Flynn  
Honorable Robert F. Matzie  
Honorable Ed Neilson  
Honorable Peter Schweyer

1300 Garrison Drive, York, PA 17404  
717.764.7801

**Key Reporters**

[keyreporters@comcast.net](mailto:keyreporters@comcast.net)

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	online.)	

1 MAJORITY CHAIRMAN GODSHALL: The hour of  
2 9:45 having arrived, I'll call the meeting -- the  
3 hearing to order.

4 Today's hearing will focus on House Bill  
5 2075 sponsored by Representative Charlton, which  
6 amends Title 66 to authorize the PUC approval, cost  
7 recovery for utility repair, the replacement of  
8 consumer-owned lead service lines and sewer  
9 laterals.

10 I offer Chairman Caltagirone to make any  
11 remarks.

12 (Minority Chairman Caltagirone's  
13 negative head motion).

14 MAJORITY CHAIRMAN GODSHALL: No remarks.

15 We'll get right to recognize  
16 Representative Charlton for brief comments on his  
17 bill. Thank you.

18 REPRESENTATIVE CHARLTON: Thank you very  
19 much, Mr. Chairman.

20 Briefly, House Bill 2075 is going to  
21 allow PUC-regulated utilities to be proactive as a  
22 part of the solution in replacing lead water  
23 service lines and damaged sewer laterals. This  
24 bill will reduce residents of this Commonwealth's  
25 exposure to lead and maintain compliance with

1 applicable drinking water regulations.

2 Regulated water authorities in  
3 Pennsylvania replace hundreds of miles of  
4 distribution pipe every year. And as they replace  
5 the distribution pipes on neighborhood roads, they  
6 currently can only provide notice to customers if  
7 the crew encounters lead on the customer-owned  
8 portion of the waterline. This legislation would  
9 allow regulated utilities to replace this part of  
10 the line as part of its normal operations.

11 Just last year, Pennsylvania passed  
12 legislation, the Fiscal Code, that allows  
13 municipalities and municipal water authorities to  
14 use public funds to do a similar proposal as we  
15 have here. Hopefully, we can move this bill  
16 forward. I think it's a good public health issue  
17 for us to be able to tackle in an intelligent way.

18 Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN GODSHALL: We have a  
20 very full agenda this morning. We need to adjourn  
21 the hearing by 11 a.m. I ask all presenters to  
22 respect the 10-minute time limit for presentations  
23 so we can get to everyone and allow time for member  
24 questions.

25 We have an industry panel to start with.

1 We have Doctor Christopher Crockett, Chief  
2 Environment Officer, Aqua Pennsylvania; David  
3 Kaufman, Vice President of Pennsylvania Chapter of  
4 National Association of Water Companies; and John  
5 Cox, Director of Rates and Regulatory Affairs,  
6 Pennsylvania-American Water.

7 Identify yourself as you speak, and  
8 we'll go forward?

9 MR. CROCKETT: Good morning, members of  
10 the committee, and interested parties. My name is  
11 Doctor Christopher Crockett. I'm the Chief  
12 Environmental Officer for Aqua America. I'm here  
13 to testify in support of House Bill 2075 sponsored  
14 by Representative Charlton.

15 Aqua America has the privilege of  
16 serving approximately 1.4 million people here in  
17 the Commonwealth of Pennsylvania. Aqua PA supports  
18 House Bill 2075, and I will focus my testimony on  
19 why we believe this bill will help our customers  
20 and protect public health and the residents of our  
21 Commonwealth.

22 We submitted our detailed testimony, and  
23 with permission, I would like to highlight a few of  
24 the more important elements for the committee in  
25 the interest of time.

1           Lead drinking water is a very serious  
2 issue. It affects children and families,  
3 especially young developing children. The most  
4 significant source of lead drinking water is the  
5 lead service line that runs from the house to the  
6 street. Right now, all Aqua can do is test for  
7 lead and notify and encourage customers who have  
8 lead service lines to consider replacing them.

9           However, we'd like to do more, and,  
10 particularly, in instances where we've already are  
11 replacing a distribution pipe in the street and  
12 come across a lead service line. The problem with  
13 these lead lines is, in many cases, the water  
14 utility does not own or -- or anything. It's just  
15 a portion of the service line.

16           The portion past the curb is typically  
17 owned by the homeowner. This leads to partial  
18 replacements when essential water replacement main  
19 work is conducted. Partial replacements have been  
20 shown in studies by researchers to elevate the risk  
21 of high lead levels in the home's drinking water.  
22 Right now water supplies do not have the means to  
23 remove the lead service line on private property.

24           House Bill 2075 provides the ability  
25 for Aqua to replace the customer-owned lead service

1 line that provides water to the customer's  
2 premises. This is important because, the best  
3 practice recommended by the industry and experts is  
4 to remove the entire lead service line when it's  
5 identified.

6 In PA, we conservatively estimate that  
7 Aqua has approximately 3,000 lead service lines.  
8 This legislation would allow regulated utilities  
9 like Aqua to become part of the solution by  
10 replacing part of the service line as part of its  
11 normal operations, as lead service lines are  
12 identified during our ongoing replacement.

13 Now, for a minute I just want to shift  
14 to the other portion of House Bill 2075 regarding  
15 damaged sewer laterals.

16 Aqua PA also supports House Bill 2075  
17 because it allows PUC-regulated utilities to  
18 conduct replacement of damaged privately-owned  
19 sewer laterals. These are immediate public health  
20 risks and an environmental issue. Private sewer  
21 laterals are the portion of the sewer network that  
22 connects the individual home and private properties  
23 to the public sewer system in the street.

24 Sewer laterals that are damaged on the  
25 homeowner side can cause the following problems:

1           They can leak sewage directly into the  
2 storm sewer discharging to a stream, water supply  
3 or groundwater aquifer and contaminate it.

4           They can cause additional costs because  
5 that groundwater is essentially clean water that is  
6 now going to the local wastewater plant, and we're  
7 spending time, money and energy to treat,  
8 essentially, clean water.

9           And last is an economic impact. Because  
10 groundwater and storm water get into these damaged  
11 laterals, they actually cause the sewer system to  
12 become overtaxed and beyond capacity. That then  
13 leads to development and connection moratoriums set  
14 upon those communities by environmental regulators.  
15 Aqua believes that this can be -- that we can be a  
16 part of the solution, and this bill can be a part  
17 of the solution.

18           However, as with lead service lines as  
19 mentioned earlier, Aqua finds that many homeowners  
20 simply do not have the means or the methods to  
21 replace and repair a damaged sewer lateral and,  
22 ultimately, impact all the customers in the system  
23 and the local environment.

24           In conclusion, I'd like to thank  
25 Representative Charlton for trying to solve this



1 public health issue, and Aqua's mission is to  
2 protect and preserve earth's most essential  
3 resource, and this legislation will help us in  
4 moving forward along those lines.

5 In conclusion, I'd like to encourage  
6 members of this committee to take action on House  
7 Bill 2075 as soon as possible.

8 Thank you for your time, and I'm  
9 available for any questions you may have.

10 MR. KAUFMAN: Good morning. Thank you,  
11 Chairman Godshall and Caltagirone and  
12 Representative Charlton.

13 My name is David Kaufman. I'm currently  
14 Vice President of Engineering for Pennsylvania-  
15 American. I also serve as Chairman of the National  
16 Association of Water Companies, Pennsylvania  
17 Chapter, which I'll refer to as NAWC.

18 NAWC represents all aspects of the  
19 private water service industry. Our Chapter  
20 consists of five-member companies that provide to  
21 service to over 3.1 million Pennsylvanians.

22 In addition, three of our member  
23 companies provide wastewater service to about  
24 200,000 Pennsylvanians. We're under the regulatory  
25 authority, the Public Utility Commission, and we

1 comply with drinking water in environmental and  
2 operational standards by both DEP and EPA.

3 I'm here to add our support to House  
4 Bill 2075, and share with you why the approval of  
5 that is a good step to proactively address the  
6 replacement of customer-owned lead service lines  
7 and the replacement and rehabilitation of damaged  
8 sewer lines.

9 We're all aware of the past incidents in  
10 Flint that heightened the customer awareness of  
11 lead in drinking water. Keep in mind, though, the  
12 drinking water, when it leaves the water treatment  
13 plant, does not contain lead. It leaches out into  
14 the drinking water typically through -- at the  
15 customer's premise through plumbing fixtures,  
16 solders and other pieces.

17 I can speak on behalf -- Some of my  
18 comments now will be relative to Pennsylvania-  
19 American Water Company. Since the implementation  
20 of the lead and copper rule back in the early '90s,  
21 our company has not triggered any action level  
22 violation in our system. Typically, the action  
23 level for lead is 15 parts per billion. We operate  
24 over 10,000 miles of mains. We replace about --  
25 close to one percent of our water mains on a yearly

1 basis, and we have close to 700,000 service lines.

2 As the previous speaker indicated, we  
3 own the service line from the main to the curb  
4 stop, and the customer typically owns the -- that  
5 service piping from the curb stop to the home.  
6 When we replace a water main in the road,  
7 typically, you are changing the location of the  
8 water main to, possibly, the other side of the  
9 street. When you do that, the company replaces its  
10 service lines as a routine course of operation, so  
11 you have the street basically disturbed.

12 When you then replace our side of the  
13 service line, what you're doing is, you're  
14 impacting the customer service line. How are you  
15 impacting it? You're impacting it by physical  
16 disruption and also by metallic corrosion that  
17 takes place. We're putting copper service and  
18 you're tying into lead. You're setting up not a  
19 necessarily a good situation. And that's --

20 Previous speaker indicated the industry  
21 is trying to avoid that, which is called a partial  
22 lead service replacement. The most prudent way to  
23 do it while you're in there doing the main and you  
24 have all the crews necessary to do it and the  
25 equipment is to replace the customer's side. So

1 there's a lot of cost-efficiencies associated with  
2 doing the customer's side at the same time you're  
3 doing the company side service work.

4           So what are we doing now? We're  
5 avoiding those areas. We have main replacement  
6 area to do, but we don't want to get in and do  
7 partial lead service replacement lines.

8           The National Drinking Water Advisory  
9 Council recommended to the EPA that they should  
10 revise the lead and copper regulations to require  
11 the complete replacement of both the utility and  
12 the customer segments. What Pennsylvania-American  
13 has recently proposed was a two-page program to  
14 proactively remove and replace those. We need to  
15 get the customer's consent. So there's a lot of  
16 upfront work that you're doing with the customer to  
17 get their approval to access the property and to  
18 replace the service line and also to accept  
19 ownership after the replacement is done.

20           We also expanded the program to indicate  
21 that if there are other customers that have lead  
22 service where we're not doing main replacement  
23 activity; that if we can confirm that the  
24 customer's side is lead, that we would, as part of  
25 a proactive approach for environmental protection,

1 replace those also.

2 Keep in mind that many of the customers  
3 have been reluctant to fund the replacement of the  
4 lead service lines, primarily because they face  
5 many times economic constraints. And just from a  
6 prudence (sic) standpoint, when we're in doing work  
7 in the street, that's the time to do it. You don't  
8 want to do it, really, after the fact.

9 So, in summary, looking at it globally-  
10 wise, we think the industry has taken the prudent  
11 measures currently to be in compliance with lead  
12 and copper.

13 We think that, also, for continued  
14 environmental compliance, a partial lead  
15 replacement is not where we want to be, and we want  
16 to do it proactively to replace the customer's  
17 side. The easiest way to do it is to say, if we're  
18 in there and replacing our side services, we have  
19 impacted the equilibrium associated with the  
20 service lines. We've somewhat damaged the water  
21 quality coming into the homes is when we're doing  
22 the work. So if you damage it, you fix it.

23 And we do a lot of other work when we're  
24 putting water mains in the ground. We have pave  
25 restoration that we do. We do handicapped sidewalk

1 or handicapped ramps. We do sidewalk restoration.  
2 We do lawn restoration. It's all part of the cost  
3 of doing water main replacement. And this is no  
4 different.

5 We believe that we can cost-effectively  
6 replace the customer's side when we do main  
7 replacement work, and this proactive plan will  
8 eliminate the environmental risk for future  
9 generations.

10 Thank you again for your consideration.

11 MR. COX: Thank you, Chairman, committee  
12 members and staff for allowing us to testify today.  
13 My name is John Cox. I'm the Director of Rates for  
14 Pennsylvania-American Water Company.

15 My testimony will address three areas of  
16 House Bill 2075 that pertain to Pennsylvania  
17 American's proposed voluntary program of the  
18 replacement of the customer side of lead water  
19 service lines.

20 The first area is, it recognizes that  
21 the replacement costs of these customer-owned lead  
22 water service lines are part of our system.  
23 They're no different than, as Mr. Kaufman said, you  
24 know, replacing a sidewalk, restoring the line.  
25 It's just like that. We go in and we work on it.

1 We'd like to make things safe and bring them back  
2 to where they were.

3 So, replacing the customer's side is no  
4 different, and it should be treated exactly the  
5 same way as all the other restoration work that we  
6 do. That's number 1.

7 The second one, to ensure that we have a  
8 consistency in the treatment of our investments, we  
9 should be permitted to recover a return on our  
10 investment. Our program is \$60 million over the  
11 next 10 years. Even if we were able to go get  
12 PennVEST funding for that whole 60 million, we  
13 would still have an interest cost on that. We at  
14 least need to be able to recover a return or  
15 interest on the investment.

16 You know, put yourself in the shoes of  
17 our investors or bondholders. If I go out to them  
18 and ask for \$60 million but I tell them, but wait,  
19 there's no return on that; you just let me have  
20 that for 10 years, that makes it difficult, as a  
21 water company, for us to go out and obtain funding  
22 for these projects. That was the second thing.

23 The third item is, you know, House Bill  
24 2075 supports the voluntary proactive efforts of  
25 water and wastewater companies to replace lead

1 service lines and repair damaged sewer laterals.  
2 As I said before, our program, \$60 million over  
3 10 years, that equates to a cost for our customers  
4 in the first year of about a dollar per year, or  
5 less than a dime per month. At the end of that  
6 12 years, the cost is only 10 to \$11 per year; less  
7 than a dollar a month.

8           You might ask, how can you do that?  
9 Well, we're fortunate in Pennsylvania-American that  
10 we have a large customer base, 658,000 customers.  
11 We have approximately 18,000 lines that we think  
12 may need replaced, and we're able to spread that  
13 cost over all the customers at a very minimal cost  
14 to each individual customer.

15           The other item I'd like to talk about is  
16 -- and why we need approval of House Bill 2075. We  
17 currently have a petition before the Pennsylvania  
18 Public Utility Commission. It was filed over a  
19 year ago. It's still in litigation. That petition  
20 would allow us to replace customer-side lead  
21 service lines.

22           Just recently here, the Administrative  
23 Law Judge issued a recommended decision, and they  
24 rejected the company's proposal and sided with a  
25 cost-recovery method proposed by the Commission



1 Bureau of Investigation and Enforcement and the  
2 Office of Consumer Advocates. We are going to file  
3 replies to that -- you know, exceptions to that ALJ  
4 decision, and we're very hopeful that the  
5 Commission will not side with the ALJ.

6 I bring that up because it's been over a  
7 year, and this is why we need House Bill 2075, so  
8 each individual water company or wastewater company  
9 doesn't have to go in and fight on a case-by-case  
10 basis for its program.

11 In summary, this program -- I mean House  
12 Bill 2075 will enable us, Pennsylvania-American, to  
13 implement a voluntary program to proactively  
14 address potential issues with lead service lines.  
15 By treating these costs the same as any other  
16 costs--they're no different than any other  
17 restoration cost we have--we'll be able to address  
18 this situation over the next 10 years and replace  
19 lines.

20 I want to thank you for this opportunity  
21 and support of House Bill 2075.

22 MAJORITY CHAIRMAN GODSHALL:  
23 Approximately how many people does American and  
24 Aqua have affected with these lead water laterals?

25 MR. CROCKETT: We estimate in

1 Pennsylvania roughly 3,000 customers that have lead  
2 service lines.

3 MR. KAUFMAN: And we have estimated  
4 approximately 18,000.

5 MAJORITY CHAIRMAN GODSHALL: So we're  
6 talking about 21,000 in Pennsylvania that would be  
7 affected. These lead service lines that are going  
8 into these homes, there's no protections in there  
9 at all for the residents, kids or anything else?  
10 It's, they get what they get?

11 MR. KAUFMAN: I can indicate on behalf  
12 of Pennsylvania-American, when the lead and copper  
13 rule was enacted, the industry was employing  
14 treatment technologies to basically add corrosion  
15 to protect -- or corrosion control chemicals into  
16 the water. So, right now, the impact -- we are in  
17 compliance with lead and copper rule.

18 What we're talking about is when we go  
19 in and do a physical disruption to the system, such  
20 as replacing a company-side --

21 MAJORITY CHAIRMAN GODSHALL: I see.

22 MR. KAUFMAN: -- service, that affects  
23 the equilibrium.

24 MR. CROCKETT: Yeah, I pretty much would  
25 echo what Dave said. What happens is, we have to

1 manage that water volume corrosion so that the  
2 water, the pipe is actually coded with something or  
3 protected so it's not corroding or leaching lead.

4           However, I like to use the phrase, you  
5 broke it, you bought it. The minute you touch a  
6 lead service line, you're going to dislodge lead  
7 scaling and lead precipitate and lead -- and lead  
8 particulate. And that is actually what is the  
9 largest risk.

10           And it's not just disturbed when you're  
11 vibrating the ground or when you touch it. After  
12 you're done, studies have shown for months to years  
13 after you're done touching that line, that lead is  
14 being released from that pipe because you disturbed  
15 it.

16           So, in essence, even touching it, doing  
17 a little bit of work, you've disturbed that whole  
18 system the whole way to the house, and it's broken  
19 and it needs replaced.

20           MAJORITY CHAIRMAN GODSHALL: I have some  
21 members -- Representative Kampf.

22           REPRESENTATIVE KAMPF: Thank you, Mr.  
23 Chairman.

24           Gentlemen, a couple questions. One, do  
25 municipal-owned authorities have the ability to do

1 this right now?

2 MR. KAUFMAN: I can't speak on behalf of  
3 them. I believe that there has been some  
4 legislation that would enable them to recover the  
5 cost. But I'm not -- I can't answer that  
6 completely.

7 MR. CROCKETT: My understanding is that  
8 there is legislation that went through with  
9 Pittsburgh and others that enabled them to be able  
10 to get at that from the municipal side. I know of  
11 several municipal utilities that are either doing  
12 it at their cost or offering zero-cost loans to  
13 homeowners.

14 But, most of the time, a homeowner  
15 that's already in a desperate financial situation,  
16 typically, homes that are older that have lead  
17 service lines, that housing stock is usually not  
18 the best housing stock, and the people there tend  
19 to be economically stressed already.

20 REPRESENTATIVE KAMPF: So the  
21 authorities -- the government authorities  
22 essentially can do this, although you're not sure  
23 whether they're doing it because they may be  
24 offering it to individuals that can't afford to pay  
25 for it?

1 REPRESENTATIVE CHARLTON:

2 Representative, I can answer the question for you.

3 REPRESENTATIVE KAMPF: Okay. Thanks.

4 REPRESENTATIVE CHARLTON: Since last  
5 year, in the Fiscal Code, we passed legislation  
6 that does allow municipal authorities to do what  
7 we're proposing today. So they are allowed to do  
8 what these companies currently are not allowed, but  
9 we're looking to give them permission to do as  
10 well.

11 REPRESENTATIVE KAMPF: So, if I'm a  
12 customer of Aqua or American Water, I don't have a  
13 shot at having this being done in my community.  
14 But if I'm served by a municipal authority, a water  
15 authority, then I do have a shot at it, right?

16 MR. CROCKETT: That's correct.

17 MR. KAUFMAN: Correct.

18 REPRESENTATIVE KAMPF: Thank you,  
19 Representative.

20 Then, Mr. Cox, maybe -- I don't know if  
21 you read the Consumer Advocate's testimony. I just  
22 tried to read it. It's certainly complex, but she  
23 seems to be supporting the idea of replacing these  
24 lines up to the house, but doesn't seem to like the  
25 methodology and the bill.

1           Can you speak to that at all in kind of  
2 layman's terms for us?

3           MR. COX: Well, as I said earlier, as a  
4 private water company, we have to go out and secure  
5 this funding. Up until now, I'm not aware of any  
6 cost-free funding or any grants that would allow us  
7 to do this. So there's a cost for us to go out and  
8 get those funds either from investors or from a  
9 bondholder.

10           I'll speak to our petition.  
11 Specifically, the Consumer Advocate has recommended  
12 that we not get any recovery on those funds. So, I  
13 don't know what I would tell a bondholder when I  
14 would go out to tell them that I can't pay you any  
15 interest on your money. So it makes it difficult  
16 for us to go out and obtain those funds.

17           REPRESENTATIVE KAMPF: When you look at  
18 the bill, I mean, am I right? It looks to me like  
19 you at least have to get Commission approval for  
20 your methodology?

21           MR. COX: Yes.

22           REPRESENTATIVE KAMPF: Okay. Thanks.

23           MAJORITY CHAIRMAN GODSHALL:

24 Representative Matzie.

25           REPRESENTATIVE MATZIE: Good morning.

1 Thank you for your testimony. Quick question.

2 As I looked over the bill before the  
3 meeting and hearing your testimony today, and being  
4 on this committee for a better part of the last  
5 decade, can you make the comparison that this is  
6 similar to the DSIC legislation that we did in the  
7 past? Is it fair to make that comparison?

8 MR. COX: Yes, I think it is. The DSIC  
9 legislation, in my understanding, it was passed to  
10 promote replacement of aged infrastructure,  
11 specifically water mains, and it provided the  
12 companies, such as Pennsylvania-American and Aqua,  
13 with a method of going out and securing those funds  
14 and providing a return for those funds through  
15 placed water mains.

16 So, in some way, you know, at a much  
17 smaller scale --

18 REPRESENTATIVE MATZIE: Sure.

19 MR. COX: -- this is similar to that.

20 REPRESENTATIVE MATZIE: On the operation  
21 side--I'll use me as an example--I have a municipal  
22 water authority. I have a lead line from the curb  
23 to my house. My house is 90 plus years old. But,  
24 the main line -- a good portion of the main line  
25 that's on the street is still old infrastructure;

1 still lead. So, for me to incur the cost now,  
2 individually, still not gonna take the lead out of  
3 the water because it's still in that old aging  
4 infrastructure.

5 So, to piecemeal it even is -- it's not  
6 prudent. In fact, it might even disrupt the  
7 system, I would think, and I'm no engineer, and  
8 allow for, maybe, break off some of the corrosion  
9 and what's built up over the course of the last  
10 hundred years.

11 Is that fair? Is that a fair  
12 assessment?

13 MR. KAUFMAN: Let me just take a couple  
14 pieces to that. From a DSIC standpoint, the idea  
15 was for an accelerated main replacement program.  
16 Where you're more likely to find lead services on  
17 the company or the customer side, as previously  
18 indicated, is the housing stock many times pre-1950  
19 or where you have mains pre-1950. Those happen to  
20 be the mains that have higher main break  
21 frequencies. So, that's the area you want to be  
22 replacing mains. And if the industry, because of  
23 the issues with lead, is avoiding those areas,  
24 that's not a good situation. So you really want to  
25 have --



1           In a way, this is deterring prudent  
2 infrastructure replacement in certain areas because  
3 of the presence of lead services. So, when you  
4 have the main opened up, you have all the tools,  
5 it's very cost-effective to shoot a new bullet --  
6 What they do, shoot a bullet from the main to the  
7 house with test pits on either side. You pull the  
8 new service line through. You go into the  
9 foundation and you wrap it up. So, it's the right  
10 way to do it when you're doing main replacement.

11           REPRESENTATIVE MATZIE: Do you have  
12 something else to add?

13           MR. CROCKETT: I was just going to say,  
14 I think you were describing doing your part --

15           REPRESENTATIVE MATZIE: Yes.

16           MR. COX: Yeah, that's exactly what you  
17 don't want to do, because you're still going to  
18 have a lead portion industry. Just like you said,  
19 that's going to be disturbed. That particulate is  
20 going to break off over time and come back into our  
21 line.

22           You also created dissimilar metals. Or  
23 if it's PVC or something, you're still going to  
24 have another problem. Plus, the way you're doing  
25 it, you have to open up your yard. You have to

1 work with the utility to get permission to mess  
2 with the line. It's a very expensive proposition  
3 on your end, and actually, like Dave mentioned,  
4 much more effective when we're in there with the  
5 street open and everything else, just go and shoot  
6 that through real quick.

7 REPRESENTATIVE MATZIE: Thank you for  
8 your answer.

9 MAJORITY CHAIRMAN GODSHALL: I would  
10 agree with Representative Matzie that this is  
11 similar to the DSIC bill we passed out of this  
12 committee a number of years ago on a smaller scale,  
13 but it's similar to what we have done before.

14 Representative Neilson.

15 REPRESENTATIVE NEILSON: Thank you, Mr.  
16 Chairman.

17 A couple things. We talked about the  
18 number of -- between the two of you is 21,000  
19 residents. Can you give us an estimate across the  
20 Commonwealth, because that's just the one you  
21 serve? And this affects more than just these two  
22 water companies.

23 Is there a percentage that you believe,  
24 across the Commonwealth, as to how many people,  
25 because we're saying, hey, we're passing this bill

1 for 21,000. There's a whole lot more that this  
2 affects, correct?

3 MR. KAUFMAN: You have to look at the  
4 service territories. What we'll find is, the older  
5 population areas, such as older parts of south of  
6 Pittsburgh, Wilkes-Barre/Scranton area, those are  
7 -- going to have a little bit higher percentage; if  
8 you're in areas of the southeast PA where's it's  
9 newer housing stock. So, it's gonna be very  
10 dependent upon the location.

11 The only thing I could maybe offer is,  
12 you'd have to look at it on a company-wide basis  
13 and say, if we're doing 18,000 over 700,000, that  
14 may give you a rough percentage of what the  
15 Commonwealth may see.

16 REPRESENTATIVE NEILSON: You also spoke  
17 about this being a voluntary program. So that  
18 means, if you replace that main, you don't have to  
19 replace those laterals? What do you mean by  
20 voluntary?

21 I mean, if we're going to pass  
22 legislation like this, we would want you to go by  
23 and not have the choice. We want you to replace  
24 it. Because if it goes too far off the street and  
25 has to go back a thousand feet, you might not want

1 to replace that one. That's great for the lateral  
2 that's only a hundred feet, but what about the one  
3 that's a thousand feet? Do you have any issue with  
4 this being that you have to replace it if we give  
5 this legislation the consideration that it desires?

6 MR. CROCKETT: So, Representative  
7 Neilson, that's a great question, and I think we  
8 need to clarify the aspect of what we mean by  
9 voluntary. It's really voluntary for the  
10 homeowner. We don't want -- We want to replace  
11 that line. It doesn't matter if it's 10 feet or a  
12 thousand feet or 10,000 feet, we want that out.

13 The problem is, legally, we can't force  
14 a private homeowner to let us on their property and  
15 mess with their line and get into their house and  
16 all those other things. So when we're there, we  
17 have to their get permission to enter their  
18 premises and access that private property, or we're  
19 trespassing.

20 So, that is really why the word  
21 voluntary is there, because it's for the  
22 homeowner's right of refusal; not necessarily our  
23 desire to not do the work.

24 REPRESENTATIVE NEILSON: And last  
25 question, if I may, Mr. Chairman.

1           At my house, I have insurance for this.  
2           I'm in City of Philadelphia, and I have my  
3           municipal own water, but I have an insurance  
4           policy. If my lateral goes bad, they'll replace  
5           it.

6           How does that -- Does that affect this?  
7           I'm sure you offer that same insurance to other  
8           people to replace that broken -- How would that  
9           affect this program?

10           MR. CROCKETT: So, you're one of the  
11           30,000 plus in Philadelphia with a lead service  
12           line.

13           So the issue with home insurance and  
14           home lateral really depends on the insurance policy  
15           and how it's set up. But, if the insurance policy  
16           is handling it, we would probably not supersede it,  
17           but we would have to work that out with the  
18           insurance company when it comes time. If the  
19           insurance company steps away, we're obviously going  
20           to handle our part, and we're obviously going to  
21           replace the line and deal with the costs at that  
22           point.

23           But, it really comes down to what the  
24           insurance policy states and what the insurance  
25           company is going to do. But even if they walk

1 away, with House Bill 2075, we would still be able  
2 to do that full replacement.

3 REPRESENTATIVE NEILSON: Thank you.

4 MAJORITY CHAIRMAN GODSHALL:

5 Representative Caltagirone.

6 MINORITY CHAIRMAN CALTAGIRONE: I  
7 couldn't understand, why not let the Public Utility  
8 Commission use the tools they already have under  
9 current statutory authority to address this  
10 problem?

11 MR. COX: I can speak to that.

12 As I said earlier, we did pursue that  
13 path. It's been over a year and we're still in  
14 litigation. And even if we are successful, the  
15 other parties, they could appeal that to the court  
16 system and that could add another 12 months.

17 So, what we're looking for is House Bill  
18 2075 to provide guidance to us, the Commission, the  
19 Consumer Advocates. That's why we're asking for  
20 this.

21 MINORITY CHAIRMAN CALTAGIRONE: It's  
22 brought to my attention also about the York Water  
23 Company that has already undertaken, from what I've  
24 been told, and this situation seems to be working  
25 out very fine. Any comments about the York Water

1 Company doing what is being discussed here today  
2 and they're already doing it?

3 MR. COX: I have a few comments on that.

4 York Water did file a petition for an  
5 expedited order, because they were under a consent  
6 order in dealing with the lead and copper. They  
7 did agree to their program that does not provide  
8 any recovery of the carrying cost of the  
9 investment.

10 However, I'd also note, in that  
11 settlement, all the parties agreed that if future  
12 companies did obtain like a carrying cost, you  
13 know, the interest on those, that York Water would  
14 be allowed to re-petition the Commission and get  
15 recovery for that if the Commission deems so.

16 MINORITY CHAIRMAN CALTAGIRONE: The bill  
17 does allow a return on the sewer laterals, correct?

18 MR. COX: Yes, a return on the costs.

19 MINORITY CHAIRMAN CALTAGIRONE: One of  
20 the things that's bandied about is, what's  
21 reasonable? Should the company make a profit off  
22 of what you plan to do to upgrade the system as far  
23 as you removing the lead pipes and other problems.

24 What's a reasonable rate of return I  
25 think is the bottom line on this for the companies

1 that are involved?

2 MR. COX: I think it should be similar  
3 to our other investments. The rate of return, we  
4 have -- When we replace a sidewalk or when we  
5 restore a line, those are costs that go into our  
6 service lines, and we earn a return on those. This  
7 should be no different.

8 MINORITY CHAIRMAN CALTAGIRONE: So there  
9 would be a profit margin that would be tacked on to  
10 the infrastructure improvement, correct?

11 MR. COX: There would be a profit margin  
12 or a return on the equity portion of that funding,  
13 along with a portion of interest on the piece  
14 that's funded by interest.

15 MINORITY CHAIRMAN CALTAGIRONE: I think  
16 the bottom line to this would be, what's a fair  
17 rate of return? I mean --

18 MR. COX: Correct.

19 MINORITY CHAIRMAN CALTAGIRONE: -- what  
20 percentage rate.

21 MR. COX: And the Commission decides  
22 that, you know, all the time for the investments.

23 MAJORITY CHAIRMAN GODSHALL: That would  
24 be up to the PUC.

25 MR. COX: Correct.



1                   MINORITY CHAIRMAN CALTAGIRONE: Thank  
2 you.

3                   MAJORITY CHAIRMAN GODSHALL: Okay. We  
4 have to continue on. Thank you very much.

5                   We have Consumer -- We have Tanya  
6 McCloskey, Acting Consumer Advocate, and John Evans  
7 from the Small Business Advocate. And we're  
8 running well behind, yeah.

9                   MS. McCLOSKEY: Should --  
10 Go right ahead, yeah.

11                  MS. McCLOSKEY: Good morning, Chairman  
12 Godshall, Chairman Caltagirone, and members of the  
13 committee: Thank you for inviting me here to  
14 present testimony on House Bill 2075 regarding the  
15 ratemaking treatment of customer-owned lead service  
16 lines and customer-owned damaged sewer laterals  
17 replaced by utilities.

18                  The issue of customer-owned lead service  
19 lines and lead in our drinking water presents  
20 significant public health risks and raises numerous  
21 challenges that need to be resolved timely and  
22 fairly. I have filed detailed testimony, but I'll  
23 skip in the interest of time right to page 4 of my  
24 testimony.

25                  To address this ongoing public health

1 risk, my office supports allowing the water utility  
2 to replace the customer-owned lead service line.  
3 Where I differ from House Bill 2075 is the  
4 ratemaking treatment that should be provided for  
5 such work.

6 I would also like to stop for a moment  
7 and clarify the OCA's position in the pending  
8 Pennsylvania-American Water case. I'll do so only  
9 briefly because it is a pending matter before the  
10 Commission.

11 In the Pennsylvania-American Water case,  
12 and in my testimony here, the OCA supports the  
13 utility replacing the customer-owned service line  
14 and recovery of the expense associated with that  
15 replacement. Where the OCA differs from House Bill  
16 2075 and from PAWC's proposal is whether or not a  
17 utility should earn a return, or a profit to  
18 shareholders, on the removal of those customer-  
19 owned service lines in such an extraordinary public  
20 health issue.

21 This extraordinary set of circumstances  
22 in our view requires a sharing of the  
23 responsibility of the cost to remediate this public  
24 health risk. Ideally, responsibility should be  
25 shared among the utility, the homeowner, other

1 ratepayers and federal and state funding. And,  
2 indeed, utility regulators in several states have  
3 implemented such sharing mechanisms.

4 I recognize, however, that obtaining  
5 homeowner contribution can be difficult and  
6 unaffordable, and waiting for federal and state  
7 grant funding may unnecessarily delay projects. We  
8 do, however, have at our disposal ratemaking  
9 methodologies that can properly effectuate a  
10 sharing of the responsibility and allow for  
11 reflection of homeowner contribution and federal or  
12 state grant funding, if and when they become  
13 available.

14 House Bill 2075, however, does not call  
15 for or provide for any sharing of the cost of  
16 addressing this public health issue.

17 House Bill 2075 provides that this  
18 extraordinary expenditure for customer-owned  
19 service lines be treated as spending on  
20 utility-owned property, allowing a full return of  
21 and a return on the cost; that is, allowing a  
22 profit to shareholders. This essentially turns a  
23 customer's health risk into a profit center for the  
24 utility shareholders at the expense of all other  
25 utility customers.

1           This profit on a service line that is  
2 not owned by the utility is not insignificant.  
3 Using a simplified example in my testimony of a  
4 customer-owned service line replacement cost of  
5 \$2,500, in the first 20 years, customers would pay  
6 \$4,950 for that replacement. 3,950 of that would  
7 be profit to the utility. That would nearly double  
8 the cost of replacing the customer-owned service  
9 line.

10           Under the approach utilized in House  
11 Bill 2075, there would be a stream of profits for  
12 the utility for more than 60 years, all of which  
13 would be paid for by other customers, and none of  
14 which would be borne by the utility shareholders,  
15 the customers who service lines were replaced, or  
16 federal or state grant funding.

17           There are regulatory mechanisms to allow  
18 for the replacement of customer-owned lead service  
19 lines and affect the sharing of the cost of  
20 customer-owned lead service lines.

21           Given the extraordinary one-time nature  
22 of such a replacement program and the public health  
23 benefits that result, my office has supported the  
24 approach of establishing a regulatory asset to  
25 account for any expenses a company incurs to

1 replace customer-owned service lines pursuant to an  
2 approved plan by the Commission, and allow for the  
3 full recovery of those expenses in base rates.  
4 This is the approach that was successfully used in  
5 the York Water settlement and was approved by the  
6 Public Utility Commission.

7           Deferred regulatory asset treatment can  
8 be used to account for not only the expenses of the  
9 replacement, but it can also be used to account for  
10 any grant funding that may become available and for  
11 any contributions that may be collected from the  
12 homeowners to offset those expenses.

13           The ratemaking recovery of the deferred  
14 amount is determined in the utility's next base-  
15 rate case; in other words, over how many years they  
16 would recover that expense. But they would recover  
17 that expense without interest consistent with  
18 Pennsylvania practice for all other deferred  
19 regulatory assets. This does have the effect of  
20 sharing the cost of this extraordinary public  
21 health program between the utilities' investors and  
22 customers, as well as providing for the possibility  
23 of homeowner contribution, when possible, and  
24 federal funding.

25           There are several benefits to this type

1 of approach. It does allow the utility to move  
2 forward with a customer-owned lead service line  
3 replacement program expeditiously and efficiently.  
4 Second, it removes the profit motivation in  
5 performing the work, and ensures if less expensive  
6 technology becomes available and workable, the  
7 company would not have any disincentive to using a  
8 lower-cost approach. It also continues to keep the  
9 company engaged in pursuing other funding sources  
10 since obtaining other sources would not reduce the  
11 profit to shareholders the company make expect.  
12 And fourth, it will lower the overall cost to  
13 consumers.

14 The use of the regulatory asset approach  
15 that I've described, or simply including an ongoing  
16 annual expense and rates during a base-rate case  
17 for the removal of customer-owned lead service line  
18 does not require any additional legislation or  
19 authority to the Commission. And, if the utility  
20 included an ongoing expense in its base-rate case,  
21 it would not incur any financing costs. These are  
22 long-used regulatory mechanisms that allow the  
23 Commission to craft the best plan for the  
24 circumstances of each utility.

25 While not the subject of this

1 legislation, I do identify in my testimony some  
2 additional components of a well-designed lead  
3 service line replacement program, including a  
4 utility warranty of the work; a flushing allowance  
5 for customers whose lead service line has not yet  
6 been replaced; a partial compensation program to  
7 customers who have replaced a lead service line  
8 within the past four years, and a thorough  
9 communication and education program.

10 Before I close, I wanted to take a  
11 moment to discuss customer-owned damaged sewer  
12 laterals that are also included in House Bill 2075.  
13 At this point, I think we have insufficient  
14 information to fully evaluate the scope of this  
15 problem. If at some point a public health risk of  
16 a widespread nature were to occur, I believe the  
17 Commission already has the regulatory tools  
18 available to address this issue.

19 Thank you again for inviting me to  
20 testify. I look forward to your questions and the  
21 discussion.

22 MAJORITY CHAIRMAN GODSHALL: We're well  
23 behind, yeah. And we're running well behind.

24 MR. EVANS: Good morning, Chairman  
25 Godshall, Chairman Caltagirone, distinguished

1 members of the House Consumer Affair Committee:

2 My name is John Evans. I'm the Small  
3 Business Advocate. Of course, the Small Business  
4 Advocate Office is charged with the interest of  
5 small business utility customers in proceedings  
6 that come before the PUC and any comparable federal  
7 agencies and also in the courts. Our statutory  
8 mission is to ensure that small businesses so  
9 crucial to the Commonwealth's economy pay  
10 reasonable rates for safe and reliable utility  
11 services.

12 At the outset, I would like to make  
13 perfectly clear that the OSBA supports what we  
14 believe is the primary policy goal of House Bill  
15 2075, the replacements of customer-owned lead  
16 service lines by the Commonwealth's investor-owned  
17 water utilities. Lead is a public health concern  
18 and utilities should be permitted to make changes  
19 to their tariffs to permit replacement of customer-  
20 owned lead service lines.

21 In contrast, a damaged customer-owned  
22 sewer lateral does not involve lead and does not  
23 constitute a public health concern. Consequently,  
24 the OSBA respectfully suggests that a general  
25 ratepayer shall not be responsible for any of the



1 cost of replacing or rehabilitating damaged  
2 customer-owned sewer laterals.

3           With respect to the proposed  
4 legislation, we believe that there are some  
5 significant concerns with how lead service line  
6 replacement costs are recovered and treated for  
7 ratemaking purposes. Currently, the cost of  
8 replacement of customer-owned lead service lines  
9 fall solely on the individual customer. For public  
10 policy reasons, the OSBA supports legislation  
11 permitting utilities to replace the customer-owned  
12 lead service lines and recover reasonable and  
13 prudent but not excessive costs from all customers.

14           Ratepayers should not be the sole party  
15 on the hook for excessively costly service line  
16 replacements. In those circumstances, either the  
17 individual customer should be responsible for  
18 excessive replacement costs in the form of a  
19 contribution in aid of construction, or CIAC, for  
20 the amount that exceeds the average replacement  
21 costs, or the water utility should be barred from  
22 recovering in base rates the excessive portion of  
23 the costs. Although it may be in the public  
24 interest to now require all customers to subsidize  
25 the average cost of individual service lines

1 replacements, it would be inequitable to make  
2 ratepayers responsible for excess service line  
3 replacement costs. A limited CIAC would mitigate  
4 that inequity.

5 It also would be appropriate for the  
6 legislation to make a distinction between the  
7 replacement of lead service lines encountered when  
8 a utility replaces its mains and service lines  
9 versus those that are replaced at the request of  
10 the customer. The replacement of utility-owned  
11 mains and service lines may disturb customer-owned  
12 service lines and result in elevated lead levels  
13 from the dislodging of particulate lead and  
14 galvanic corrosion. Those customer-owned service  
15 lines affected should be prioritized, and a CIAC  
16 may be appropriately waived in that scenario.

17 The OSBA further recommends, to avoid  
18 excessive cost being passed on to general  
19 ratepayers, the legislation requires that an annual  
20 budget cap, with no carryover to subsequent years,  
21 be placed on utility spending on customer-owned  
22 lead service lines to be established by the PUC  
23 upon petition by a water authority. Water result,  
24 rather.

25 In addition, while it is, of course,

1     only fair for utilities to recover the reasonable  
2     and prudent cost they expend on service line  
3     replacement, they should not be permitted, as this  
4     legislation proposes, to earn a profit on  
5     replacement costs. It's a long and well-  
6     established ratemaking principle that utilities may  
7     only earn return on investment owned by the utility  
8     and used for the public benefit. Expenditures for  
9     the exclusive benefit of one customer, such as the  
10    improvement of service lines, constitute customer  
11    specific costs that are not for public use.

12             However, this legislation contradicts  
13    this fundamental ratemaking principle by permitting  
14    utilities to earn a return on service line  
15    investment, despite the fact that it will continue  
16    to be owned by the customer and is only for the  
17    benefit of the individual customer; not for public  
18    use. By treating the replacement of customer-owned  
19    service lines as a capitalized cost, the utility  
20    collects from ratepayers not only a return of that  
21    cost, but also earns a cost return on the  
22    investment.

23             Rather than treating customer-owned lead  
24    service line replacement costs as a capitalized  
25    cost, it would be more appropriate to treat

1 replacement costs as a deferred regulatory asset to  
2 be recovered over an appropriate period through  
3 rates. Customer-owned lead service lines simply do  
4 not have the relevant characteristics of a capital  
5 asset, and their replacement is instead more akin  
6 to an extraordinary nonrecurring one-time cost.

7 By recovering replacement costs through  
8 a regulatory asset account, utilities would be able  
9 to recover the full replacement cost incurred, but  
10 would not return -- not earn, rather, a return on  
11 the asset. Therefore, customers would only bear  
12 the burden of replacement costs and not additional  
13 utility profit.

14 The PUC has agreed that customer-owned  
15 lead service line replacement costs are  
16 appropriately treated as deferred regulatory  
17 assets. The PUC recently approved a settlement  
18 with York Water Company, whereby, York Water could  
19 only treat replacement costs as deferred regulatory  
20 assets.

21 In a case currently pending before the  
22 PUC, the Administrative Law Judge came to the same  
23 conclusion with respect to Pennsylvania-American  
24 Water Company. The same recommended decision also  
25 adopted the OSBA's recommendation to not impose

1 excessive replacement cost overruns on general  
2 ratepayers.

3 Another issue that OSBA respectfully  
4 encourages the legislature to consider is whether  
5 utilities should be required to provide a warranty  
6 on replacement of customer-owned service line  
7 replacements. The OSBA recommends that utilities  
8 be required to provide a workmanship warranty of at  
9 least one year, if not longer.

10 In summary, the OSBA supports utility  
11 replacement of customer-owned lead service lines,  
12 but with limits on excessive costs being passed  
13 onto ratepayers, and without permitting utilities  
14 to earn a profit on such investment. The OSBA  
15 opposes general ratepayers being responsible for  
16 any of the cost of replacing or rehabilitating  
17 damaged customer-owned sewer laterals, because this  
18 is not a public health concern.

19 Thank you again for this opportunity to  
20 testify before you today. We'll be happy to answer  
21 any questions that you might have.

22 MAJORITY CHAIRMAN GODSHALL:  
23 Representative Kampf.

24 REPRESENTATIVE KAMPF: Thank you, Mr.  
25 Chairman.

1           Tanya, just a couple questions for you.  
2 Do you agree that the Commission under the bill  
3 would have the right to set the rate of return?

4           MS. McCLOSKEY: The Commission sets rate  
5 of return on a general basis for the utility. They  
6 don't do so on a project-specific basis. So, in  
7 essence, it would be, what is the utility's cost of  
8 capital which is authorized for all of their  
9 capital costs; their utility-owned capital costs.  
10 So I --

11           REPRESENTATIVE KAMPF: So you don't  
12 think the bill allows the Commission to set up a  
13 particular rate of return for this program?

14           MS. McCLOSKEY: I don't think so, no.

15           REPRESENTATIVE KAMPF: Okay.

16           I think I'm right that, when this was  
17 granted by legislation that passed last year for  
18 municipal authorities, that they have the power to  
19 charge this to the taxpayer, the General Fund.

20           Did you all take a position on that  
21 legislation?

22           MS. McCLOSKEY: Well, we don't regulate  
23 municipal authorities or have jurisdiction over it.  
24 But when I look at the municipal authority bills,  
25 what it did is, it authorized the municipal

1 authority to use their ratepayer funds--I'll call  
2 them ratepayer funds--their municipal funds, and  
3 authorized their workers to perform the work. It  
4 appeared to be something within the municipal  
5 authority bills that precluded that.

6 In my view, utilities may perform this  
7 work under our current Public Utility Code, and  
8 we're supporting the use of ratepayer funds to pay  
9 for some of this expense. But, we're trying to  
10 effectuate a sharing by not having a profit from  
11 that work.

12 REPRESENTATIVE KAMPF: I guess, maybe,  
13 lastly -- I mean, my understanding why we did the  
14 DSIC was because a lot of this kind of  
15 infrastructure work wasn't getting done. And, you  
16 know, rate cases don't present the greatest vehicle  
17 for trying to build in good infrastructure  
18 programs.

19 Am I wrong about that?

20 MS. McCLOSKEY: Why we did the DSIC, I  
21 think, was to try to accelerate some of the  
22 infrastructure work similarly --

23 REPRESENTATIVE KAMPF: So I was right  
24 about that?

25 MS. McCLOSKEY: Yeah, I think so; to

1 accelerate. I would say not to get it done, but to  
2 make it go faster; to get it done on a more  
3 expeditious schedule.

4 I think the regulatory asset approach  
5 also provides the same mechanism. The utility is  
6 not performing work that they're not going to  
7 recover the expense of. Through the regulatory  
8 asset they will be permitted to recover the expense  
9 of that work.

10 And it very well may be that, if they  
11 come out of compliance, they would be subject to a  
12 consent order, and would, by law, have to perform  
13 the work. But again, the regulatory asset allows  
14 them, if they haven't filed a base-rate case, to  
15 book that expense between base-rate cases and then  
16 to begin recovery in the next base-rate case.

17 REPRESENTATIVE KAMPF: Okay. Thank you,  
18 Mr. Chairman.

19 MAJORITY CHAIRMAN GODSHALL: I'd like  
20 to, you know, going back on the DSIC bill, as you  
21 said to accelerate, there was nothing being done.  
22 I mean, we did the DSIC bill because we had to do  
23 something as far as infrastructure, and nothing was  
24 being done.

25 So, the same arguments that you're



1 presenting today were presented when we had the  
2 DSIC bill, and that we shouldn't be passing this on  
3 to everybody. Well, we did because we had to get  
4 infrastructure because it was necessary for the  
5 public health.

6 MS. McCLOSKEY: And I don't disagree  
7 with that. And again, we are saying that other  
8 ratepayers should pay for some of it --

9 MAJORITY CHAIRMAN GODSHALL: Right.

10 MS. McCLOSKEY: -- for some of these  
11 costs, but there's a different mechanism here,  
12 particularly because it's customer-owned. It's  
13 something that the customer is responsible.

14 Many customers have already replaced  
15 their lead service lines themselves at their own  
16 expense, which is why I support --

17 MAJORITY CHAIRMAN GODSHALL:  
18 Fortunately.

19 MS. McCLOSKEY: -- a compensation  
20 program as well to help those folks along. But  
21 that's --

22 To me, that's the distinction is, we  
23 were trying to get the utility to begin work on its  
24 facilities, and now we need to begin work on the  
25 customer-owned facilities, but there's a different

1 mechanism that we think is appropriate.

2 MAJORITY CHAIRMAN GODSHALL: Well, I  
3 don't know, but I know something has to be done,  
4 and that's why we did the DSIC bill to begin with.  
5 So -- Yeah.

6 MINORITY CHAIRMAN CALTAGIRONE: To be  
7 fair with the industry and the customers, there has  
8 to be some kind of a fair rate of return. I don't  
9 know what that would be. But, they're making an  
10 investment and trying to upgrade our systems  
11 throughout the whole state. They're investing time  
12 and capital and manpower. I think there's got to  
13 be some consideration for a return on the  
14 investment that they're making.

15 If you're going to ask them to go on and  
16 do these things, how do you induce them to want to  
17 do it, to get more of it done? I'm just trying to  
18 be fair about it. I understand there could be some  
19 hardships with some, let's say, senior, retired  
20 people, poor people that own a property. Some  
21 accommodations probably are going to have to be  
22 made for those exclusions.

23 But I think to be fair about it, if  
24 they're going to replace lines into the properties,  
25 homeowners, you've got to be fair about it. I

1 don't know what that fair market value would be as  
2 far as the rate of return, but I think that would  
3 be the inducement to try to get more of this done  
4 sooner. At least, that's my thought.

5 MAJORITY CHAIRMAN GODSHALL: That's why  
6 we have the PUC involved in the proposal.

7 Thank you very much.

8 MS. McCLOSKEY: Thank you.

9 MR. EVANS: Thank you.

10 MAJORITY CHAIRMAN GODSHALL: David  
11 Sweet, PUC; and Tim Schaeffer, Office of Water  
12 Programs, DEP.

13 COMMISSIONER SWEET: Thank you, Mr.  
14 Chairman, Mr. Minority Chairman.

15 I wouldn't say the last vestiges, but  
16 you're my last two former colleagues in the House  
17 of Representatives from when I served.

18 MINORITY CHAIRMAN CALTAGIRONE: I gotta  
19 share this with you. I still have your desk.

20 COMMISSIONER SWEET: You still have that  
21 desk? It's a beautiful desk. I did not leave  
22 anything it for you in 1988, except a note saying  
23 good luck. But thank you, Chairman Godshall and  
24 Chairman Caltagirone, and other members of the  
25 committee. I'll just take a couple minutes.

1           We've submitted our testimony. We've  
2 touched on a number of the issues that you've  
3 heard, I think well-explicated. I'll just say a  
4 couple of things.

5           First of all, we've taken a neutral  
6 position on the legislation, but we've tried to  
7 provide input to your staffs on the technical  
8 aspects of it. Part of the reason we end up in  
9 these neutral positions a lot of time, which may be  
10 frustrating for you, is twofold:

11           One, we're a troika to the extent we  
12 have an executive branch, sort of quasi-  
13 legislative authority, and we're also in many  
14 instances, in effect, judges.

15           I can't go too far into the details of  
16 some of this. We did approve the York settlement.  
17 That is a model for you to take a look at. I can't  
18 comment much further on some of that because the  
19 Pennsylvania-American Water case that you heard  
20 discussed by that company's representative is  
21 currently before us. And so, in that respect of  
22 the troika, I'm the judge.

23           We're also a five-headed monster, and  
24 people have various views on various subjects. We  
25 all share the concern that all of you have; that

1 we've got to do and continue to press ahead to do  
2 things about this problem. It's a serious public  
3 health problem.

4           The legislature was helpful with the  
5 DSIC in a larger way. The DSIC program differs a  
6 little bit from what's being discussed here, in the  
7 sense it's a more comprehensive program. The  
8 utility has to provide a long-term improvement plan  
9 was, we review the comprehensive plan. We review  
10 on a quarterly basis the rate of return that's  
11 permitted, and they're allowed to move ahead.

12           The real nub of the issue here, and you  
13 really were touching on it, Representative Kampf,  
14 in some of your questions and earlier, is whether  
15 you're going to allow a rate -- you're going to  
16 allow recovery not only on the expense, you're  
17 going to allow a rate of recovery on an ongoing  
18 basis for the improvements made on what our lawyers  
19 and accountants would called non-jurisdictional  
20 property; meaning, property not owned by the  
21 utility, but rather owned by the customer.

22           The reason we don't come in and tell you  
23 that's right or wrong is, that's really not our  
24 call. That's your call. I mean, that's a policy  
25 issue. We have stepped into it, Representative

1 Godshall, as you mentioned earlier with the DSIC  
2 and really with the York settlement, where we have  
3 allowed ratepayer money to be used for individual  
4 circumstances, and that's what this bill does. We  
5 believe that you want to extend that. That's your  
6 call, and we will implement however you do it.

7           What you heard in the discussion about  
8 deferred regulatory asset, and so forth, gets  
9 pretty arcane. But, as I understand what that  
10 really means is, they'll be able to, in effect,  
11 book that expense, but they run the risk of what we  
12 do with it later on when we review their overall  
13 rate case.

14           So it's -- And that's the tension in  
15 this. I think everybody wants to get to the right  
16 place, and that's really a policy question for you  
17 to resolve; you know, how far you want to go with  
18 that; in effect, whether allowing the utility a  
19 greater return will efficiently accelerate what you  
20 want to get done.

21           And really, with that, let me just look  
22 at my notes to see if there's anything more. But  
23 I'll yield since I know time is rushing on. You  
24 don't want to miss that roll call vote at the  
25 beginning.

1 MAJORITY CHAIRMAN GODSHALL: --  
2 resolutions --

3 COMMISSIONER SWEET: Oh, you do  
4 resolutions first now? That's to keep everybody  
5 from leaving. I always used to leave before the  
6 resolutions. It was never anything but a bad vote.  
7 You're always denouncing some foreign government  
8 for doing something wrong.

9 I really touched on what I wanted to do.  
10 As far as the safety aspects, the  
11 environmental law and enforcement, I'll yield to my  
12 colleague here from DEP.

13 MR. SCHAEFFER: Thanks. My name's Tim  
14 Schaeffer. I'm the Deputy Secretary for Water  
15 Programs at DEP. Thanks to the Chairman for this  
16 opportunity. I'll also try to be brief. I won't  
17 read all of my testimony, but I'll try to hit some  
18 points that weren't hit already today.

19 We do support Senate -- or House Bill  
20 2075, as a tool, to make it easier for utilities to  
21 address both lead service lines and sewer laterals.  
22 But most of my comments will focus on the lead  
23 service line aspect of it.

24 I'll give you context of the numbers  
25 we're talking about. Pennsylvania has more than

1 8,500 public water systems. We're third in the  
2 nation behind Michigan and Wisconsin. These public  
3 water systems serve drinking water to more than  
4 11.3 million people, or 89 percent of  
5 Pennsylvania's population. Public water systems  
6 and the customers they rely -- they serve rely on  
7 drinking water -- or safe water drinking water  
8 program staff to ensure that all applicable federal  
9 and state requirements are met, and the water is  
10 safe to drink.

11           Nationally and within Pennsylvania,  
12 public water systems face many challenges, a lot of  
13 which are in the news today, including emerging and  
14 unregulated contaminants. You may have heard of  
15 PFAS and PFOS, which have been in the news a lot,  
16 Legionella and other pathogens, harmful algal  
17 blooms and cyanotoxins.

18           We also see threats to public water  
19 supply sources, issues of resiliency and  
20 sustainability, simultaneous compliance and major  
21 problems with aging infrastructure.

22           There's a national Drinking Water Needs  
23 Survey and Assessment done every four years as  
24 mandated by the 1996 amendments to the Federal Safe  
25 Water Drinking Act. In the 2015 assessment and



1 survey, Pennsylvania documented \$16.8 billion in  
2 infrastructure needs for the next 28 years to  
3 replace aging infrastructure and comply with safe  
4 drinking water regulations.

5 Note, however, that that number did not  
6 include the amount needed for lead service line  
7 replacement because we don't have a good handle on  
8 the estimate for that.

9 We've already talked about a lot about  
10 the impacts to lead, but I'll add a few more  
11 details. Exposure to lead is associated with  
12 serious adverse health effects to the brain and  
13 nervous system, especially in young children. The  
14 crisis in Flint, Michigan brought increased  
15 attention to the challenge of lead -- challenge of  
16 lead in drinking water.

17 Lead enters drinking water mainly from  
18 corrosion of lead-containing plumbing materials,  
19 including lead service lines, faucets, and fixtures  
20 with leaded brass and pipes with lead solder. Lead  
21 was widely used in plumbing materials through the  
22 1950s, and its use continued until 1986 when  
23 Congress mandated -- or amended the Safe Drinking  
24 Water Act prohibiting the use of pipes and solder  
25 that are not lead free.

1           In 1991, U.S. EPA promulgated the lead  
2           and copper rule to minimize lead and copper levels  
3           in drinking water through a treatment technique,  
4           primarily aimed to reducing water corrosivity  
5           through corrosion control treatment.

6           Congress enacted amendments to the Safe  
7           Drinking Water Act tightening requirements  
8           concerning lead in drinking water in 1996 and in  
9           2011. The 1996 amendments expanded the prohibition  
10          on lead to include the use of any plumbing fixtures  
11          and fixtures that are not lead free and prohibited  
12          their introduction into commerce.

13          In 2011, the amendments revised the  
14          maximum allowable lead content in the definition of  
15          lead free from not more than 8 percent, to not more  
16          than a weighted average 0.25 percent lead in the  
17          wetted surface.

18          While these prohibitions have reduced  
19          the amount of lead allowed in plumbing materials,  
20          there are many older buildings that still have lead  
21          service lines and/or plumbing materials made with a  
22          higher percentage of lead than is currently  
23          allowed.

24          According to the National Center For  
25          Health Housing, Pennsylvania's housing stock is

1 some of the oldest in the country. Approximately  
2 40 percent of Pennsylvania's housing units were  
3 built before 1950, and likely contained lead paint  
4 and leaded plumbing materials. Based on the  
5 findings of two surveys conducted by American Water  
6 Works Association, the study published in 2016  
7 estimate that Pennsylvania has about 160,000 lead  
8 service lines. However, the actual number is  
9 unknown.

10 Public water systems are required to  
11 replace lead service lines when the system has  
12 corrosion control treatment in place and exceeds  
13 the lead action level. As we discussed, in 2017,  
14 several large water systems implemented lead  
15 service line replacement programs under consent  
16 order and agreements with DEP, including the  
17 Pittsburgh Water and Sewer Authority and the York  
18 Water Company, which was discussed earlier.  
19 These systems must replace 7 percent of their lead  
20 service lines per year so long as the lead action  
21 level in these lines is exceeded.

22 DEP encourages water systems to consider  
23 proactively voluntarily or accelerated lead service  
24 line replacement programs. However, lead service  
25 line replacement represents substantial economic,

1 legal, technical and environmental justice  
2 challenges. Included in those challenges include  
3 the fact that, in many cases, public water systems  
4 do not own the entire service line. We talked  
5 about that.

6 We also talked about how partial lead  
7 service line replacement should be avoided because  
8 it can actually make matters worse due to the  
9 disturbance of particulate lead.

10 I think I'll move on in the interest of  
11 time here, and really get to the heart of our  
12 support for House Bill 2075. House Bill 2075 was  
13 introduced to address Pennsylvania's aging  
14 infrastructure by allowing PUC-regulated utilities  
15 to proactively replace homeowner's water and sewer  
16 laterals when there's a public health concern such  
17 as lead in the same manner as municipal authorities  
18 be -- municipal governments are currently  
19 authorized to do.

20 DEP supports House Bill 2085 as a way to  
21 help utilities under PUC jurisdiction conduct full  
22 lead service line replacement, avoid partial  
23 replacements and recoup associated costs. While  
24 still allowed under the Federal and State Lead and  
25 Copper Rule, partial replacements have been

1 associated with elevated lead levels due to the  
2 disturbance of the particulate lead.

3 In summary, the lead and copper rule and  
4 amendments offered the water community a promise of  
5 enhanced public health protection through a  
6 framework of treatment technique requirements aimed  
7 at reducing corrosivity and exposure to lead. Much  
8 progress has been made, but more work is needed to  
9 protect public health and maintain the economic  
10 health of our communities.

11 State and federal drinking water  
12 programs, in partnership with professional  
13 associations and environmental groups and other  
14 stakeholders, have come together to identify the  
15 problem and find solutions. DEP supports House  
16 Bill 2075 as another tool in the long-term effort  
17 to solve that problem.

18 Thank you.

19 COMMISSIONER SWEET: Mr. Chairman, if I  
20 might just to --

21 MAJORITY CHAIRMAN GODSHALL: Absolutely.

22 COMMISSIONER SWEET: -- for three quick  
23 points probably should have been emphasized.

24 One is, just so it's on the record, we,  
25 the PUC, did allow recovery for replacement of gas

1 lines by similar circumstances through the DSIC,  
2 and we allowed both Peoples and Columbia Gas to do  
3 so, so there's -- just so you'll know that; that on  
4 that side of the equation, there's been work done.  
5 I know that you're familiar with that, Mr.  
6 Chairman.

7 Second is, there's nobody, I guess,  
8 still here from Pittsburgh, but I was --  
9 Pittsburgh, okay. I'm sorry.

10 I'll ask and answer the question about  
11 the water and sewer authority because it was raised  
12 with us, based on the fact that Pittsburgh Water  
13 and Sewer Authority is coming under our  
14 jurisdiction. Where does that leave them in this  
15 -- they'd be in purgatory. They're kind of not a  
16 privately-owned utility and not really a public  
17 utility under the statute.

18 We believe that the Fiscal Code  
19 legislation, which was referred to earlier and it  
20 was passed that dealt with public entities applies  
21 to them now, and they could do these kinds of  
22 actions under that Fiscal Code amendment. If you  
23 pass this bill, they'll be under this bill as we  
24 take on the regulation of them. Because the way  
25 the statute is worded, they aren't a public

1 utility. They'd be treated by us as if they were a  
2 public utility.

3 So, in either of those two instances,  
4 recovery may be available.

5 In a third instance, they would be avail  
6 -- the DSIC mechanism for water would be available  
7 to the Pittsburgh Water and Sewer Authority. They  
8 have not yet moved in that direction, but we're  
9 very early in our relationship with them.

10 Finally, they would also have the  
11 ability to pursue a specific initiative, as did  
12 York Water.

13 Final point, nobody accuses the PUC of  
14 being too fast.

15 MAJORITY CHAIRMAN GODSHALL: I would  
16 totally agree with that.

17 COMMISSIONER SWEET: I did not come  
18 prepared to defend the PUC with speedy, quick  
19 judgments.

20 I would point this out under this --  
21 under the proposal--again, it's in the written  
22 testimony, but just so you'll think about it--we're  
23 called upon to decide whether the proposed  
24 expenditure is prudent, and we're called upon to  
25 determine whether it hits one of four indicia of a

1 public health crisis. That would come before us  
2 just like other matters come before us.

3           So, it's not like they'd be out in the  
4 truck doing the main, and all of a sudden call the  
5 PUC to get approval to go and do the line to the  
6 customer's house. Hopefully, we would move  
7 swiftly, expeditiously, prudentially and properly.  
8 But, I just point out to you that there still would  
9 be under the bill, as it probably should be, a PUC  
10 review in process.

11           MAJORITY CHAIRMAN GODSHALL: Thank you.  
12 That's in the bill and that's what -- I wanted to  
13 make sure was in the bill was there, so the  
14 protections are there.

15           I'd like to thank you for your  
16 testimony. With that, the meeting will be  
17 adjourned.

18           COMMISSIONER SWEET: Thank you.

19           MAJORITY CHAIRMAN GODSHALL: That was  
20 very good.

21           (At 10:58 a.m., the public hearing  
22 concluded).

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C E R T I F I C A T E

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