

# NATIONAL ASSOCIATION OF WATER COMPANIES PENNSYLVANIA CHAPTER

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November 13, 2006

Mr. James J. McNulty  
Secretary  
Office of the Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: **Docket No. L-00060177**  
Proposed Rulemaking for Revision to Chapter 67 of Title 52 of the PA Code Pertaining to Service Outages

Dear Secretary McNulty:

The National Association of Water Companies (NAWC) is a non-profit trade association that exclusively represents private or investor-owned drinking water utilities. The Pennsylvania Chapter consists of 11 member companies that provide reliable drinking water to more than 3.5 million Pennsylvanians everyday in 43 of the Commonwealth's 67 counties. In addition, two of our member companies own and operate several wastewater systems.

The Chapter respectfully submits the following comments in response to the Pennsylvania Public Utility Commission's (PAPUC or Commission) proposed rulemaking regarding revisions to Chapter 67 of Title 52 of the Pennsylvania Code pertaining to service outages.

**Background**

On May 4, 2006, the Commission unanimously voted to clarify the definition of "service interruption" in Section 67.1. On October 14, 2006, the PAPUC published the proposed revision to its regulations in the Pennsylvania Bulletin, 36 Pa. Bull. 6303.

Section 67.1 addresses the issue of notice to the Commission regarding service outages, 52 Pa. Code § 67.1. The Commission's regulations provide that a utility shall notify the Commission by telephone within one hour after a preliminary assessment of conditions reasonably indicates that there is an unscheduled service interruption affecting 2,500 or 5%, whichever is less, of a utility's total customers in a single incident of six or more projected consecutive hours. 52 Pa. Code § 67.1(b).

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Section 67.1 uses the phrase "service interruption," but the phrase is not defined. The proposed rulemaking would add the following definition to Section 67.1(a):

*The term "service interruption," when pertaining to water service provided by a water utility under the Commission's jurisdiction, covers an interruption of service affecting the quantity or quality of water delivered to the customers.*

**It would not** add a definition for "service interruptions" for electric, gas or telephone utilities, which are also subject to the notice requirements of Section 67.1.

In its March 10, 2006 Order, the Commission placed the water industry on notice that "service interruption" covers any interruption of service that affects the quantity *or quality* of water delivered to the customer. In arriving at that conclusion, the Commission took administrative notice that a similar Pennsylvania Department of Environmental Protection (DEP) regulation defines a "service interruption" as "affecting quantity or quality of the water delivered to the customer." 25 Pa. Code § 109.708 (emphasis added).

In addition, since the Commission and DEP work closely on water related issues, the Commission finds it reasonable to have the same regulatory definition of "service interruption."

#### Comments

While the Chapter supports the Commission's decision to clarify what it deems a "service interruption" under Section 67.1(a) and to be consistent with the DEP's regulations, we do have some concerns with the definition, as drafted, and how it relates to DEP's regulations. First, the proposed definition uses the phrase "interruption of service" to define "service interruption" which only serves to further confuse; rather than clarify its intent. Moreover, the proposed definition does not describe or define what an "interruption" is or provide a standard for water utilities to follow.

Second, the Chapter is concerned that the Commission's proposed definition is too broad and may cause confusion among water utilities with respect to one-hour reporting requirements. While it is important and appropriate for the Commission to be notified within one-hour when DEP is receiving a one-hour notice (e.g., Tier 1 situations -- 25 Pa. Code §§ 109.408(b), Tier 2 situations -- 25 Pa. Code §§ 109.409(b), and water emergencies such as waterborne disease outbreaks, failures in key treatment processes, natural disasters, chemical spills, and water outages), the Commission's proposed rulemaking is more stringent and gives the same treatment to each and every situation affecting water quality or quantity. This means that the Commission would require notice within one-hour for any Tier 3 situation (all other violations and situations that are not included in Tier 1 and Tier 2 situations -- 25 Pa. Code § 109.407(b)(3)), even though DEP and the public need not learn of this situation until much later.

As you know, the DEP, through its Small Water System Technical Assistance Center (TAC), is currently drafting a rulemaking to revise its public notification requirements at 25 Pa. Code §§ 109.407-416 (relating to public notification). The Chapter believes that this is a unique opportunity for both the Commission and DEP to work together and create one unified set of situations that would require public notification, including one-hour notice to the Commission and DEP.

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Therefore, the Chapter recommends that the definition be amended to read:

**The term "service interruption," pertaining to water service provided by a water utility under the Commission's jurisdiction, ~~covers an interruption of service affecting the quantity or quality of water delivered to the customers~~ means any situation requiring notice within one-hour by the water utility to the Pennsylvania Department of Environmental Protection under 25 Pa. Code Chapter 109, relating to safe drinking water.**

The Chapter's proposed changes to the definition would not only clarify that situations affecting both quantity or quality of the water delivered to the customer are covered, but also ties them to the specific situations and criteria established under 25 Pa. Code Chapter 109. If the Commission and DEP utilize a consistent regulatory standard, it would minimize the number of decisions to be made by water utilities and provide notice to both when situations with the potential for serious affects to public health arise.

Finally, the Commission, under Section 67.1(b), limits notice to situations affecting more than 2,500 or 5.0% (whichever is less) of the utility's total customers, for water utilities. However, the DEP, under 25 Pa. Code Chapter 109, does not provide such a customer threshold. The Chapter believes that this is another area where the Commission and DEP should work together to provide a uniform standard. Requiring notice of every main break and all other "less serious" situations affecting water quality or quantity is not necessary and we don't want an influx of notices involving "less serious" situations to drown out those notices that are potentially serious or adverse situations.

The Chapter thanks you for considering our comments on this most important issue to our industry and customers. If you should need any additional information or have any questions, please do not hesitate to contact me.

Very truly yours,

*Erik A. Ross*

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Manager of Governmental Relations

CC: Alvin C. Bush, IRRC  
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Senator Boscola  
Representative Flick  
Representative Preston