

Regulatory Analysis Form (Completed by Promulgating Agency) (All Comments submitted on this regulation will appear on IRRC's website)	INDEPENDENT REGULATORY REVIEW COMMISSION JUL 28 2022 Independent Regulatory Review Commission IRRC Number: 3350
(1) Agency: Pennsylvania Public Utility Commission (PUC)	
(2) Agency Number: L-2020-3021932 Fiscal Note Number: 57-336	
(3) PA Code Cite: 52 Pa. Code § 65.20a (relating to water conservation measures)	
(4) Short Title: Rulemaking to Implement Water Audit Methodology Regulation	
(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: James A. Mullins, Assistant Counsel (717-787-5978, jamullins@pa.gov) Secondary Contact: Stephanie A. Wilson, Assistant Counsel (717-787-1859, stepwilson@pa.gov) Technical staff primary contact: Clinton McKinley (717-783-6161, cmckinlev@pa.gov) Technical staff secondary contact: Matthew Lamb (717-783-1001, mlamb@pa.gov) Regulatory Review Assistant contact: Karen Thorne (717-772-4597, kathorne@pa.gov)	
(6) Type of Rulemaking (check applicable box): <input checked="checked" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less) This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities. The PUC would review a water public utility's compliance or lack thereof with the proposed regulation when determining just and reasonable rates and could consider non-compliance in other proceedings. Upon promulgation of the proposed regulation, the PUC would withdraw water conservation recommendations in the PUC's Water Conservation Policy Statement, 52 Pa. Code § 65.20 (relating to water conservation measures – statement of policy).	
(8) State the statutory authority for the regulation. Include specific statutory citation. In accordance with 66 Pa.C.S. § 501(a) (relating to general powers), the PUC has broad authority to act to enforce the Public Utility Code and "the full intent thereof." Additionally, under 66 Pa.C.S. § 504	

(relating to reports by public utilities), the PUC may require a public utility to file periodical reports, at such times, and in such form, and of such content, as the PUC may prescribe, and special reports concerning any matter whatsoever about which the PUC is authorized to inquire, or to keep itself informed. Further, as part of its duties to review the efficiency, effectiveness, and adequacy of service of each utility when determining just and reasonable rates under 66 Pa.C.S. § 523 (relating to performance factor consideration), the PUC shall set forth criteria which will assist it in such review.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case, or regulation as well as, any deadlines for action.

No. The proposed regulation is not mandated by any law (federal or state) or court order (federal or state).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

With the many challenges facing the water industry, including rising costs to rehabilitate aging infrastructure, increased energy costs, increased costs of chemicals and other treatment necessary to meet the requirements of the Pennsylvania Safe Drinking Water Act, 35 P.S. §§ 721.1-721.17, and the limited availability and higher costs for developing new sources of supply, this proposed regulation reflects the PUC's effort to develop a more comprehensive codified water audit method as a tool to increase the efficiency of a water public utility's efforts to conserve water, account for lost water, increase water supply sustainability, remediate infrastructure, and improve overall service reliability. Thus, every person and entity in the Commonwealth (and those persons and entities downstream in other states) would benefit from a reduction of lost water, cleaner discharges, and improved reliability. Additionally, the National Association of Water Companies - Pennsylvania Chapter (NAWC-PA) and Aqua Pennsylvania, Inc. (Aqua) estimated that reducing the avoidable loss of water would save public water utilities in production costs roughly \$500 per million gallons for surface water systems and \$250 per million gallons for well systems.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Federal standards do not require water public utilities to complete water audits, report unaccounted for water, or to notify and provide customers with educational material discussing water-saving plumbing fixtures, efficient water use practices, or the large water user audit procedure. The provisions of the proposed regulation are intended to improve the reliability and efficiency of water public utility systems, thereby preserving a natural resource consumed by all residents and businesses in the Commonwealth.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

As of 2017, twenty-three (23) states have enacted some form of water loss control statute or regulation.¹ This includes the surrounding states of West Virginia, Maryland, New Jersey, New York, and Delaware. Therefore, the Commonwealth's ability to compete should not be hindered. Further, the proposed regulation would assist the Commonwealth in maintaining a leadership position in managing this vital resource.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. The proposed regulation would not affect other regulations of the PUC, nor would it affect regulations of other Commonwealth agencies. After promulgation of the proposed regulation, the PUC would withdraw its Water Conservation Policy Statement at 52 Pa. Code § 65.20.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses, and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

On September 17, 2020, the PUC entered an Advanced Notice of Proposed Rulemaking (ANOPR) Order at this docket, which was published in the *Pennsylvania Bulletin* on October 10, 2020, 50 Pa.B. 5657. In the ANOPR Order, the PUC invited comments from the regulated community and other interested parties within 45 days of publication. Comments were requested on proposed regulatory language, experienced benefits and costs of the proposed methodology, and the suggested scope of the proposed regulation. The ANOPR Order did not contain draft language of a proposed regulation. Comments were received from the Office of Consumer Advocate (OCA). Joint comments were received from NAWC-PA and Aqua; and from AWWA Water Loss Control Committee Members George Kunkel, David Sayers, Edward Osann, Steve Cavanaugh, Will Jernigan, and Drew Blackwell (collectively AWWA Committee). The Office of Small Business Advocate (OSBA), which represents the interests of small business customers in regulated utility matters before the PUC, was served a copy of the ANOPR and chose not to comment at the ANOPR phase in the rulemaking process.

On November 18, 2021, the PUC entered a Notice of Proposed Rulemaking Order (NOPR Order) and Annex A initiating the Proposed Rulemaking. The NOPR Order and Annex A were posted on the Commission's website. The NOPR Order and Annex A were served on all jurisdictional water utilities, the OCA, the OSBA, the Commission's Bureau of Investigation and Enforcement, the National Association of Water Companies – Pennsylvania Chapter, the Department of Environmental Protection, the Delaware River Basin Commission, the Susquehanna River Basin Commission, and the American Water Works Association – Pennsylvania Chapter. The NOPR Order and Annex A are being submitted to the Office of Attorney General and the Governor's Office of the Budget. Upon approval from those offices, the NOPR Order and Annex A will then be delivered to the Legislative Committees and the Independent Regulatory Commission and submitted to the *Pennsylvania Bulletin* for publication. Interested parties will have 45 days from publication of the NOPR Order and Annex A in the *Pennsylvania Bulletin* to provide comments, and 45 days thereafter to provide reply comments.

¹ Smith, Lacy, *et al.* (2019). "State-Level Water Loss Laws in the United States." [Allianceforwaterefficiency.org](https://www.allianceforwaterefficiency.org/sites/www.allianceforwaterefficiency.org/files/highlight_documents/AWE_Water_Loss_Scorecard_Final_2019.pdf). Retrieved from https://www.allianceforwaterefficiency.org/sites/www.allianceforwaterefficiency.org/files/highlight_documents/AWE_Water_Loss_Scorecard_Final_2019.pdf. Last viewed January 25, 2022.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The proposed regulation would affect all 75 jurisdictional water public utilities, most of which, with the potential exception of the largest two investor-owned utilities and the largest two municipal corporations, could be considered small businesses. Class A water public utilities would be required to conduct an annual water loss audit to determine real water loss volumes and apparent water loss volumes and the associated costs of each and shall file an annual water loss report with the Commission. Further, each Class A, Class B, and Class C water public utility, as well as municipal corporations providing jurisdictional water service, would be required to report unaccounted-for water using Schedule 500 of the public utility's Annual Financial Report to the Commission required under 52 Pa. Code § 65.19 (relating to the filing of annual financial reports). Additionally, as noted in response No. 10, every citizen within the Commonwealth would either directly or indirectly benefit from reduced water loss.

(16) List the persons, groups, or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The proposed regulation at 52 Pa. Code § 65.20a would apply to all jurisdictional water utilities, including (1) public utilities, as defined in 66 Pa. C.S. § 102 (relating to definitions), providing water service and (2) municipal corporations, as defined in 66 Pa. C.S. § 102, providing water service beyond their corporate limits.² As noted in response No. 15, at present, there are 75 jurisdictional public water utilities, including 21 municipal corporations, operating under the Commission's jurisdiction within the Commonwealth. The 75 jurisdictional public water utilities are: (1) Waterflow Pike, Inc., (2) Elverson Water Company, Inc., (3) Suez Water Pennsylvania Inc., (4) Finch Hill Water Company, Inc., (5) Hotel Capri, Inc., (6) Warwick Water Works Inc., (7) Audubon Water Company, (8) Appalachian Utilities, Inc., (9) Eaton Sewer & Water Company Inc., (10) Republic Development Corp., (11) Conewago Industrial Park-Water, (12) Acorn Water Company, LLC, (13) Templeton Water Inc., (14) Conneaut Lake Park Inc Trustees, (15) Pocono Water Works Company Inc, (16) D's Water Company, (17) Aqua Pennsylvania, Inc., (18) Artesian Water Pennsylvania Inc., (19) Hidden Valley Utility Services LP, (20) Valley Run Water Company, LLC, (21) Deer Haven, LLC, (22) Suez Water Bethel Inc., (23) Blue Knob Water Company, (24) The Buck Hill Water Company, (25) The Columbia Water Co., (26) Cooperstown Water Company, (27) Corner Water Supply & Service Corporation, (28) Scott Water Company, (29) Emporium Water Co., (30) Evitts Creek Water Company, (31) Fryburg Water Co., (32) Twin Lakes Utilities, Inc., (33) Houston Run Community Water System LLC, (34) Can Do, Inc., (35) The Indian Springs Water Co., (36) Ken-Man Water Co., (37) James Black Water Service Company, (38) Community Utilities of Pennsylvania Inc., (39) Manwalamink Water Co., (40) Tri-Valley Water Supply Inc., (41) Newtown Artesian Water Company, (42) Oregon Hill Water & Sewer Co., (43) Pennsylvania American Water Company, (44) Plumer Water Co., (45) Quentin Water Co., (46) Springhouse Waterworks, Inc., (47) Reynolds Water Co., (48) Rock Spring Water Co., (49) Sugarcreek Water Company, (50) Valley View Water Co., Inc., (51) Venango Water Company, (52) West Hickory Water Company, (53) Wonderview Water Company, (54) York Water Co. (Water), (55) Borough of Smethport, (56) The Boro. of Ambler, (57) City of Bethlehem (Water), (58) Borough of Chambersburg,

² Under 66 Pa.C.S. § 3202(a)(1) which states "[...] the provisions of this title, except Chapters 11 (relating to certificates of public convenience) and 21 (relating to relations with affiliated interests), shall apply to an authority in the same manner as a public utility," the Pittsburgh Water and Sewer Authority is treated as a Class A Utility under the PUC's jurisdiction and will be required to file an annual water audit report under the proposed regulation.

(59) Boro. Of Dover, (60) City of Dubois, (61) Duncannon Borough of (Water), (62) Boro. Of Garrett, (63) Hanover Municipal Waterworks, (64) Borough of Hyndman, (65) City of Lancaster (Water), (66) Boro of Lewis Run, (67) City of Lock Haven Water Department, (68) Pittsburgh Water and Sewer Authority, (69) Borough of Point Marion, (70) Borough of Port Allegany, (71) Boro of Port Matilda, (72) Boro of Quakertown, (73) Richland Borough, (74) Boro of Saint Petersburg, and (75) Schuylkill Haven Borough (Water).

(17) Identify the financial, economic, and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed regulation is expected to improve the efficiency of a water public utility's operations, which may reduce operating costs and counteract the water public utility's need to raise rates collected from customers to cover the water public utility's revenue requirement. Additionally, the infrastructure improvements anticipated with the proposed regulation should increase the quality of water being supplied to customers, reduce disruptions to service, and reduce disruptions to travel which are sometimes required to complete unforeseen repairs.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As set forth in response No. 10, there are many challenges facing the water industry, including rising costs to rehabilitate aging infrastructure and the limited availability and higher costs for developing new sources of supply. Thus, the proposed regulation reflects the PUC's effort to develop a more comprehensive codified water audit method as a tool to increase the efficiency of a water public utility's efforts to conserve water, account for lost water, increase water supply sustainability, remediate infrastructure, and improve overall service reliability. Further, Class A water public utilities have previously invested in advanced control and data collection systems at their water treatment facilities sufficiently to enable a seamless utilization of that information in a more rigorous water audit methodology without incurring additional costs.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The water conservation measures to be required by the proposed regulation were previously addressed as recommendations in the Commission's Water Conservation Policy Statement at 52 Pa. Code § 65.20. If jurisdictional water public utilities previously implemented the policy statement recommendations, these entities would not incur additional costs to comply with the proposed regulation. Similarly, Class A water public utilities have been required to file annual water audit reports with the Commission since 2012 and should not experience an increase in costs due to the proposed regulation.³

The value of savings to the regulated community would include savings realized by correcting sources of non-revenue water identified through the completion of water audits. These savings are system specific as water loss is experienced and corrected in different ways by different systems; however, as

³ See *Tentative Opinion and Order - In Re: Pilot Project to Implement The International Water Association/American Water Works Association Water Audit Methodology*, Order Entered November 10, 2011, at Docket No. M-2008-2062697.

also set forth in Response 10 above, NAWC-PA and Aqua estimated that reducing the avoidable loss of water would save public water utilities in production costs roughly \$500 per million gallons for surface water systems and \$250 per million gallons for well systems.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local governments should not experience increased costs and/or savings associated with compliance by water public utilities.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The PUC, which regulates jurisdictional water public utilities, would be affected, and incur minimal additional operational costs as it determines water public utilities' compliance (or lack thereof) with the proposed regulation when determining just and reasonable rates. Such costs would be borne by water public utilities through assessments under 66 Pa.C.S. § 510 (relating to assessment for regulatory expense upon public utilities) and passed on through water rates to state governments to the extent that state governments are ratepayers of the water public utilities. The PUC, however, does not anticipate a need to increase its complement of employees to implement the proposed regulation.

Separately, the proposed regulation is expected to improve utility efficiencies and create savings which should reduce the utilities revenue requirement and the need to increase rates. Rate increases are generally litigated proceedings requiring participation by the PUC and the Commonwealth's statutory advocates. If water public utilities are able to reduce the number of rate case proceedings required, the PUC and statutory advocates will realize savings in the legal costs associated with those proceedings.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping, or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

In the unlikely event that a water public utility is not already compliant with the recommendations in the PUC's policy statement at 52 Pa. Code §§ 65.20(5) (relating to leak detection) or 65.20(6) (relating to metering), the water public utility would be required to develop a system of leak detection and a comprehensive metering program which would require additional record keeping and paperwork for the water public utility.

At the state level, the PUC would determine a water public utility's compliance with the proposed regulation and keep records of the information filed (much as it has under the Policy Statement). Additional procedures and reports, recordkeeping or other paperwork would not be required from other state agencies or from local governments for the implementation of the proposed regulation.

(22a) Are forms required for implementation of the regulation?

Yes. Class A Water Public utilities will submit copies of the FWAS or equivalent self-organized form in order to file the information required by the proposed regulation. Class B, Class C, and municipal corporations under the PUC's jurisdiction will be required to complete Schedule 500 of the Annual Financial Reports filed with the PUC.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.** No additional forms will be created for the implementation of the proposed regulation. The forms required for the implementation of this order are already required annual submissions per 52 Pa. Code § 65.19 - Filing of annual financial reports.

2021 Class A & B Water Annual Report Form

2021 Class C Water Annual Report Form

Available at <https://www.puc.pa.gov/filing-resources/forms/waterwastewater-forms/>

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated
Local Government	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated
State Government	See above, Nos. 21-22					
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	See above, No. 23					
Local Government	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated
State Government	See above, Nos. 21-22					
Total Costs	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated	Cannot be estimated
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
	Not available	Not available	Not available	Not available

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

This proposed regulation is not anticipated to have an adverse impact on small businesses. It is estimated that 74 of the 75 jurisdictional water public utilities, including 21 regulated municipal systems, could be considered small businesses based on annual operating revenue and number of employees.

In 2012, the PUC formally adopted the American Water Works Association Water Audit Methodology (AWWA Methodology), and all Class A water public utilities have been filing the annual water loss audit report each year since this adoption. Presently, within the Commonwealth, the PUC and the Delaware River Basin Commission employ the AWWA Methodology and require submittal of annual water loss audit data using the Free Water Audit Software (FWAS), or equivalent, for water utilities under their jurisdiction. As such, Class A water public utilities are already familiar with the AWWA Methodology, FWAS, and data collection required for each system. With the Class A water public utilities already filing the annual water loss audit report, there should be minimal impact on the operations of those water public utilities related to the completion of the proposed water loss audit and the filing of an annual water loss report contemplated by the proposed regulation.

In filing the annual water loss audit report, a Class A water public utility would recognize and monetize losses for each system and document its plans to implement corrective action. Reducing the avoidable loss of water should save costs incurred by water public utilities for production and delivery of potable water. NAWC-PA and Aqua estimated that reducing the avoidable loss of water would save utilities roughly \$500 per million gallons for surface water systems and \$250 per million gallons for well systems on production costs.

Class A water public utilities conducting the prescribed water audits will be utilizing existing electronic data sets generated by its automated recording systems ensuring the least cost approach is implemented by this proposed regulation.

Less intrusive or less costly alternative methods of achieving the purpose of this proposed regulation are not known and likely do not exist. The proposed regulation is intended to proactively prevent expensive emergency repairs which can cause unplanned disruptions to service and transportation delays to the public.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

Class B water public utilities, water utilities with annual operating revenues of \$150,000 or more but less than \$750,000, Class C water public utilities, water utilities with annual operating revenues up to \$150,000, and regulated municipal corporations would be exempt from filing an annual water loss audit. Class B and Class C water public utilities may lack the staff resources and automated data collection systems that would increase the ease of acquiring the required report data. The proposed regulation would require Class A water public utilities, those with over \$750,000 in annual revenue, to complete and file water loss audits. Class A water public utilities generally possess advanced technical capabilities and staff resources which allow water loss audits to be completed without overburdening the utility.

Special provisions have not been developed to meet the particular needs of minorities, the elderly, small businesses, and farmers as those persons are not discrete, identifiable parts of the jurisdictional community.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions have been considered and rejected.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As set forth in response No. 25, Class B and C water public utilities, and municipal corporations under the PUC's jurisdiction will be exempt from filing an annual water loss audit which the proposed regulation requires of the Class A public utilities.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable, and testable data that is supported by documentation, statistics, reports, studies, or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in

a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data are not the basis for the proposed regulation; however, the PUC will collect and record the data reported. The basis of this proposed regulation is the acknowledgement that the completion of an annual water audit which requires the entity to identify or estimate the volumes and sources of lost water and places a value on that lost water in terms of lost revenue, is beneficial to the utility, customer, and the environment.

(29) Include a schedule for review of the regulation including:

- | | |
|---|----------------------------------|
| A. The length of the public comment and reply period: | <u>90 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>None</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Unknown at this time</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication as final</u> |
| E. The expected date by which compliance with the final form regulation will be required: | <u>Upon publication as final</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>None required</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The PUC will review the annual filings of each Class A, Class B, and Class C water public utility and municipal corporation under the PUC's jurisdiction to monitor the effectiveness of the proposed regulation.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

RECEIVED

JUL 28 2022

**Independent Regulatory
Review Commission**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>Amy M. Elliott <small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Chief Deputy Attorney General, email=amy@attorneygeneral.pa.gov, c=US</small></p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p><u>7/21/2022</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Public Utility Commission (PUC)</u> (AGENCY)</p> <p>AGENCY NO.: <u>57-336</u> PUC Docket No.: <u>L-2020-3021932</u> DATE OF ADOPTION at PUC PM: <u>11/18/2021</u> DATE OF ENTRY: <u>11/18/2021</u></p> <p>BY: <u>Rosemary Chiavetta</u></p> <p>TITLE: <u>Rosemary Chiavetta</u> PUC SECRETARY</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>Renardo L. Hicks</u> <u>Renardo L. Hicks</u> <u>PUC Chief Counsel</u></p> <p><u>4/1/2022</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> (Chief Counsel, Independent Agency)</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**Agency No. 57-336
PUC Docket No. L-2020-3021932
PROPOSED RULEMAKING**

Proposed Rulemaking to Implement Water Audit Methodology Regulation

52 Pa. Code Chapter 65

On November 18, 2021, the PUC initiated a Notice of Proposed Rulemaking to supersede the existing Water Conservation Policy Statement at 52 Pa. Code § 65.20 with a regulation designed to improve the efficiency of water public utility operations, which may reduce operating costs and counteract a utility's need to raise rates. The infrastructure improvements anticipated with this proposed regulation may increase the quality of water being supplied to customers, reduce disruptions to service, and reduce disruptions to travel due to unforeseen repairs.

The contact persons for this Notice of Proposed Rulemaking are Assistant Counsel James Mullins, 717-787-5978, jamullins@pa.gov, and Stephanie Wilson, 717-787-1859, stepwilson@pa.gov, in the PA PUC's Law Bureau, and Clinton McKinley, 717-783-6161, cmckinley@pa.gov, and Matthew Lamb, 717-783-1001, mlamb@pa.gov, in the PA PUC's Bureau of Technical Utility Services.

EXECUTIVE SUMMARY
Agency No. 57-336
PUC Docket No. L-2020-3021932
PROPOSED RULEMAKING

Proposed Rulemaking to Implement Water Audit Methodology Regulation

52 Pa. Code Chapter 65

The Pennsylvania Public Utility's (PUC's) existing Water Conservation Policy Statement, 52 Pa. Code § 65.20 (1989) (Water conservation measures—statement of policy), provides guidance to water public utilities in encouraging cost-effective water conservation by their customers. On December 10, 2008, the PUC entered a final order at Docket No. M-2008-2062697 inviting all jurisdictional water public utilities to participate in a pilot program to implement the American Water Works Association Water Audit Methodology (AWWA Methodology). Aqua Pennsylvania, Inc., Pennsylvania-American Water Company, Superior Water Company, York Water Company, and United Water Company, Inc., chose to participate in the program. On January 27, 2012, the PUC entered a final order requiring all Class A public water utilities to implement the AWWA Methodology and directing the preparation of proposed regulations implementing the AWWA Methodology as a best management practice in water loss control in Pennsylvania.

On September 17, 2020, the PUC entered an Advanced Notice of Proposed Rulemaking Order seeking comments on a proposed regulation at 52 Pa. Code § 65.20a which would replace and supersede the current Water Conservation Policy Statement. The proposed regulation would establish as regulatory obligations the water conservation measures currently contained as recommendations in the PUC's Water Conservation Policy Statement for all water public utilities and establish a water loss audit obligation for Class A water public utilities in the Commonwealth. The proposed regulation would allow the PUC to review a water public utility's compliance or lack thereof with the new regulation when determining just and reasonable rates as well as consider non-compliance in any other proceedings. On November 18, 2021, the PUC initiated a Notice of Proposed Rulemaking seeking to promulgate the proposed regulation. This regulation is expected to improve the efficiency of the water public utility's operations, which may reduce operating costs and counteract the utility's need to raise rates collected from customers to cover the water public utility's revenue requirement. Additionally, the infrastructure improvements anticipated with this regulation may increase the quality of water being supplied to customers, reduce disruptions to service, and reduce disruptions to travel which are sometimes required to complete unforeseen repairs.

The contact persons for this Notice of Proposed Rulemaking are Assistant Counsel James Mullins, 717-787-5978, jamullins@pa.gov, and Stephanie Wilson, 717-787-1859, stepwilson@pa.gov, in the PA PUC's Law Bureau, and Clinton McKinley, 717-783-6161, cmckinley@pa.gov, and Matthew Lamb, 717-783-1001, mlamb@pa.gov, in the PA PUC's Bureau of Technical Utility Services.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265**

Public Meeting held November 18, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Proposed Water Audit Methodology Regulation
52 Pa. Code § 65.20a - Water conservation measures

L-2020-3021932

NOTICE OF PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

The Pennsylvania Public Utility Commission (PUC) adopts this Notice of Proposed Rulemaking (NOPR) Order¹ and seeks comments on proposed language for a regulation at 52 Pa. Code § 65.20a, relating to water conservation measures.

BACKGROUND

The General Assembly has empowered the PUC to enact regulations governing public utilities. Section 501 of the Public Utility Code, 66 Pa.C.S. § 501(b), provides in relevant part that:

[T]he commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.

¹ This Order serves as the PUC's "preamble" for this proposed regulatory process. See 1 Pa. Code § 301.1, regarding definitions.

Section 504 of the Public Utility Code, 66 Pa.C.S. § 504, provides in pertinent part that the PUC:

[M]ay require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.

The PUC's existing policy statement on water conservation measures, 52 Pa. Code § 65.20 (Water Conservation Policy Statement), provides guidance to water utilities in encouraging cost-effective water conservation by their customers. It was issued under the Public Utility Code, 66 Pa.C.S. § 523(b) relating to performance factor consideration. The Water Conservation Policy Statement was adopted on April 7, 1989, and became effective on April 8, 1989, when it was published at 19 Pa.B. 1575.

On November 10, 2008, the PUC entered a Tentative Order at Docket No. M-2008-2062697 regarding a pilot program to implement the American Water Works Association Water Audit Methodology (AWWA Methodology). The November 10, 2008, Order became final on December 10, 2008, as evidenced by a Secretarial Letter issued on January 13, 2009, and is referred to herein as the "December 10, 2008 Order." The AWWA Methodology quantifies non-revenue water by volume, cost and data quality using a standard water audit spreadsheet provided at no charge by AWWA. The AWWA Methodology characterizes non-revenue water standing through performance indicators that independently assess apparent losses, real losses, costs, and data validity. The AWWA Methodology is an effective means for loss control target setting and measurable performance improvement. By way of the December 10, 2008, Order, the PUC invited all jurisdictional water utilities to voluntarily participate in a pilot program to implement the AWWA Methodology. Aqua Pennsylvania, Inc., Pennsylvania-American Water

Company, Superior Water Company, York Water Company, and United Water Company, Inc., chose to participate in the program.

On November 10, 2011, the PUC entered a Tentative Order at Docket No. M-2008-2062697 wherein the PUC ordered all Class A water utilities to implement the AWWA Methodology.² The November 10, 2011, Order became final on January 27, 2012, as evidenced by a Secretarial Letter issued on January 27, 2012, and is referred to herein as the “January 27, 2012, Order.” The January 27, 2012, Order also directed preparation of proposed regulations implementing the AWWA Methodology as a best management practice in water loss control in Pennsylvania.

On September 17, 2020, the PUC entered an Advanced Notice of Proposed Rulemaking Order (ANOPR Order) at this docket, which was published in the *Pennsylvania Bulletin* on October 10, 2020, 50 Pa.B. 5657.³ In the ANOPR Order, the PUC invited comments from the regulated community and other interested parties within 45 days of publication which would include proposed regulatory language, experienced benefits and costs of the proposed methodology, and the suggested scope of the regulation. The ANOPR Order did not contain draft language of a proposed regulation.

Comments were received from the Office of Consumer Advocate (OCA). Joint comments were received from the Pennsylvania Chapter of National Association of

² The January 27, 2012 Order, inter alia, noted that that our “comprehensive Policy Statement on Conservation calls for an ongoing leak detection and repair program as an integral part of maintaining low levels of UFW.” At 3.

³ The caption of this rulemaking proceeding referenced Section 65.20 in the ANOPR. This regulation would, however, be codified at 52 Pa. Code §65.20a rather than Section 65.20 pursuant to directions from the *Legislative Reference Bureau*.

Water Companies⁴ and Aqua Pennsylvania, Inc. (collectively NAWC-PA and Aqua); and from AWWA Water Loss Control Committee Members George Kunkel, David Sayers, Edward Osann, Steve Cavanaugh, Will Jernigan, and Drew Blackwell (collectively AWWA Committee).

With the many challenges facing the water industry, including, rising costs to rehabilitate aging infrastructure, increased energy costs, increased costs of chemicals and other treatment necessary to meet the more stringent requirements of the Pennsylvania Safe Drinking Water Act, 35 P.S. §§ 721.1-721.17, and the limited availability and higher costs for developing new sources of supply, this NOPR Order reflects the PUC's effort to develop a more comprehensive codified water audit method as a tool to increase the efficiency of a water public utility's efforts to conserve water, account for lost water, increase water supply sustainability, remediate infrastructure, and improve overall service reliability.⁵

DISCUSSION

A. Summary Of Comments

1. Office of Consumer Advocate

OCA submitted Comments on November 24, 2020. OCA recommended that the water loss audit reports be available for stakeholders to review and be easy to find on the PUC's website. (OCA Comments at 2). OCA further proposed that the water audit submissions be reviewed for consistency and that the data be validated on a regular basis. (OCA Comments at 2-3). OCA asserted that the data should be verified by the utility and

⁴ NAWC-PA is a trade organization whose members are investor-owned jurisdictional water public utilities in the Commonwealth. The members are Columbia Water Company, Newtown Artesian Water Company, Pennsylvania American Water Company, SUEZ Water Pennsylvania Inc., and The York Water Company. NAWC-PA provides its members with a vehicle for expressing their position on legislative and regulatory developments before the General Assembly, regulatory agencies, and the courts. NAWC-PA and Aqua Joint Comments at 1-2.

⁵ The proposed regulation does not address water that is lost prior to being treated (*i.e.*, raw water). Raw water loss tends to be a limited quantity and does not have the same value as treated water.

that the PUC's Bureau of Technical Utility Services (TUS), the PUC's Bureau of Audits, or both review the submissions to ensure that the data are validated on a regular basis. (OCA Comments at 3). OCA did not take a position on whether the Class B or Class C water public utilities should be required to use the AWWA Methodology or comparable water audit methodology. (OCA Comments at 3).

2. National Association of Water Companies – Pennsylvania Chapter & Aqua Pennsylvania, Inc.

NAWC-PA and Aqua submitted joint comments on November 24, 2020. NAWC-PA and Aqua enumerated the strengths of the AWWA Methodology. (NAWC-PA and Aqua Comments at 3).

NAWC-PA and Aqua asserted that a regulation is premature at this time and that there is no adequate empirical foundation for establishing a benchmark. (NAWC-PA and Aqua Comments at 5-7). NAWC-PA and Aqua submitted that the PUC needs to analyze the information currently filed by Class A water public utilities prior to drafting the regulation. (NAWC-PA and Aqua Comments at 5-7). If, however, a regulation is to be promulgated, NAWC-PA and Aqua asserted that the regulation should include a benchmark for non-revenue water and consequences in the event that a particular system exceeds the benchmark. (NAWC-PA and Aqua Comments at 8). NAWC-PA and Aqua encouraged the PUC to favor bringing a public water utility into compliance with the benchmark rather than imposing penalties on non-compliant utilities. (NAWC-PA and Aqua Comments at 8-9). NAWC-PA and Aqua requested that a working group of stakeholders be convened to review and draft the subject regulation. (NAWC-PA and Aqua Comments at 9).

NAWC-PA and Aqua further asserted that, if a regulation is to be promulgated at this time, all jurisdictional public water utilities should be required to submit at least one water audit using the AWWA Methodology. (NAWC-PA and Aqua Comments at 4).

NAWC-PA and Aqua suggested that medium and large water public utilities (*i.e.*, those with more than 10,000 customers) should complete annual water loss audits while smaller utilities should complete a water loss audit every five (5) years. (NAWC-PA and Aqua Comments at 7-8). NAWC-PA and Aqua submitted that a water public utility should complete a water audit using the AWWA Methodology for all their systems but be permitted to submit a single document to the Commission. (NAWC-PA and Aqua Comments at 7).

NAWC-PA and Aqua detailed the costs and savings associated with the AWWA Methodology. They submitted that preparing a water audit is significantly more costly than calculating unaccounted-for water. (NAWC-PA and Aqua Comments at 3). In order to collect data and file an annual report for each system, NAWC-PA and Aqua estimated that a water public utility will consume fifty (50) hours of time or more throughout the year. (NAWC-PA and Aqua Comments at 3). NAWC-PA and Aqua estimated the cost to be \$2,500 per report. (NAWC-PA and Aqua Comments at 3-4). NAWC-PA and Aqua were also concerned with costs a water public utility may incur if water loss is too high and corrective action is needed. (NAWC-PA and Aqua Comments at 4). NAWC-PA and Aqua provided that reducing the avoidable loss of water will save a water public utility on production costs of roughly \$500 per million gallons for surface water systems and \$250 per million gallons for well systems. (NAWC-PA and Aqua Comments at 4).

3. AWWA Water Loss Control Committee Members

The AWWA Committee submitted comments on November 24, 2020, and supplemental comments on November 25, 2020. The AWWA Committee also set forth the many benefits of the AWWA Methodology and provided the background and an explanation of the AWWA Methodology. (AWWA Committee Comments at 3-26). The AWWA Committee suggested training for water public utility staff, PUC staff, and other

stakeholders on the AWWA Methodology, data collection and self-assessment of water supply operations. (AWWA Committee Comments at 4). The AWWA Committee suggested that water loss audits be submitted for individual systems in electronic MS Excel format with an attestation by a senior executive of the water public utility to confirm the accuracy and completeness of the water loss audit submittal. (AWWA Committee Comments at 4). AWWA Committee also submitted that validation of the assembled water audit loss data is an essential quality control check. (AWWA Committee Comments at 4).

The AWWA Committee asserted that the water loss audit data should be compiled into a summary and posted on the PUC's website annually. (AWWA Committee Comments at 21). The AWWA Committee also provided suggested regulatory language. (AWWA Committee Comments at 27-29; AWWA Committee Supplemental Comments at 1-3).

B. Summary Of The Proposed Water Conservation Measures Regulation As Set Forth In Annex A

The proposed regulation as set forth in Annex A would replace and supersede the current Water Conservation Policy Statement at 52 Pa. Code § 65.20. In addition to proposing a methodology, this NOPR also proposes to promulgate as regulations the other recommendations in the Water Conservation Policy Statement.

Subsection 65.20a(a)--General

This new regulation would establish as regulatory obligations the water conservation measures currently enshrined as recommendations in the Water Conservation Policy Statement for all water public utilities and establish a water loss audit obligation for Class A water public utilities. The PUC would review a water public utility's compliance or lack thereof with the new regulation when determining just and reasonable rates and could consider non-compliance in any other proceedings.

Subsections 65.20a(a), 65.20a(b), and 65.20a(d) – 65.20a(k) would be applicable to all water public utilities. Subsection 65.20a(c) would be applicable to Class A water public utilities.

Subsection 65.20a(b)—Definitions

This subsection would define terms used in this section that are not defined elsewhere in the Title 52.

Subsection 65.20a(c)—Water loss audit for a Class A water public utility

This proposed subsection is predicated on the December 10, 2008, Order that established the voluntary pilot program for Class A water public utilities and on the January 27, 2012 Order in which the PUC ordered all Class A water utilities to implement the AWWA Methodology and indicated that a rulemaking would be commenced.

Pursuant to the proposed regulation, each Class A water public utility would be required to conduct an annual water loss audit with results reported to the PUC by April 30th of the following year. The results would have to be verified and provided in a working electronic format to the PUC. The annual water loss report would be completed for each discrete water system.

Class A water utilities would have to use a water audit methodology that, at a minimum, would quantify and address the following metrics and report criterion: (i) Water supplied, in gallons; (ii) Authorized consumption, in gallons; (iii) Water losses, in gallons; (iv) Non-revenue water, in gallons; (v) Distribution system characteristics; (vi) Operational cost data; (vii) Performance indicators, including financial indicators and operational efficiency indicators; (viii) Comment on any reported metric value that varied greater than 10% in either direction from the previous year's reported value and has not

improved over three years of reporting; (ix) Indication of the confidence in the validity and accuracy of the value reported for each metric and a summation of the overall validity and accuracy of the data reported; (x) Description of priority areas the utility intends to address to reduce future water loss.

We acknowledge the concerns of NAWC-PA and Aqua that the AWWA Free Water Audit Software may be revised from time to time by AWWA. We also acknowledge that we cannot incorporate into regulations a directive that a regulated entity use the “most current” version as may be on offer in the future. Information regarding the permissive use of later versions will be addressed by the PUC as may be required.

Use of the AWWA Free Water Audit Software Version 6.0 (2020) would satisfy the annual water loss reporting requirements. If a water public utility seeks to use an alternative water audit methodology or a version other than the AWWA Free Water Audit Software Version 6.0 (2020), the water public utility would need to file, for review by the PUC at least 60 days prior to the end of the calendar year, all the technical and engineering formulas and metrics needed to substantiate how the alternative methodology or alternate version meets or exceeds the requisite metrics. Upon approval by the PUC of the alternate formulas and metrics or alternate version of the AWWA Free Water Audit Software, the water public utility would then proceed to file its annual water loss report using the approved alternate water audit loss methodology with the PUC by April 30th of the following year.

The PUC agrees with NAWC-PA and Aqua that there is not an adequate empirical foundation for establishing a benchmark using the water audit methodology as the information currently filed by Class A utilities has not always been reported on a discrete system basis but instead, in many instances, was reported on a composite basis for numerous non-interconnected water systems. As such, the purpose of the proposed

regulation is to standardize the water audit methodology's use and reporting to improve the quality and value of the information filed. Further, until there is an adequate empirical foundation for a benchmark to be established, the PUC will continue to require a Class A water public utility to report its unaccounted-for water using Schedule 500 of the utility's Annual Financial Report to the PUC.

Subsection 65.20a(d)—Unaccounted-for water

This proposed subsection is predicated on Subsection 65.20(4) relating to unaccounted-for water. Class A, Class B, and Class C water public utilities would have to report unaccounted-for water using Schedule 500 of the public utility's Annual Financial Report to the PUC. Levels of unaccounted for water would have to be kept within reasonable amounts. Levels above 20% have been considered by the PUC to be excessive. By continuing to monitor unaccounted-for water and comparing it to the water loss information, we can evaluate the two measurements. Until we have a benchmark for water loss, the unaccounted-for metric provides continuity in evaluating performance without jeopardizing the reliability of systems.

Subsection 65.20a(e)—Leak detection

This proposed subsection is predicated on Subsection 65.20(5) relating to leak detection. The proposed regulation would require a water public utility to use a system of leak detection on a regular basis with leaks being repaired as expeditiously and economically as possible. Leaks increase customer costs, decrease shareholder profits, decrease reliability and quality of the water supplies, negatively impact the environment, and compromise the safety of persons and properties near the leak. Undetected leaks exacerbate the negative impacts and risk unplanned outages for repairs.

Subsection 65.20a(f)—Metering

This proposed subsection is predicated on Subsection 65.20(6) relating to metering. The proposed subsection would require a comprehensive metering program reflecting a water public utilities obligations under Section 65.8 relating to metering that includes metering sources of supply, metering service to customers, and regular testing and maintenance of meters in service. The water public utility would be required to provide documentation of the program to the Commission upon request. However, in light of Section 65.8, parties should comment on whether the proposed Subsection 65.20a(f) is warranted.

Subsection 65.20a(g)—Mandatory conservation contingency plan

This proposed subsection is predicated on Subsection 65.20(7) relating to conservation plans and Section 65.11 relating to mandatory conservation measures. The proposed regulation would require each water public utility to incorporate its mandatory conservation contingency plan in its tariff in order to document its mandatory conservation measures obligations under Section 65.11. However, in light of Section 65.11, parties should comment on whether the proposed Subsection 65.20a(g) is warranted.

Subsection 65.20a(h)—Efficiency plumbing fixtures

This proposed subsection is predicated on Subsection 65.20(3) relating to efficiency plumbing fixtures. A water public utility would be required to notify each customer annually that water-saving plumbing fixtures should be installed in new construction or remodeling. The notice to customers would also have to encourage customers to retrofit existing plumbing fixtures. While a water public utility cannot mandate that its customers use efficient plumbing fixtures, it can help customers to understand that conservation behind the meter helps to minimize the need for new infrastructure and reduces demand on a water system. The water public utility would be

required to consult with the PUC's Communications Office and the PUC's Bureau of Consumer Services regarding the initial development and subsequent revisions of efficiency materials.

Subsection 65.20a(i)--Education

This proposed subsection is predicated on Subsection 65.20(1) relating to education. A public utility would be required to provide each customer with a brochure or similar type of material at least once per year which discusses efficient water use practices, the expensive waste caused by leaking plumbing fixtures, the availability of retrofitting plumbing devices to curtail unnecessary water use, and the possible savings on water and fuel bills that could ensue with the implementation of these conservation methods. Customer education is paramount to customer awareness of the need for and understanding of efficient water use practices and consequences of wasted water. The water public utility would be required to consult with the PUC's Communications Office and the PUC's Bureau of Consumer Services regarding the initial development and subsequent revisions of these educational materials.

Subsection 65.20a(j)—Water audit for large a nonresidential customer

This proposed subsection is predicated on Subsection 65.20(2) relating to water audit for large users. On an annual basis, each water public utility would be required to inform each large, nonresidential customer of the availability of the large water user audit procedure developed by the Department of Environmental Protection (DEP) via a printed message on or with a periodic bill. The water audit procedure developed by DEP is intended to guide large water consumers in estimating the water and energy savings that can be realized as a result of installing low flow plumbing fixtures and reducing potable water consumption.

Subsection 65.20a(k)-- Penalties

If the obligations proposed herein are established as regulatory requirements, then it would be appropriate to also establish consequences for a failure to comply with the regulatory requirements. This subsection would subject a non-compliant water public utility to a penalty as provided under 66 Pa.C.S. § 3301. Continued failure to file annual reports may result in additional penalties.

C. Impact Of The Proposed Regulation

Pursuant to the January 27, 2012, Order, the PUC formally adopted the AWWA Methodology, and all Class A water public utilities have been filing the annual water loss audit report each year. Presently, within the Commonwealth, the PUC and the Delaware River Basin Commission employ the AWWA Methodology and require submittal of annual water loss audit data using the Free Water Audit Software (FWAS) for water utilities under their jurisdiction. As such, Class A water public utilities are already familiar with the AWWA Methodology, FWAS, and data collection required for each system. With the Class A water public utilities already filing the annual water loss audit report, there should be minimal impact on the operations of those water public utilities related to the completion of the proposed water loss audit and the filing of an annual water loss report contemplated by the proposed regulations.

In filing the annual water loss audit report, Class A water public utilities would recognize and monetize losses for each system and document its plans to implement corrective action. Reducing the avoidable loss of water should save costs incurred by water public utilities for production and delivery of potable water. NAWC-PA and Aqua estimated that reducing the avoidable loss of water would save utilities roughly \$500 per million gallons for surface water systems and \$250 per million gallons for well systems on production costs.

The proposed AWWA Methodology or a comparable water loss audit methodology would allow a Class A water public utility to make a meaningful assessment of its water loss standing, compare itself with other water public utilities, and set performance targets. We find that Class A utilities, along with their customers, will be well served by implementing the AWWA Methodology or a comparable water audit methodology. Lost water incurs unnecessary costs for pumping or treating or both, increases the risk of damage to surrounding areas, can cause unplanned service outages, and threatens the potability and availability of water being delivered to customers. Operational efficiencies such as reduced water loss and planned, rather than emergency, repairs can be expected through improved tracking of water that is not revenue producing. Ultimately, we expect that tighter control of water production, to match the actual customer demand, will assist in sustaining existing water sources.

In addition, the availability of an annual water loss audit would allow an interested party to access the annual water audit summaries that a public utility would file with the PUC. This access would enhance the transparency of the regulatory process and remove the uncertainty involved with the use of the unaccounted-for water method. Overall, implementation of the AWWA Methodology or a comparable water audit methodology would help achieve a number of public interest benefits such as increased infrastructure reliability, preservation of water resources, reduction in water leakage, reduced overall water public utility risk, and enhanced customer service.

CONCLUSION

Accordingly, under Sections 501 and 504 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 504; Section 201 of the Act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law (45 P.S. § 1201), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; Section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)); Section 5 of the Regulatory Review Act (71 P.S. § 745.5); and Section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the

regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, the PUC proposes adoption of a regulation at 52 Pa. Code § 65.20a as set forth in Annex A which would replace the existing Water Conservation Policy Statement at 52 Pa. Code § 65.20. Upon completion of the rulemaking, the PUC will commence revocation of the Water Conservation Policy Statement; **THEREFORE,**

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the proposed water audit methodology regulation set forth in Annex A.
2. That the Law Bureau shall submit this Notice of Proposed Rulemaking Order and Annex A to the Office of the Attorney General for review and approval and to the Governor's Budget Office for review for fiscal impact.
3. That upon completion of the reviews by the Office of Attorney General and the Governor's Budget Office, the Law Bureau shall submit this Notice of Proposed Rulemaking Order and Annex A for review and comment to the Legislative Standing Committees, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission.
4. That interested parties may file written comments referencing Docket No. L-2020-3021932 within 45 days of publication in the *Pennsylvania Bulletin* and may file written reply comments within 45 days of the deadline for filing comments. Comments and reply comments are to be filed electronically through the Commission's e-File System. See <https://efiling.puc.pa.gov/> for instructions. Confidential materials should be clearly marked as such and be emailed to Rosemary Chiavetta, Commission Secretary, rchiavetta@pa.gov, in lieu of being eFiled. Comments and reply comments should not be filed outside the stated periods for comments and reply comments.

5. That the Secretary shall serve this Notice of Proposed Rulemaking Order and Annex A on all jurisdictional water utilities, the Office of the 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 Delaware River Basin Commission, the Susquehanna River Basin Commission, and the American Water Works Association – Pennsylvania Chapter.

6. That the Secretary shall publish to the Commission's website this Notice of Proposed Rulemaking Order and Annex A at Docket No. L-2020-3021932.

7. That the contact persons for this matter are James A. Mullins, Assistant Counsel, Law Bureau, (717) 787-5978, jamullins@pa.gov; Stephanie A. Wilson, Assistant Counsel, Law Bureau, (717) 787-1859, stepwilson@pa.gov; and Karen Thorne, Regulatory Review Assistant, Law Bureau, kathorne@pa.gov. Parties shall email electronic copies in Microsoft Word®-compatible format of their filings at this docket to these contact persons.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written over a horizontal line.

Rosemary Chiavetta,
Secretary

(SEAL)

ORDER ADOPTED: November 18, 2021

ORDER ENTERED: November 18, 2021

**FISCAL NOTE FOR DOCUMENTS
FILED WITH THE LEGISLATIVE REFERENCE BUREAU**

April 6, 2022

Agency: Public Utility Commission

Agency Identification Number: 57-336

Subject of Regulation: Rulemaking to Implement Water Audit Methodology Regulation

Pursuant to Section 612 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929, I am submitting the following fiscal note for publication in the *Pennsylvania Bulletin* to accompany this notice of regulatory action or administrative procedure.

FISCAL NOTE AS REQUIRED BY SECTION 612

Administrative Code of 1929

(See also 4 Pennsylvania Code § 7.231, et seq. [9 Pennsylvania Bulletin])

This action will not result in a loss of revenue or an increase in program costs to the commonwealth or its political subdivisions.

The Secretary of the Budget recommends adoption of this regulatory action or administrative procedure.

 for

Secretary of the Budget

Annex A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 65. WATER SERVICE

§ 65.20a. Water conservation measures.

(a) *General.* The Commission will review a water public utility's efforts to meet the criteria in this section when determining just and reasonable rates and may consider the water public utility's efforts in other proceedings.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

AWWA Software—AWWA Free Water Audit Software—Version 6.0 (2020) available from Free Water Audit Software/American Water Works Association (awwa.org).

Apparent loss—An inaccuracy such as associated with metering, a data handling system error, billing, fraud, theft or other cause that did not result in an actual loss of treated water.

Authorized consumption—The volume of water used for permitted purposes such as billed customer use, firefighting, company use, and any other use permitted by the water public utility.

Discrete system—A stand-alone pipe network with boundaries that encompass all sources of water and endpoints.

Large customer—A nonresidential customer exceeding the consumption volume that the water public utility has designated in its tariff as large usage.

Real loss—A physical loss of water that has been treated and placed in the distribution system. A real loss may be a measured volume or a calculated volume.

UFW—Unaccounted-for water—The amount of water that is “lost” when comparing the volume of water that is produced with the volume of water that is sold. This amount is adjusted by taking into account a number of

factors based on a formula to estimate the amount of water used but not measured. Those factors include firefighting, hydrant flushing, main flushing, building construction, theft, inaccurate meter recording, faulty meters, and leakage, among other reasons. Ongoing leakage, particularly in older systems, is the most prevalent cause of UFW. Another term for UFW is UAW.

Water supplied—Water that is treated, leaves the plant, and is distributed into the system.

(c) *Water loss audit for a Class A water public utility.*

(1) A Class A water public utility shall conduct an annual water loss audit to determine real water loss volumes and apparent water loss volumes and the associated costs of each and shall file an annual water loss report with the Commission. The annual water loss report must be:

- (i) Completed and filed for each discrete water system;
- (ii) Based on a calendar year;
- (iii) Filed with the Commission by April 30th of the following year;
- (iv) Provided in a working electronic format; and
- (v) Verified under 66 Pa.C.S. § 504 relating to reports by public utilities and 52 Pa Code § 1.36 relating to verification.

(2) A Class A water public utility shall use a water loss audit methodology that, at a minimum, quantifies and addresses the following metrics and reporting criteria:

- (i) Water supplied, in gallons.
- (ii) Authorized consumption, in gallons.
- (iii) Water losses, in gallons (real and apparent).
- (iv) Non-revenue water, in gallons.
- (v) Distribution system characteristics including:
 - (A) Length of mains (in miles);
 - (B) Number of service connections (active and inactive);
 - (C) Average length of customer service line;
 - (D) Average operating pressure (in pounds per square inch).
- (vi) Operational cost data including:
 - (A) The total annual cost to operate the system;
 - (B) The cost of production per million gallons; and

(C) The composite charge that customers pay per gallon of water, including service and volumetric charges, based on a calculated weighted average of individual class rates and the number of customers per class.

(vii) Performance indicators consisting of financial calculations and operational efficiency calculations.

(viii) An explanation for each reported metric value that:

(A) Varied greater than 10% in either direction from the previous year's reported value; and

(B) Has not improved over three years of reporting.

(ix) An indication of the statistical confidence in the validity and accuracy of the values reported for each required metric and a summation of the overall validity and accuracy of the data reported.

(x) A description of priority areas the water public utility intends to address to reduce future water loss.

(3) Use of the AWWA Software will satisfy the annual reporting requirements set forth in § 65.20a(c)(2). A Class A water public utility may petition to use an earlier or later version of the AWWA Software or an alternate methodology provided such petition is filed 60 days before the end of the calendar year for which the alternate version or alternate methodology would be used. The Petition must forth the proposed alternative methodology and software for review. The proposed alternative water audit methodology petition must address all metrics and criteria listed in § 65.20a(c)(2) and contain all the technical and engineering formulas and metrics needed to substantiate how the alternative methodology meets or exceeds the required metrics as listed in § 65.20a(c)(2).

(4) The Commission may provide instructions regarding permissible use of later versions of the AWWA software in reminder communications regarding public utility reporting.

(d) *Unaccounted-for water.* Each Class A, Class B and Class C water public utility shall report its unaccounted-for water using Schedule 500 of the water public utility's Annual Financial Report to the Commission required under § 65.19 regarding filing of annual financial reports. Levels of UFW shall be kept within reasonable amounts. Levels above 20% have been considered by the Commission to be excessive.

(e) *Leak detection.* A water public utility shall use a system of leak detection on a regular basis, with leaks being repaired as expeditiously and economically as possible and shall provide documentation of the system to the Commission upon request.

(f) *Metering.* A water public utility shall have a metering program in place and shall provide documentation of the program to the Commission upon request. A metering program, reflecting a public water utility's obligations under § 65.8 relating to metering, must also include metering sources of supply.

(g) *Mandatory conservation contingency plan.* A water public utility shall include its mandatory conservation contingency plan reflecting its obligations under § 65.11 relating to mandatory conservation measures in its tariff.

(h) *Efficiency plumbing fixtures.* A water public utility shall annually notify its customers that water-saving plumbing fixtures should be installed in new and remodeling construction and as a retrofit to existing plumbing. The water public utility shall consult with the Commission's Communications Office and the Commission's Bureau of Consumer Services regarding the initial development and subsequent revisions of efficiency materials.

(i) *Education.* At least annually, a water public utility shall provide each customer with a brochure or similar type of material that discusses efficient water use practices, the expensive waste caused by leaking plumbing fixtures, the availability of retrofitting plumbing devices to curtail unnecessary water use, and the possible savings on water and fuel bills that could ensue when conservation methods are implemented. The water public utility shall consult with the Commission's Communications Office and the Commission's Bureau of Consumer Services regarding the initial development and subsequent revisions of efficiency materials.

(j) *Water audit for a large nonresidential customer.* A water public utility shall annually inform each of its large, nonresidential customers of the availability of the large water user audit procedure, developed by the Department of Environmental Protection, via a printed message on or with the customer's bill.

(k) *Penalty.* If a water public utility fails to file the information or undertake the actions required by this section in compliance with this section, the water public utility may be subject to a penalty as provided under 66 Pa.C.S. § 3301. Continued failure to comply or to file annual reports may result in additional penalties.

Madison Brame

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Wednesday, July 27, 2022 3:03 PM
To: IRRC
Cc: Thorne, Karen; Wiedt, Patricia; Mullins, James (PUC); Wilson, Stephanie
Subject: FW: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a
Attachments: 3021932 RAF Water Audit NOPR-12422 -412022.docx; 3021932 Water Audit NOPR Annex.docx; 3021932 Water Audit NOPR face sheet 4-4-2022.pdf; 3021932 Water Audit Order.docx; 57-336 (P) Regulation Fiscal Note- No Cost.pdf; RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a ; RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a ; RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a ; [External] Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a ; Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Importance: High

CAUTION: **EXTERNAL SENDER** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17101

Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Via email: IRRC@irrc.state.pa.us

Good Day:

On behalf of the Pennsylvania Public Utility Commission (PUC), please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking (NOPR). The enclosures include the PUC's Order, entered at PUC Docket No. L-2020-3021932, on November 18, 2021, (which serves as the Preamble) and Annex A. Also enclosed are the Regulatory Analysis Form, the Fiscal Note, the signed Face Sheet and Executive Summary, and confirmations of receipt from the Legislative Committees and from the Legislative Reference Bureau (LRB).

The PUC entered this NOPR on December 16, 2021, at PA PUC Docket No. L-2020-3017232. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19

(relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 27, 2022, the PA PUC has submitted the rulemaking packet for this NOPR with supporting documents to the Majority and Minority Chairs of the House Committee on Consumer Affairs and the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensures. The PA PUC also submitted the Order, Annex, and Fiscal Note for publication to the LRB today.

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble) & Annex A
Fiscal Note
Face Sheet and Executive Summary
RAF
Confirmation of delivery from the Legislative Committees and LRB (5 emails)

cc: Patricia Wiedt, PA PUC, Deputy Chief Counsel
James Mullins, PA PUC Assistant Counsel
Stephanie Wilson, PA PUC Assistant Counsel
JJ Livingston, PA PUC Deputy Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

Madison Brame

From: Grill Patrick
Sent: Wednesday, July 27, 2022 9:47 AM
To: Thorne, Karen; Rosentel, Elizabeth
Cc: Fink Smith, Louise; Mullins, James (PUC); Wilson, Stephanie; Wiedt, Patricia; Livingston, JJ
Subject: RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED

JUL 28 2022

**Independent Regulatory
Review Commission**

Karen, we have received the rulemaking packet.

Thank you!

Patrick Grill, *Senior Research Analyst*
House Consumer Affairs Committee (D)
Rep. Rob Matzie, Chairman
109 Irvis Office Building
717-772-0744, x6502
pgrill@pahouse.net

From: Thorne, Karen <kathorne@pa.gov>
Sent: Wednesday, July 27, 2022 9:29 AM
To: Rosentel, Elizabeth <ERosente@pahouse.net>; Grill, Patrick <PGrill@pahouse.net>
Cc: Fink Smith, Louise <finksmith@pa.gov>; Mullins, James (PUC) <jamullins@pa.gov>; Wilson, Stephanie <stepwilson@pa.gov>; Wiedt, Patricia <pwiedt@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a
Importance: High

Ms. Rosentel and Mr. Grill on behalf of The Honorable Robert Matzie:

Please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking for to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a, for review by the House Committee on Consumer Affairs. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on November 18, 2021, at PA PUC Docket No. L-2020-3021932. The Fiscal Note Number is: 57-336. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let myself and Louise Fink Smith know that your office has received this transmittal as we must provide proof of delivery to IRRC.

I am likely out of the office this afternoon.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov

July 26, 2022

The Honorable Robert Matzie
Minority Chair, House Committee on Consumer Affairs
121 Irvis Office Building
PO Box 202016
Harrisburg, PA 17120-2016

Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336
Proposed Rulemaking, to Implement Water Audit Methodology Regulation
52 Pa. Code § 65.20a

Via email: Elizabeth Rosentel at erosente@pahouse.net
Patrick Grill at pgrill@pahouse.net

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Notice of Proposed Rulemaking (NOPR) and supporting documents for review by the Senate Committee on Consumer Protection and Professional Licensure (Committee).

The Pennsylvania Public Utility Commission (PA PUC) entered this NOPR on November 18, 2021, at PA PUC Docket No. L-2020-3021932. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 26, 2022, the PA PUC will also submit a copy of the NOPR with supporting documents to the Majority Chair of the House Committee on Consumer Affairs, the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensures, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission (IRRC).

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly
yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet & Executive Summary

Transmittals with enclosures also to:

The Honorable Jim Marshall
The Honorable Robert Tomlinson
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission

cc: **Patricia Wiedt, PA PUC, Deputy Chief Counsel**
 James Mullins, PA PUC Assistant Counsel
 Stephanie Wilson, PA PUC Assistant Counsel
 JJ Livingston, PA PUC Deputy Director Legislative Affairs
 Louise Fink Smith, PA PUC Assistant Counsel
 Karen Thorne, PA PUC Regulatory Review Assistant

Madison Brame

From: McClain Fultz
Sent: Wednesday, July 27, 2022 1:59 PM
To: Fink Smith, Louise; Amy Reynolds
Cc: Thorne, Karen; Livingston, JJ
Subject: Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED

JUL 28 2022

**Independent Regulatory
Review Commission**

Good afternoon,

The message was received.

Thank you,

McClain Fultz

Research Analyst
Labor & Industry Committee (R)
Consumer Affairs Committee (R)
PA House of Representatives
140 Ryan Office Building
(717) 260-6389

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Wednesday, July 27, 2022 1:53 PM
To: Amy Reynolds <Areynolds@pahousegop.com>; McClain Fultz <mfultz@pahousegop.com>
Cc: Thorne, Karen <kathorne@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: FW: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Good afternoon –

I am following up on Karen Thorne's email to your office.

She is out of the office this afternoon, and I do not have access to email(s) you may have sent her.

Can you confirm that you received the email she sent this morning?

The PUC needs an affirmative confirmation of your receipt in order to complete delivery of this NOPR.

Thank you.

-- Louise Fink Smith
717-787-8866

From: Thorne, Karen <kathorne@pa.gov>
Sent: Wednesday, July 27, 2022 9:19 AM
To: Areynolds@pahousegop.com; mfultz@pahousegop.com
Cc: Fink Smith, Louise <finksmith@pa.gov>; Mullins, James (PUC) <jamullins@pa.gov>; Wilson, Stephanie <stepwilson@pa.gov>; Wiedt, Patricia <pwiedt@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit

Methodology Regulation, 52 Pa. Code § 65.20a

Importance: High

Ms. Reynolds and Mr. Fultz on behalf of The Honorable Jim Marshall:

Please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking for to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a, for review by the House Committee on Consumer Affairs. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on November 18, 2021, at PA PUC Docket No. L-2020-3021932. The Fiscal Note Number is: 57-336. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let myself and Louise Fink Smith know that your office has received this transmittal as we must provide proof of delivery to IRRC.

I am likely out of the office this afternoon.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

July 26, 2022

The Honorable Jim Marshall
Majority Chair, House Committee on Consumer Affairs
105 Ryan Office Building
PO Box 202014
Harrisburg, PA 17120-2014

Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336
Proposed Rulemaking, to Implement Water Audit Methodology Regulation
52 Pa. Code § 65.20a

Via email: Amy Reynolds at Areyolds@pahousegop.com
McClain Fultz at mfultz@pahousegop.com

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Notice of Proposed Rulemaking (NOPR) and supporting documents for review by the House Committee on Consumer Affairs (Committee).

The Pennsylvania Public Utility Commission (PA PUC) entered this NOPR on November 18, 2021, at PA PUC Docket No. L-2020-3021932. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 26, 2022, the PA PUC will also submit a copy of the NOPR with supporting documents to the Minority Chair of the House Committee on Consumer Affairs, the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensures, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission (IRRC).

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly
yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet & Executive Summary

Transmittals with enclosures also to:

The Honorable Lisa Boscola
The Honorable Robert Tomlinson
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission

cc: Patricia Wiedt, PA PUC, Deputy Chief Counsel
James Mullins, PA PUC Assistant Counsel
Stephanie Wilson, PA PUC Assistant Counsel
JJ Livingston, PA PUC Deputy Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

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Madison Brame

From: Vazquez, Enid
Sent: Wednesday, July 27, 2022 2:00 PM
To: Fink Smith, Louise; Rolko, Seth
Subject: RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Follow Up Flag: Follow up
Flag Status: Flagged

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JUL 28 2022

Good Afternoon,

Yes, we have received your email.

Have a good day.

Thank you.

**Independent Regulatory
Review Commission**

Enid Vazquez

State Senator Lisa M. Boscola
One E. Broad Street – Suite 120
Bethlehem, PA 18018
O: 610-868-8667
F: 610-861-2184
www.senatorboscola.com

From: Fink Smith, Louise <finksmith@pa.gov>
Sent: Wednesday, July 27, 2022 1:56 PM
To: Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <enid.vazquez@pasenate.com>
Cc: Thorne, Karen <kathorne@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: FW: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a
Importance: High

■ EXTERNAL EMAIL ■

Good afternoon –

I am following up on Karen Thorne's email to your office.

She is out of the office this afternoon, and I do not have access to email(s) you may have sent her.

Can you confirm that you received the email she sent this morning?

The PUC needs an affirmative confirmation of your receipt in order to complete delivery of this NOPR.

Thank you.

-- Louise Fink Smith
717-787-8866

From: Thorne, Karen <kathorne@pa.gov>

Sent: Wednesday, July 27, 2022 9:35 AM

To: seth.rolko@pasenate.com; enid.vazquez@pasenate.com

Cc: Fink Smith, Louise <finksmith@pa.gov>; Mullins, James (PUC) <jamullins@pa.gov>; Wilson, Stephanie <stepwilson@pa.gov>; Wiedt, Patricia <pwiedt@pa.gov>; Livingston, JJ <jerlivings@pa.gov>

Subject: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Importance: High

Ms. Vasquez and Mr. Rolko on behalf of The Honorable Lisa Boscola:

Please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking for to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a, for review by the House Committee on Consumer Affairs. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on November 18, 2021, at PA PUC Docket No. L-2020-3021932. The Fiscal Note Number is: 57-336. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let myself and Louise Fink Smith know that your office has received this transmittal as we must provide proof of delivery to IRRC.

I am likely out of the office this afternoon.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

July 26, 2022

The Honorable Lisa Boscola
Minority Chair, Senate Committee on Consumer Protection and Professional Licensure
458 Main Capital
Senate Box 203018
Harrisburg, PA 17120-3018

Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336
Proposed Rulemaking, to Implement Water Audit Methodology Regulation
52 Pa. Code § 65.20a

Via email: Seth Rolko at Seth.Rolko@pasenate.com
Enid Vazquez at enid.vazquez@pasenate.com

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Notice of Proposed Rulemaking (NOPR) and supporting documents for review by the Senate Committee on Consumer Protection and Professional Licensure (Committee).

The Pennsylvania Public Utility Commission (PA PUC) entered this NOPR on November 18, 2021, at PA PUC Docket No. L-2020-3021932. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 26, 2022, the PA PUC will also submit a copy of the NOPR with supporting documents to the Majority and Minority Chairs of the House Committee on Consumer Affairs, the Majority Chair of the Senate Committee on Consumer Protection and Professional Licensures, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission (IRRC).

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly
yours,
/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet & Executive Summary

Transmittals with enclosures also to:

The Honorable Jim Marshall
The Honorable Robert Tomlinson
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission

cc: Patricia Wiedt, PA PUC, Deputy Chief Counsel
James Mullins, PA PUC Assistant Counsel
Stephanie Wilson, PA PUC Assistant Counsel
JJ Livingston, PA PUC Deputy Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

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Madison Brame

From: Thorne, Karen <kathorne@pa.gov>
Sent: Wednesday, July 27, 2022 11:03 AM
To: Blauch, Tammy; Smeltz, Jennifer
Cc: Fink Smith, Louise
Subject: RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED

JUL 28 2022

Thank you!!!!

From: Blauch, Tammy <tblauch@pasen.gov>
Sent: Wednesday, July 27, 2022 10:57 AM
To: Thorne, Karen <kathorne@pa.gov>; Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: RE: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

**Independent Regulatory
Review Commission**

Hello Karen,
Confirming receipt of your email.
Thank you.

Glad to see you are back in the office and hope all is well.

Tammy Blauch

Executive Secretary
Office of Senator Robert M. Tomlinson
Room 286 Main Capitol Building
Harrisburg, PA 17120
(717)-787-5072
Fax: (717)772-2991
tblauch@pasen.gov

From: Thorne, Karen <kathorne@pa.gov>
Sent: Wednesday, July 27, 2022 9:39 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>; Blauch, Tammy <tblauch@pasen.gov>
Cc: Fink Smith, Louise <finksmith@pa.gov>; Mullins, James (PUC) <jamullins@pa.gov>; Wilson, Stephanie <stepwilson@pa.gov>; Wiedt, Patricia <pwiedt@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a
Importance: High

© CAUTION : External Email ©

Ms. Smeltz and Ms. Blauch on behalf of The Honorable Robert Tomlinson;

Please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking for to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a, for review by the House Committee on Consumer Affairs. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on November 18, 2021, at PA PUC Docket No. L-2020-3021932. The Fiscal Note Number is: 57-336. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let myself and Louise Fink Smith know that your office has received this transmittal as we must provide proof of delivery to IRRC.

I am likely out of the office this afternoon.

Thank you,

Karen Thorne, RRA

PA PUC Law Bureau

kathorne@pa.gov

Ph: 717-772-4597

July 26, 2022

The Honorable Robert Tomlinson

Majority Chair, Senate Committee on Consumer Protection and Professional Licensure

286 Main Capital

Senate Box 203006

Harrisburg, PA 17120-2014

Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336
Proposed Rulemaking, to Implement Water Audit Methodology Regulation
52 Pa. Code § 65.20a

Via email: Jennifer Smeltz at jmsmeltz@pasen.gov

Tammy Blauch at tblauch@pasen.gov

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Notice of Proposed Rulemaking (NOPR) and supporting documents for review by the Senate Committee on Consumer Protection and Professional Licensure (Committee).

The Pennsylvania Public Utility Commission (PA PUC) entered this NOPR on November 18, 2021, at PA PUC Docket No. L-2020-3021932. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa. Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 26, 2022, the PA PUC will also submit a copy of the NOPR with supporting documents to the Majority and Minority Chairs of the House Committee on Consumer Affairs, the Minority Chair of the Senate Committee on Consumer Protection and Professional Licensures, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission (IRRC).

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very
yours,
/s/ Renardo L. Hicks

truly

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet & Executive Summary

Transmittals with enclosures also to:

The Honorable Jim Marshall
The Honorable Lisa Boscola
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission

cc: Patricia Wiedt, PA PUC, Deputy Chief Counsel
James Mullins, PA PUC Assistant Counsel
Stephanie Wilson, PA PUC Assistant Counsel
JJ Livingston, PA PUC Deputy Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

Madison Brame

From: Bulletin <bulletin@palrb.us>
Sent: Wednesday, July 27, 2022 2:30 PM
To: Thorne, Karen; Fink Smith, Louise
Cc: Mullins, James (PUC); Wilson, Stephanie; Wiedt, Patricia; Livingston, JJ; Adeline E. Gaydosh; A.J. Mendelsohn
Subject: [External] Re: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Follow Up Flag: Follow up
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Hello Karen and Louise,

Thank you for sending this proposed rulemaking. It is scheduled for publication in the 8/6 issue of the *Pennsylvania Bulletin*.

Have a wonderful afternoon!

Adeline

Adeline Gaydosh | Legal Assistant
agaydosh@palrb.us | 717.783.3984
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

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JUL 28 2022

**Independent Regulatory
Review Commission**

From: Thorne, Karen <kathorne@pa.gov>
Sent: Wednesday, July 27, 2022 10:05 AM
To: Bulletin <bulletin@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>
Cc: Fink Smith, Louise <finksmith@pa.gov>; Mullins, James (PUC) <jamullins@pa.gov>; Wilson, Stephanie <stepwilson@pa.gov>; Wiedt, Patricia <pwiedt@pa.gov>; Livingston, JJ <jerlivings@pa.gov>
Subject: PA PUC Docket No. L-2020-3021932; Fiscal Note No. 57-336; Proposed Rulemaking to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a

Ms. Mendelsohn on behalf of The Legislative Reference Bureau:

Please find enclosed the rulemaking packet for the Notice of Proposed Rulemaking for to Implement Water Audit Methodology Regulation, 52 Pa. Code § 65.20a, for review by the House Committee on Consumer Affairs. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on November 18, 2021, at PA PUC Docket No. L-2020-3021932. This proposed regulation would establish water conservation measures as regulatory obligations for all water public utilities; each Class A, Class B, and Class C water public utility and each municipal corporation providing jurisdictional water service would be required to report its Unaccounted-for water under 52 Pa.

Code § 65.19 (relating to filing of annual financial reports). Additionally, the proposed regulation would establish a water loss audit obligation for Class A water public utilities.

The Fiscal Note Number is: 57-336.

Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), on July 26, 2022, the PA PUC will also submit a copy of the NOPR with supporting documents to the Majority and Minority Chairs of the House Committee on Consumer Affairs, the Minority Chair of the Senate Committee on Consumer Protection and Professional Licensures, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission (IRRC).

The PA PUC appreciates the opportunity to deliver these materials electronically

Please let us know if you have any questions.

Please let myself and Louise Fink Smith know that your office has received this transmittal as we must provide proof of delivery to IRRC.

I am likely out of the office this afternoon.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597