



February 7, 2019

Justin S. Milardo
Connecticut Department of Public Health
Drinking Water Section
410 Capitol Avenue, MS#12DWS
P.O.Box 340308
Hartford, CT 06134-0308

RE: Proposed Safe Drinking Water Primacy Assessment Language

Dear Mr. Milardo:

In accordance with the legal notice published by the Department of Public Health, Connecticut Water Company is providing comments regarding the proposed methodology developed by the Commissioner pursuant to section 677(b) of Public Act 17-2 for a safe drinking water primacy assessment.

We concur with the comments submitted by the Connecticut Water Works Association and are providing these comments on behalf of Connecticut Water and our subsidiary companies, Heritage Village and Avon Water.

We would note at the onset, our disappointment that water utilities were not provided the opportunity to review specific language until the publication of the legal notice, as we had expected that the Commissioner would have developed the language “in consultation” with representatives of water companies, as directed in the public act. While there were two general informational meetings held, we would have liked the opportunity to work more closely to develop proposed language to address prior outstanding issues before the draft language was issued and we are now faced with legislative deadlines. Many of our comments relate to items that were discussed and deferred at the time of the adoption of the 2017 public act and remain important for the water utilities to have resolved.

MANAGING THE AMOUNT AND USE OF THE ASSESSMENT FEE

The most substantive issue, which needs to be resolved before water utilities would be in a position to support the continuation of the assessment, is how to determine the amount of the assessment due to DPH and to ensure there are provisions defined in the statute that clearly provide for:

- a dollar limit on the amount to be collected in any year from water utilities for this assessment
- a dollar limit on the amount to be charged per customer in any year
- a dollar or percent cap on any increase to the assessment in any year and in total over time

- a limit on the percentage of the overall DPH Water Supply Section budget to be funded through this assessment for primacy related duties
- a clear definition of which functions and how many positions within the DPH Water Supply Section are funded through this assessment that are necessary to maintain EPA SDWA primacy obligations and the duties delegated by EPA. Water utilities and their customers should not be expected to support programs through this fee that are established by the state of CT or the Department which are not explicitly required by EPA regulations.

To manage these concerns, we would suggest there be 'sunset provision' for the fee in statute, as has been done in other states. By example, Missouri had such a sunset provision when they first established their fee in 2006 and subsequently removed that provision in 2014 after they had experience with the program. Alternatively, there could be a requirement for a public hearing on the annual report and an affirmative vote by the legislature for any increases.

REPORTING AND ACCOUNTABILITY

Given the very real concerns about how to manage the amount and use of the fee, there needs to be a clear mechanism for reporting and accountability, to the legislature. While the proposed language includes a report to the legislature, there is no mechanism for a public hearing on the report and/or legislative approval of any change in the fee to ensure it gets the necessary attention.

Other states including Maine and Missouri, have drinking water commissions which include members who represent the general public and various size public water systems who are directly involved in the development of safe drinking water regulations, administration of grants and loans and set the primacy fee. This is codified in Maine under Title 5, section 12004-I, subsection 47-C. This concept, which would provide greater transparency and confidence in the process, was originally proposed by the water utilities and we suggest it be revisited and fully considered at this time.

BASIS FOR ASSESSMENT AND CUSTOMER BILLING

- The water companies had requested that rather than have the fee based on 'service connections' that it should be refer to "customer connections" to promote consistency and simplify billing. A service connection may have multiple billed accounts so there can be an inequity among customers within and between utilities if that is the basis for the fee.

Suggest that 'customer connections' be defined to mean "the total number of billed customer accounts of the water company but shall not include accounts used for fire service purposes only" and then revise the term from 'service connection' to 'customer connection' throughout the document.

- Section 1 (b) – there needs to be a mechanism for the utilities to provide feedback or ‘appeal’ if they believe there is a discrepancy with the DPH records on the number of connections that will be used as the basis for billing. This could be accomplished by providing that the utility must notify the department within 30 days with supporting data if they have an alternate count and then the department would have 30 days to review, reconcile and respond with a final number.
- The basis for the count of customers to be used in assessing the fee for the large systems should, by definition, include customers of *all* systems owned and operated by a single company. Otherwise there can be significant differences in the cost per customer under one company’s ownership, depending on the number of customers in the smaller systems they own that would be assessed a flat amount instead of a per customer charge.

Suggest inserting language at the end of 1(b) to the effect of: “For purposes of establishing the number of customers subject to this assessment, the number of customer accounts shall include the total in all community water systems owned and operated by one water company.”

- Section 1 (c) - Suggest that this be clarified to explicitly state the fee is based on the costs that are posted LESS the amounts otherwise received from state or federal funds. Otherwise, it could be interpreted to suggest that the water utilities pick up the entire cost of the program rather than filling the funding gap.
- While we appreciate that the fee has been extended to include a charge for the transient systems as required by statute, the \$150 fee at intervals of every 5 years is not adequate, particularly given how much time and effort DPH staff indicates they direct to regulate those small systems. While some of these are ‘mom and pops’ with limited financial resources, some are owned by large corporations and fully capable of ‘paying their share’ as we are asking residents across the state to do. As the small community and nontransient systems will pay at least \$125 annually, it would seem this should be a **minimum** \$500 for the transient systems if they are only charged every 5 years to be fair or equitable.
- Section 1 (g) – It is important that the methodology allow for consideration of delinquency rates and customer nonpayment. As the utility is required to pay the state the full amount of the assessment, they should be allowed to adjust the prorata charge for their customers upward to reflect their typical rate of nonpayment. As this rate may vary by utility, there could be a requirement that the utility provide a report annually with the average of the prior 3 years’ delinquency rate to support the additional increment to be reflected on their customers’ bills.

This could be addressed by revising the second sentence in (g)(1) to specify that the amount billed to the customer would be the pro rate share of the assessment *plus* a percentage of the fee that reflects the average of the uncollectable water bills incurred by the water company in the past 3 years.

- Section 2 (i) –it should be clear that interest is only charged on any outstanding balance and not the total assessment.

PROCESS CONSIDERATIONS

- The dates for the various steps and notices by DPH prior to the billing need to be reviewed and revised to allow adequate time for the water utilities, particular municipal systems, to include the appropriate assessment fee in their budgets, initiate customer billing and have the revenues collected prior to the payment to DPH.
- CWWA has provided suggestions for additional detail that should be included in the annual report required in Section 2 (j) to ensure accountability for the funding.
- Given the level of detail being included in the statute, we recommend that the reference in (k) that would allow or require the commissioner to adopt regulations to implement this program be deleted.

We hope you will consider these comments as well as those from other water utilities as you prepare to recommend a methodology to the legislature. We expect to participate in the process at the General Assembly and would stand ready to work with the Department on this. Please contact me at mwestbrook@ctwater.com or 860-664-6055 if you have any questions or I can be of assistance.

Sincerely,



Maureen P. Westbrook
Vice President, Customer and Regulatory Affairs