



February 6, 2019

Commissioner Raul Pino, M.D., M.P.H.  
Department of Public Health  
State of Connecticut  
450 Capitol Avenue  
Hartford, CT 06134

Re: Public Comment of Proposed Safe Drinking Water Primacy Assessment

Dear Commissioner Pino:

On behalf of The Metropolitan District (the “MDC”), please accept these comments in response to the proposed methodology for the future assessment of the Safe Drinking Water Assessment that was published by the Department of Public Health (the “DPH”) on or about January 10, 2019. As you appreciate, the MDC is a “community water system” and provides potable water service to approximately 400,000 individuals who reside and work in the Greater Hartford area through 101,633 service connections.

The MDC appreciates the opportunity to provide these public comments and looks forward to the debate that is anticipated to occur before the General Assembly when this methodology, or an amendment thereof, is presented to it for its consideration and approval. The MDC has a number of concerns with the proposed methodology which it will articulate here and before the General Assembly; however, as an initial matter, the MDC takes issue with the process that was utilized by the DPH in developing this methodology. As highlighted in the public notice, Section 677(b) of P.A. 17-2 (June Spec. Sess.) required the Commissioner of the DPH to develop this methodology in consultation with, among others, representatives of water companies. The MDC submits that this required consultation did not occur. Despite the fact that the MDC was invited to attend meetings over the course of the last few months, these meetings were not designed to elicit from the MDC, or any other water company, any thoughts or recommendations that it might have with respect to the methodology going forward; rather, these meetings merely consisted of representatives of DPH informing the invited attendees of its proposed regulations without soliciting any comment or constructive involvement of the water company representatives. Accordingly, the MDC states for the record that it was not offered any role in developing this methodology and, therefore, must react to the proposed methodology in the form of this public comment and future testimony before committees of cognizance in the General Assembly.

The original basis of this assessment was to preserve primacy over the regulation of safe drinking water within the DPH so as not to have the regulatory responsibility revert back to the federal government or be vested in another State agency. The monies collected from the assessment are intended to offset budget shortfalls within the DPH budget that may occur as a result of actions or inactions in the federal and/or State budgets. It was anticipated by the MDC that this assessment

would be temporary since federal and State budgets are crafted and adopted on a regular basis; however, the MDC possesses genuine concern that the DPH is intending this assessment to be permanent. The language contained in the methodology provides no provision for this assessment to expire (with the exception of the DPH losing its primacy).

The MDC cannot support this assessment continuing on in perpetuity. The MDC ratepayer already is burdened with paying for increasing costs associated with ordinary operations as well as paying for costs associated with compliance with the Consent Decree issued by the federal Environmental Protection Agency and a Consent Order from the Connecticut Department of Energy and Environmental Protection. In this most recent fiscal year, the primacy assessment imposed by the DPH on the MDC was approximately \$400,000, or \$2.57 per ratepayer. At a time when many MDC ratepayers are challenged to pay their bills, the imposition of a fee that may increase up to \$5.00 per ratepayer, as intended in the proposed methodology, represents an unreasonable and unfair burden on the MDC and its ratepayers. An amendment should be made to the methodology that this assessment expire or “sunset” after no longer than two years. In that timeframe, fiscal circumstances may change at either the federal level or State level, or both, such that this assessment, which originally was intended to close a budgetary gap, is no longer necessary.

Section 1(c) of the proposed methodology is worded in such a manner that the DPH, in consultation with OPM, arguably could calculate a primacy assessment that is necessary to support all of the costs associated with the program. As noted above, this primacy assessment is intended to fill a budgetary gap, and the language contained on Section 1(c) provides no controls on what costs should be funded with the proceeds of the primacy assessment. There are multiple examples across State government where the industry which is regulated pays the costs associated with such regulation, such as the Department of Insurance and the Department of Banking. That should not be allowed to happen in this instance.

To the extent there is a “control,” it is the not-to-exceed fee associated with the service connection contained in Section 1(d) which is proposed to be \$5.00 per connection. However, this “control” is wholly deficient. As noted above, this represents an almost doubling of the fee in a single year from the current assessment amount of \$2.57 per connection. The MDC strongly encourages the DPH to provide for a cap on any increase in the assessment, if an increase is warranted. In addition, the proposed methodology provides to the DPH, in consultation with OPM, the unilateral authority to make an increase in the primacy assessment. This is unfair to the water utilities as well as their respective ratepayers. It is essential that a mechanism be provided for legislative review and approval of any increase in the primacy assessment.

In addition, when P.A. 17-2, which established the primacy fee, was adopted by the General Assembly, there was an understanding that all water companies located in the State would be subject to the primacy assessment at some level. The rationale for this broad application of the primacy assessment was that DPH must dedicate a wealth of resources to regulating nontransient noncommunity water systems and transient noncommunity water systems and that it was equitable that each water system, especially those that require the majority of resources and attention from DPH, should share in this responsibility. Under the proposed methodology, the proposed primacy assessment to be imposed against the transient noncommunity water systems would not begin immediately but rather imposition would be delayed until 2022. Furthermore, the fee would be assessed only against those entities that have had a sanitary survey conducted which is required to occur only once every five years. The MDC submits that, just as it is required to pay this assessment

every single year, the same standard should apply to all water companies that are regulated by the DPH.

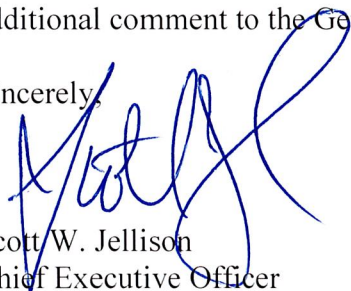
In Section 1(g), the DPH allows a community water system, such as the MDC, to collect the assessment from each of its ratepayers on a pro rata basis. However, there is no provision for delinquency of accounts. In other words, if the MDC experiences a delinquency rate of five percent, for example, is it required to pay out of its general operating account that five percent that it is unable to collect from its ratepayers? There should be a provision for accounting for the delinquency rate so that those ratepayers who are paying the assessment are not unfairly burdened.

If the MDC is going to be responsible for collecting and remitting the primacy assessment, it is more than reasonable that those water companies remitting this assessment be provided with detailed information as to how these funds are being spent. This information should include, but not be limited to, the resources dedicated by the DPH to support and maintain primacy, the tasks that were taken by the DPH to support this and the associated costs incurred by the DPH. In addition, since this assessment is intended to supplement funds that are received from the federal and State governments, the water companies should receive detailed information from the DPH regarding what portion of the Drinking Water Section budget is funded by the federal and State budgets. Finally, as noted above, the DPH apparently expends a majority of its time and resources focused on the smaller noncommunity systems as opposed to the community systems which pay a super-majority of the aggregate assessment. Therefore, the information that is produced by the DPH should include an allocation of time and resources that are dedicated to the different classes of water utility (i.e., community systems with 100+ customers, community systems with less than 100 customers, transient noncommunity systems and nontransient noncommunity systems).

Finally, Section 1(k) allows the Commissioner to adopt regulations to carry out the provisions of the methodology. The MDC submits that such regulations are not necessary and, therefore, this provision should be eliminated from the methodology.

The MDC appreciates the opportunity to provide these comments to the DPH on the proposed primacy assessment methodology, and it hopes that the DPH will make the appropriate changes to address these concerns. Since it is assumed that the proposed methodology, when finalized, will be submitted to the General Assembly for its review and approval, the MDC reserves the right to provide additional comment to the General Assembly at the appropriate time.

Sincerely,



Scott W. Jellison  
Chief Executive Officer

Cc: MDC Board of Commissioners  
MDC Legislative Delegation  
Connecticut Water Works Association