**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

Public Meeting held October 28, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman, Statement

John F. Coleman, Jr., Vice Chairman

Ralph V. Yanora

Pennsylvania Public Utility Commission R-2021-3023618

Office of Consumer Advocate C-2021-3024213

Office of Small Business Advocate C-2021-3024200

Jennifer Mattingly C-2021-3024500

Brandi Brace C-2021-3024613

Kim Kotyk C-2021-3024833

Barbara Brennan C-2021-3024846

Lindsey Yeider Wosik C-2021-3024927

Roger and Maria Hogue C-2021-3025072

Lisa Infantino C-2021-3025090

Mark Lazo C-2021-3025091

Bridgett Brosius C-2021-3025436

v.

UGI Utilities, Inc. – Electric Division

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the following matters: (1) the Exceptions filed by Brandi Brace (Ms. Brace) on September 14, 2021, to the Recommended Decision of Administrative Law Judge (ALJ) Steven K. Haas served on August 27, 2021, in the above-captioned general rate increase proceeding; and (2) the Joint Petition for Approval of Settlement of All Issues (Joint Petition or Settlement), filed on July 19, 2021, by UGI Utilities, Inc. – Electric Division (UGI Electric or the Company), the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Commission on Economic Opportunity (CEO), ChargePoint, Inc. (ChargePoint), and the Retail Energy Supply Association and NRG Energy, Inc. (together, RESA/NRG) (collectively, the Joint Petitioners). On September 16, 2021, UGI Electric and I&E each filed a letter response (Response) to Ms. Brace’s Exceptions.

For the reasons stated below*,* we shall deny Ms. Brace’s Exceptions, adopt the Recommended Decision, and approve the Joint Petition, without modification.

**I. History of the Proceeding**

On February 8, 2021, UGI Electric filed Supplement No. 26 to Electric Pa. P.U.C. No. 6 (Tariff No. 6) and Supplement No. 2 to UGI Electric Tariff – Pa. P.U.C. No. 2S (Tariff No. 2S) to become effective for service rendered on or after April 9, 2021. The Company proposed changes to UGI Electric’s base retail distribution rates designed to produce an increase in annual revenues of approximately $8.7 million, based upon data for a fully projected future test year (FPFTY) ending September 30, 2022.

On February 9, 2021, I&E filed a Notice of Appearance. On February 17, 2021, the OSBA filed a Notice of Appearance, Public Statement, and Formal Complaint, which was docketed at Docket No. C-2021-3024200. Also on February 17, 2021, CEO filed a Petition to Intervene. On February 18, 2021, the OCA filed a Notice of Appearance, Public Statement, and Formal Complaint, which was docketed at Docket No. C-2021-3024213.

In addition to the Formal Complaints filed by the OSBA and the OCA, nine Formal Complaints were filed *pro se* by the following UGI Electric customers: Jennifer Mattingly (C-2021-3024500), Brandi Brace (C-2021-3024613), Kim Kotyk (C‑2021‑3024833), Barbara Brennan (C-2021-3024846), Lindsey Yeider Wosik (C‑2021-3024927), Roger and Maria Hogue (C-20213025072), Lisa Infantino (C‑2021‑3025090), Mark Lazo (C-2021-3025091), and Bridgett Brosius (C‑2021‑3025436).

On March 11, 2021, the Commission issued an Order suspending Tariff No. 6 and Tariff No. 2S until November 9, 2021, unless permitted by Commission Order to become effective at an earlier date.

On March 19, 2021, RESA/NRG filed a Petition to Intervene.

A telephonic prehearing conference was held on March 22, 2021, at which time a litigation schedule was established. The ALJ also granted RESA/NRG’s Petition to Intervene.

On March 25, 2021, CAUSE-PA filed a Petition to Intervene. By Order dated April 14, 2021, the ALJ granted CAUSE-PA’s Petition to intervene.

On April 5, 2021, the Parties filed a Motion for Protective Order. On April 7, 2021, the ALJ issued a Protective Order consistent with the Motion for Protective Order.

On April 28, 2021, two telephonic public input hearings were held. A total of eight witnesses testified at the public input hearings. *See* R.D. at 45-46 for a discussion of the public input hearings witness testimony.

On May 3, 2021, I&E, the OCA, the OSBA, CEO, ChargePoint, RESA/NRG, and Ms. Brace submitted written direct testimony and exhibits. On May 27, 2021, UGI Electric, I&E, the OCA, the OSBA, ChargePoint, and RESA/NRG submitted written rebuttal testimony and exhibits. On June 10, 2021, UGI Electric, I&E, the OCA, the OSBA, and RESA/NRG submitted written surrebuttal testimony and exhibits. On June 14, 2021, UGI Electric submitted written rejoinder testimony and exhibits.

Following settlement discussions, UGI Electric notified the ALJ on June 14, 2021, that a settlement in principle was achieved with respect to all issues except for revenue allocation. The Company requested that the remaining hearing dates be cancelled, all evidence be admitted by a written stipulation to be filed by June 18, 2021, and the Parties provide the ALJ with a Settlement and Statements in Support on or before July 19, 2021. By electronic mail dated June 14, 2021, the ALJ granted the Company’s requests and advised the Parties that the remaining hearing dates would be canceled. On June 15, 2021, a Notice was issued canceling the hearings scheduled for June 15 and 16, 2021.

On June 18, 2021, the Joint Petitioners filed a Joint Stipulation for Admission of Evidence (Joint Stipulation). In the Joint Stipulation, the Joint Petitioners agreed to the admission into the record of all of the statements and exhibits submitted by the various Parties during the course of the proceeding. On June 29, 2021, the ALJ issued an Order granting the Joint Stipulation. The various statements and exhibits admitted into the record in this proceeding are identified in the ALJ’s June 29, 2021 Order.

On July 19, 2021, the Joint Petitioners submitted the Joint Petition. A deadline of July 26, 2021, was established for filing comments to the Joint Petition. Lisa Infantino, Brandi Brace, and Lindsey Yeider Wosik filed Comments opposing the Joint Petition, which the ALJ admitted into the evidentiary record. *See* R.D. at 47-48 for a discussion of the comments to the Joint Petition. The record in this proceeding was closed on July 27, 2021, upon expiration of the deadline for the filing of comments to the Joint Petition.

In the Recommended Decision, served on August 27, 2021, ALJ Haas recommended approval of the Joint Petition, finding that it is in the public interest and supported by substantial evidence. As previously noted, Brandi Brace filed Exceptions to the Recommended Decision on September 14, 2021, and UGI Electric and I&E filed Responses to Exceptions on September 16, 2021.

**II. Background**

UGI Electric’s operations are headquartered in Wilkes-Barre, Pennsylvania. UGI Electric provides electric distribution service to residential, commercial, and industrial electric customers in Luzerne and Wyoming Counties and thirty-five municipalities. As of September 30, 2022, UGI Electric served a total of 63,072 customers. UGI Electric Exh. F.

In its original filing, UGI Electric proposed rates designed to result in an increase in annual distribution operating revenues of approximately $8.7 million, an increase of approximately 10% over existing rates. If approved, the total average monthly bill of a residential customer using 1,000 kWh per month would have increased from $110.18 to $123.83. UGI Electric Statement of Reasons. Under the Settlement, the increase in UGI Electric’s rates will result in additional annual distribution operating revenues of approximately $6.15 million, an increase of approximately 7.1% over existing rates. If the Commission approves the settlement without modification, the total average monthly bill of a residential customer using 1,000 kWh per month would increase from $110.18 to $119.69. Joint Petition, Appendices A and B.

**III. Discussion**

As a preliminary matter, we note that the ALJ reached twelve Conclusions of Law. R.D. at 47-48. We will adopt the Conclusions of Law unless they are overruled expressly or by necessary implication.

Additionally, as we proceed in our review of the various positions espoused in this proceeding, we are not required to consider expressly or at great length each and every contention raised by a party to our proceedings. *University of Pennsylvania* *v. Pa. PUC*, 485 A.2d 1217, 1222 (Pa. Cmwlth. 1984). Any exception or argument that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

**A. Legal Standards**

The purpose of this investigation is to establish rates for UGI Electric’s customers that are “just and reasonable” pursuant to Section 1301 of the Public Utility Code (Code), 66 Pa. C.S. § 1301.

The Commission applies certain principles in deciding any general rate increase case brought under Section 1308(d) of the Code, 66 Pa. C.S. § 1308(d). A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield, supra,* and *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (*Hope Natural Gas)*. In *Bluefield*, the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

*Bluefield*,262 U.S. at 692-3.

The public utility seeking a Section 1308(d) general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. Regarding the burden of proof in a proceeding involving a proposed increase in rates by a public utility, Section 315(a) of the Code provides:

1. **Reasonableness of rates.—**In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission

shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

66 Pa. C.S. § 315(a).

In the instant proceeding, the Joint Petitioners have reached an accord on all the issues and claims that arose in this proceeding and submitted the Settlement for the Commission’s review and approval. The Commission has expressed a policy of encouraging settlements. *See* 52 Pa. Code §§ 5.231, 69.401. The Commission has stated that settlement results are often preferable to those achieved after a fully litigated proceeding. 52 Pa. Code § 69.401. A settlement in a proceeding may reduce or eliminate the substantial time, effort, and expense that otherwise may be used or incurred in litigating a proceeding.[[1]](#footnote-1) Rate cases, in general, are expensive to litigate and the reasonable costs of such litigation is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid or minimize the substantial costs of litigation, may yield potential savings for the Company’s customers. Thus, a settlement, whether full or partial, may directly benefit the named parties as well as indirectly benefit the customers of the public utility involved in the case. For this and other sound reasons, settlements are encouraged by long‑standing Commission policy.

The ALJ noted that the Settlement is a “black box” settlement. This means that the parties were not able to agree on each and every element of the revenue requirement calculation. The Commission has recognized that “black box” settlements can serve an important purpose in reaching consensus in rate cases:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.

*Pa.* *PUC v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Order entered December 19, 2013) (*Peoples TWP)*, at 28 (citations omitted).

In order to accept a settlement, the Commission must determine that the proposed terms and conditions of the settlement are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R‑00049165 (Order entered October 4, 2004); *see generally* *Pa. PUC v. C. S. Water and Sewer Assoc.*, Docket Nos. R-881147, *et al*., 74 Pa. P.U.C. 767 (Order entered July 22, 1991) (*CS Water and Sewer*). The focus of the inquiry for determining whether a proposed settlement should be approved is whether the proposed terms and conditions foster, promote and serve the public interest. *See Pa. PUC, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al*. (Order entered July 14, 2011), citing *Warner v. GTE North, Inc*., Docket No. C‑00902815 (Order entered April 1, 1996) and *CS Water and Sewer.* Moreover, Section 332(a) of the Code, 66 Pa. C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. Consequently, in this proceeding, the Joint Petitioners have the burden of showing that the terms and conditions of the Settlement are in the public interest.

Finally, a Commission decision must be supported by substantial evidence in the record. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Comm. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

**B. Joint Petition for Settlement**

**1. Terms and Conditions of the Settlement**

The Settlement represents a full settlement of all issues and concerns raised by the Joint Petitioners in the instant proceeding. The Settlement provides for increases in rates, as set forth in the *pro forma* tariff supplement attached to the Joint Petition as Appendix A and the proof of revenues attached to the Joint Petition as Appendix B, designed to produce a net increase in annual distribution operating revenues of $6.15 million, based upon a FPFTY ending September 30, 2022. Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs are included as Appendices C through E of the Joint Petition, respectively. Appendices F through M represent the Statements in Support of UGI Electric, I&E, the OCA, the OSBA, CAUSE-PA, CEO, ChargePoint, and RESA/NRG, respectively.

The essential terms of the Settlement are set forth in Section III of the Joint Petition, which is shown below in full as it appears in the Joint Petition:

###### A. GENERAL

42. The following terms of this Settlement reflect a carefully balanced compromise of the Joint Petitioners’ positions on various issues. The Joint Petitioners agree that the Settlement is in the public interest.

43. The Joint Petitioners agree that UGI Electric’s distribution base rate increase filing should be approved, including those tariff changes included in and specifically identified in **Appendix A** attached hereto, subject to the terms and conditions of this Settlement that are specified below.

**B. REVENUE REQUIREMENT**

44. UGI Electric will be permitted to submit a revised tariff supplement consistent with **Appendix A** that is designed to produce an annual distribution revenue increase of $6.15 million, to become effective on or before November 9, 2021, for service rendered thereafter. The increase in annual distribution rate revenue is in lieu of the as filed increase of approximately $8.7 million. The settlement as to revenue requirement shall be a “black box” settlement, except for the items set forth below.

###### C. REVENUE ALLOCATION AND RATE DESIGN

1. Billing Determinants: Billing determinants will be based on the Company’s UGI Electric Exhibit E, Proof of Revenue.
2. Revenue Allocation: Class revenue allocation will be based on the following table:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Rate** | **Customers** | **Fixtures** | **Sales (kWh)** | **Total Present Revenue** | **Proposed Revenue** | **Revenue Change** | **Percent Change from Present**  **Revenue** | **Percent of**  **Total Rate**  **Increase** |
| R | 55,038 |  | 568,717,339 | $ 63,035,939 | $ 68,479,988 | $ 5,444,049 | 8.6% | 88.5% |
| GS-1 | 5,505 |  | 28,887,813 | $ 3,682,960 | $ 4,064,084 | $ 381,124 | 10.3% | 6.2% |
| GS-4 | 2,267 |  | 118,790,076 | $ 10,097,017 | $ 10,224,476 | $ 127,459 | 1.3% | 2.1% |
| GS-5 | 59 |  | 1,109,050 | $ 88,046 | $ 98,791 | $ 10,745 | 12.2% | 0.2% |
| FCP | 7 |  | 739,452 | $ 17,598 | $ 17,577 | $ (21) | -0.1% | 0.0% |
| Lighting |  | 9,112 | 7,421,188 | $ 1,430,978 | $ 1,430,949 | $ (29) | 0.0% | 0.0% |
| LP | 197 |  | 267,219,118 | $ 7,681,646 | $ 7,868,396 | $ 186,749 | 2.4% | 3.0% |
| **Total - Rate Class** | **63,072** |  | **992,884,035** | **$ 86,034,185** | **$ 92,184,260** | **$ 6,150,075** | **7.1%** |  |
|  |  |  |  |  |  |  |  |  |
| Other Operating Revenue |  |  |  | $ 1,029,976 | $ 1,029,976 | $ - |  |  |
|  |  |  |  |  |  |  |  |  |
| **Total Revenue** |  |  |  | **$ 87,064,161** | **$ 93,214,236** | **$ 6,150,075** | **7.1%** |  |

47. Monthly Customer Charges: The customer charges shall be those proposed by the Company, except as set forth below:

Rate R: $9.50 per month ($13.00 proposed)

Rate GS-1: $13.00 per month ($14.00 proposed)

48. Rate Flood Control Power (“FCP”): The Company will include a proposal to eliminate, consolidate, or otherwise support Rate FCP as a separately identified class in the cost of service presented in the Company’s next rate case.

###### D. PROGRAMS/PROPOSALS

1. Battery Storage: The battery storage proposal is approved, except that the Company will not use the battery storage system to participate in the PJM Interconnection LLC (“PJM”) Frequency Regulation Market. The inclusion of the battery storage project shall be considered a pilot for purposes of this Settlement. The Commission’s approval of UGI Electric’s battery storage proposal in this proceeding shall not serve as precedent for any future UGI Electric battery storage proposal or any other electric utility’s battery storage proposal. This Settlement reflects a carefully-crafted compromise of the parties’ positions and is based on the small size of the battery and the unique circumstances of the Ruckle Hill Road distribution circuit, including its voltage, its status as a worst performing circuit, the surrounding terrain, the nearby vegetation, and the load served by this circuit.

50. As part of the battery storage pilot, UGI Electric will maintain and provide information concerning the duration, extent, cause, and times for each outage, the duration and times the battery storage system was used to maintain service during the outage, and loads on the facilities served by the battery storage system just prior to and during the outage. Such information will be provided in annual reports filed with the Commission by January 1st of each year that the battery storage system remains in service, with the first annual report to be filed by January 1, 2023.

51. The Joint Petitioners’ agreement to this Settlement is without prejudice to future challenges to any other distribution system upgrades on the Ruckle Hill Road distribution circuit that may occur in the future including, but not limited to, a proposal to remove the battery from rate base.

52. Electric Vehicle Charging: The EV make-ready charging infrastructure tariff provisions are accepted as filed, except that the Company will revise Rule 5-l and Rule 5-m of its proposed electric service tariff to state the following:

a. Rule 5-l: Service to Electric Vehicle Supply Equipment. For Qualified Electric Vehicle Charging Stations (“Qualified EV Charging Stations”) which will be accessible to the public for charging access, the Company shall provide all required investment without contribution and will design and install the required infrastructure facilities necessary for operation of such Qualified EV Charging Stations (including any new conductor replacement, transformers, overhead service wire, and meters; inclusive of any make ready work located in front of the meter). Such facilities shall be provided at no required contribution to the customer as part of an EV infrastructure pilot, which will end September 30, 2026. Qualified EV Charging Stations may be supplied electricity by an EGS.

b. Rule 5-m: Qualified EV Charging Stations shall be defined as one (1) to four (4) DC Fast Charge (“DCFC”) stations of 50 kW or greater, or at least four (4) Level 2 charging stations, which are compatible with the Company’s distribution system and are located within 400 feet of a Company 3-phase primary distribution circuit line, or in another location where the Company, in its sole discretion, anticipates that adequate public availability and access is being provided. DCFC installation locations may also be inclusive of one or more adjacent Level 2 charging stations. All qualifying chargers must have smart or network capabilities and be tested for safety by a national testing laboratory such as Underwriters Laboratories (“UL”). Qualifying Level 2 chargers must be ENERGY STAR certified.

53. Beginning with the operation of the second Qualified EV Charging Station in the Company’s service territory, the Company shall post aggregated metered usage data for Qualified EV Charging Stations on a monthly and anonymized basis to its Energy Management Website (kWh and kW billing determinant use data) for interested parties to review. This requirement shall end on September 30, 2026.

54. Make-ready infrastructure for purposes of this Settlement does not include any behind-the-meter costs associated with the installation of EV charging stations.

55. UGI Electric withdraws, without prejudice, its proposals to: (1) recover the capital and operating costs associated with the Company’s installation and ownership of EV charging stations on its distribution system; and (2) establish Rate EV-C.

###### E. DSIC/REPORTING

56. Test Year Plant Reporting: The Company shall submit an update to UGI Electric Exhibit A, Schedule C-2 no later than January 1, 2022, which will include actual capital expenditures, plant additions, and retirements by month from October 1, 2020 through September 30, 2021. An additional update for actuals from October 1, 2021 through September 30, 2022 shall be filed no later than January 2, 2023.

57. DSIC Eligible Plant: As of the effective date of rates in this proceeding, UGI Electric will be eligible to include plant additions in the Distribution System Improvement Charge (“DSIC”) once the Company’s total net plant balances exceed $152,150,000. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

58. DSIC Equity Return: For purposes of calculating its DSIC, UGI Electric shall use the equity return rate for electric utilities contained in the Commission’s most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

###### ACCOUNTING

59. Depreciation Rates: For purposes of this Settlement, UGI Electric’s as-filed depreciation rates are accepted.

60. ADIT/EDFIT: The Company’s Accumulated Deferred Income Tax (“ADIT”) and pro-rationing methodology as required by Treasury Regulation 1.167(l)-1(h)(6)(ii) is accepted. *See* 26 C.F.R. § 1.167(l). Further, the Company’s method to amortize Excess Accumulated Deferred Federal Income Taxes (“EDFIT”) according to the Average Rate Assumption Method (“ARAM”) is accepted. Absent a change in federal or state law, regulation, judicial precedent or policy, the remaining unamortized EDFIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.

61. Repairs Allowance: For purposes of determining the revenue requirement in this case, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes, and the appropriate related amount of tax effect of those deductions has been treated similarly to Accumulated Deferred Income Taxes as a reduction to UGI Electric’s rate base.

62. IT Cost Capital Treatment: For purposes of this Settlement, UGI Electric’s as-filed capital treatment of certain IT costs is accepted. UGI Electric will capitalize IT costs that include preliminary-stage project work, business and technology reengineering activities, current state assessments, reengineering business processes to adapt to new systems, data conversion, data cleansing and migration, pre-implementation training practices, cloud computing software implementation, and Hypercare. (*See* UGI Electric St. No. 4, pp. 14-16.)

63. COVID-19 Cost Deferral: The Company’s revenue increase provided in this Settlement is reflective of a three-year amortization of the Company’s COVID-19 regulatory asset related to incremental uncollectible accounts expense, or $337,666 per year, which includes all incremental uncollectible expense through September 30, 2020.

64. Rate Case Expense: The Company’s revenue increase provided in this Settlement is reflective of a three-year normalization for ratemaking purposes and a three-year amortization for accounting purposes. The Company will not claim any unamortized amount in a future rate case and agrees that normalization of rate case expense (as opposed to amortization) is the proper treatment for ratemaking purposes.

65. Company Owned Service Expenditures (“COS-E”): Effective October 1, 2021, the Company will be permitted, for book accounting purposes, to record the costs associated with its Company-Owned Services (“COS”) Transition Program as capital investment. The capital investment recorded for recovery from ratepayers will be capped at $5,000,000. To the extent that the costs exceed the $5,000,000 capitalization cap subsequent to October 1, 2021, the Company will expense the excess and may seek recovery in a future rate case with all parties reserving their rights to challenge any claimed expense (above the $5,000,000).

**G. COMPANY’S COVID-19 RELIEF EFFORTS**

66. The Company will continue to assist customers impacted by COVID-19 through various efforts and initiatives to promote existing Company assistance programs and to facilitate customer access to COVID-19 pandemic-related public utility assistance sources, including the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and the American Rescue Plan. The Company’s ongoing pandemic relief efforts include the following measures:

1. Mass media campaign promoting UGI Utilities, Inc. assistance programs and CARES Act funding.
2. Direct mail and email campaign(s) targeting customers with arrearages whom UGI Electric determines may benefit from Company assistance programs and/or CARES Act programs.
3. Bill inserts to all customers alerting them about Company assistance programs and CARES Act programs.
4. Coordination with CARES Act program providers in the Company’s service territory to facilitate and enable direct communication with the Company on CARES Act application requests. This work will include a direct hotline number for provider use, an ability for benefit payments to be made on multiple accounts with one check, an option to make payments via credit card, as well as Company Call Center staff training to promote CARES Act Programs for qualifying customers, in addition to Company programs and available Commission COVID19 payment arrangement options.
5. Modification of the above efforts, as appropriate, once American Rescue Plan funding becomes available via defined program(s).
6. Solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company’s CAP two times a year.

1. Solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company’s CAP two times a year.

###### H. UNIVERSAL SERVICES

1. Rider C – Universal Service Plan Rider: Throughout Rider C, the as-filed updated participant number of “the number of CAP enrollees as September 30, 2021” shall be replaced with “3,231”.
2. WARM Initiative: The Company agrees to include the following provisions in its WARM Initiative:

a. Perform a solicitation of customers who received LIHEAP in the prior 12 months for enrollment in the Company’s CAP 2 times a year.

b. Perform a solicitation of customers who self-reported Level 1 income in the prior 12 months for enrollment in the Company’s CAP 2 times a year.

c. Accept verbal self-reported income eligibility for customers at or below 250% of the Federal Poverty Level during the Winter Moratorium for purposes of winter shutoff protections, requests for deferred payment arrangements, or any other customer contact with the call center for an unpaid bill. Normal income verification requirements maintained by the Company shall apply upon the end of the Winter Moratorium period.

d. Accept verification of income eligibility by any community-based organization (“CBO”) in the Company’s service territory delivering public or private assistance.

e. Contact of administrators of applicable PA DHS public assistance programs, requesting that they ask DHS applicants enrolling in their public assistance programs to designate whether the DHS applicants want UGI Electric to be informed of their income eligibility for various customer service protections propounded by the Commission. Each household who the program administrators identify to UGI Electric as answering in the affirmative shall be deemed by UGI Electric as a Confirmed Low-Income customer and/or a customer eligible for winter shutoff protections. Normal income verification requirements maintained by the Company shall apply thereafter (for enrollment/participation in UGI Electric Universal Service programs).

f. Provide written materials, which solicit participation in UGI Electric’s CAP and/or identification of customers eligible for winter shutoff protections, to:

i. Public school districts in the Company’s service territory, so that they can distribute the materials to school households with students eligible for the federal free and reduced school meals program; and/or Head Start programs; and

ii. Community and faith-based food pantries, soup kitchens, and emergency shelters.

g. Provide written CAP solicitation materials to be delivered by local and/or county offices delivering benefits through the federal Supplemental Nutrition Assistance Program (“SNAP”) (Food Stamps), as well as through local Public Housing Authorities.

h. Only include earned income from household occupants aged 18 years and older when verifying household income.

i. Any incremental costs incurred by the Company in the administration of items (e)(h) will be deferred for recovery, without interest, in the Company’s next base rate case.

1. Refund of Security Deposits after Enrollment in LIURP or Low-Income EE&C Programs: Upon a customer being enrolled in the Company’s Low-Income Usage Reduction Program (“LIURP”) or any low-income usage reduction program in the Company’s Energy Efficiency and Conservation Plan, and after weatherization services are completed, any and all remaining security deposits on the customers’ accounts will be refunded.

70. LIURP:

a. LIURP spending will be increased commensurate with the percentage rate increase to the residential class resulting from this case;

b. The Company will continue to use the CBOs it has traditionally utilized in the administration and implementation of its universal service programs; and

c. In regards to the large carryover of LIURP funding from 2020, the Company will increase the LIURP budgets of the CBOs that have the demonstrated capacity to do the additional work, i.e., CBOs that have fulfilled their past LIURP budgets and have the capacity for increased budgets.

71. Operation Share: The Company’s contribution to Operation Share will be increased commensurate with the percentage rate increase to the residential class resulting from this case.

72. Release of Previously Collected Security Deposits: On a monthly basis, UGI Electric will review currently held security deposits and will issue a bill credit or refund for any deposit previously collected from a confirmed low-income customer.

Joint Petition at 7-17.

In addition to the specific terms to which the Joint Petitioners have agreed, the Settlement contains other general terms and conditions typically found in settlements submitted to the Commission. Specifically, the Joint Petitioners agreed that the Settlement is conditioned upon the Commission’s approval of all the terms and conditions contained therein without modification. The Joint Petition establishes the procedure by which any of the Joint Petitioners may withdraw from the Settlement and proceed to litigate this case if the Commission should act to modify or reject the Settlement. Additionally, the Joint Petitioners submitted that the Settlement is made without any admission against, or prejudice to, any position which any of the Joint Petitioners might adopt in any subsequent litigation of this proceeding or in future proceedings. Joint Petition at 18. Moreover, the Joint Petitioners waived their right to file Exceptions in this case if the ALJ recommended that the Commission adopt the Settlement without modification. *Id*. at 19.

**2. Statements in Support of the Settlement[[2]](#footnote-2)**

**a. UGI Electric**

UGI Electric states that the agreed-upon revenue allocation provides movement toward cost of service for all rate classes under the Company’s class cost of service study. Thus, UGI Electric submits that the Settlement’s proposed revenue allocation is consistent with *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006) (*Lloyd*) and other appellate court precedent regarding revenue allocation. UGI Electric Statement in Support at 7-8. Similarly, UGI Electric avers that the overall rate design reflects a gradual increase in rates over the course of the FPFTY, moves all customer classes toward the overall cost of service, and strikes a reasonable balance between the interests of consumers and the Company. UGI Electric Statement in Support at 10.

UGI Electric also discussed its battery storage proposal. UGI Electric proposed to install and interconnect a utility-owned, small-scale, 1.25 MWh battery storage system as a targeted means to enhance resiliency and improve reliability on a worst performing distribution circuit located in Wapwallopen, Pennsylvania: the Ruckle Hill Road distribution circuit. *Id*. at 10; UGI Electric St. 3 at 24, 26; UGI Electric St. 3-R at 14. At a cost of $1.5 million, UGI Electric determined that the battery storage proposal was the most cost effective solution. UGI Electric Statement in Support at 12; UGI Electric St. 3-R at 17-18. Additionally, to help defray the costs of the project, the Company proposed using the battery storage system to participate in PJM Interconnection LLC’s (PJM) Frequency Regulation Market, which would generate revenues that would be flowed back to customers when using the battery during non-storm conditions. UGI Electric Statement in Support at 12; UGI Electric St. 3-R at 18, 25.

UGI Electric avers that its battery storage proposal, as modified by the Settlement, constitutes a reasonable compromise of the Parties’ positions. UGI Electric Statement in Support at 14. UGI Electric states that the Settlement will enable the Company to address the unique issues experienced on the impacted circuit through the installation and rate base recovery of the battery storage system, while avoiding the issues raised by the other Parties who opposed participation in the PJM Frequency Regulation Market. The Company submits that the battery storage provisions of the Settlement are just, reasonable, and in the public interest and, therefore, should be approved without modification. *Id*. at 15.

Regarding COVID-19 Cost Deferral, UGI Electric noted that the Commission issued a Secretarial Letter on May 13, 2020 (*May 2020 Secretarial Letter*), in response to Governor Wolf’s Proclamation of Disaster Emergency (Emergency Proclamation) that declared an emergency throughout Pennsylvania in response to the COVID-19 pandemic. The Company submitted that in the *May 2020 Secretarial Letter*, utilities were authorized to create regulatory assets for incremental uncollectible expenses related to COVID-19 above those embedded in base rates and to claim deferred COVID‑19 costs at the first available opportunity. UGI Electric Statement in Support at 26; UGI Electric St. 4 at 17. The Company explained that under the Settlement, its revenue increase reflects a three-year amortization of the Company’s COVID-19 regulatory asset related to incremental uncollectible accounts expense, or $337,666 per year (*i.e*., $1,013,000 ÷ 3), which includes all incremental uncollectible expense through September 30, 2020. The Company believes this constitutes a reasonable compromise of the Joint Petitioners’ positions, which ranged from the two-year amortization period UGI Electric proposed to the five-year amortization period the OCA recommended. UGI Electric Statement in Support at 26-27.

**b. I&E**

I&E fully supports the negotiated level of overall base rate revenue increase compared to UGI Electric’s original request. I&E indicates that while the overall revenue requirement is a “black box” compromise, the overall revenue levels are within the levels advanced on the evidentiary record and reflect a full compromise of all revenue-related issues the Parties raised. I&E Statement in Support at 8. I&E also supports the revenue allocation and rate design Settlement terms as a full and fair compromise that provides the Company, the Joint Petitioners, affected ratepayers, and the Commission with regulatory certainty and resolution of the revenue allocation/rate design issue, all of which are in the public interest. *Id*. at 10-11.

Regarding UGI Electric’s battery storage proposal, I&E initially noted its concerns regarding the proposal. Among its concerns, I&E argued in its testimony that UGI Electric’s battery storage proposal should be denied because the battery storage proposal is more appropriately considered a generation asset rather than a distribution asset due to the ability of UGI Electric to profit from the battery storage’s ability to store and release power to either UGI Electric’s own customers or to the PJM Market D. I&E also argued that the Commission currently has an open docket where this issue is being considered and is not yet resolved. *Id*. at 14 (citing I&E St. 3 at 9; I&E St. 3-SR at 3, 4-5; s*ee Policy Proceeding-Utilization of Storage Resources as Electric Distribution Assets*, Docket No. M-2020-3022877 (Secretarial Letters issued December 3, 2020 (*December 2020 Secretarial Letter*) and August 12, 2021). Due to adjustments made to the battery storage proposal in the Settlement, I&E supports the Settlement provisions as a full and fair compromise that provides UGI, the Joint Petitioners, affected ratepayers, and the Commission with regulatory certainty and with a resolution regarding the battery storage proposal, all of which is in the public interest. I&E Statement in Support at 16. I&E submits that the Settlement reflects a carefully-crafted compromise of the Joint Petitioners’ positions and is based on the small size of the battery and the unique circumstances of the Ruckle Hill distribution circuit, including its voltage, its status as a worst performing circuit, the surrounding terrain, the nearby vegetation, and the load served by this circuit. *Id*. at 11.

Regarding the COVID-19 Cost Deferral Settlement provisions, I&E initially recommended disallowance of the Company’s claim. *Id*. at 26 (citing I&E St. 1 at 14). However, in consideration of the testimony I&E presented and the extensive negotiations with the Company and the Joint Petitioners, I&E supports the settlement provisions regarding COVID-19 cost deferral recovery as a full and fair compromise that provides UGI Electric, the Joint Petitioners, affected ratepayers, and the Commission with regulatory certainty and a resolution of the COVID-19 cost deferral recovery issue, all of which is in the public interest. I&E Statement in Support at 27-28.

**c. The OCA**

Based on the OCA’s analysis of UGI Electric’s filing, discovery responses, and testimony by all Parties, the OCA avers that the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of this case. Thus, the OCA submits that the increase agreed to in this Settlement is in the public interest and in the interest of UGI Electric’s ratepayers. OCA Statement in Support at 7. Additionally, based on the OCA’s review of the cost of service studies presented in this proceeding and the varying revenue allocation proposals, the OCA views the Settlement to be within the range of reasonable outcomes that would result from full litigation of this case. The OCA states that the Settlement reduces the impact of the rate increase on residential customers. Further, the OCA asserts that reducing the amount of the increase allocated to the fixed monthly customer charge will ensure that customers have greater control over lowering their monthly bills through conservation and usage reduction efforts. Accordingly, the OCA submits that the revenue allocation is reasonable, is in the public interest, and should therefore be approved. *Id*. at 8.

Regarding the Company’s battery storage proposal, the OCA initially recommended that the Commission reject the proposal. The OCA was concerned that the battery may perform a generation function such that the Company’s ownership may violate Section 2804(14) of the Code, 66 Pa. C.S. § 2804(14), that the Company had not demonstrated that the proposal was the most cost effective approach to meeting the demands of the sixty-eight customers in the battery’s footprint, and that the battery was not sufficiently charged for service if it participated in PJM’s Frequency Regulation Market. OCA Statement in Support at 10-11 (citing OCA St. 3 at 26-27). Based on the Joint Petitioners’ agreements, the OCA now supports the settlement of this issue as a fair resolution. The OCA avers that the Settlement will provide the Parties with an opportunity to learn and understand how the Company operates the battery, the benefits the battery provides, and the extent to which the battery enhances the reliability of the Company’s distribution system. OCA Statement in Support at 11. The OCA emphasized that if the Company fails to demonstrate these benefits, the Settlement allows the Parties to recommend removal of the battery asset from rate base in a future base rate proceeding. *Id*. at 11-12.

**d. The OSBA**

The OSBA notes that the Joint Petition proposes the following revenue allocation for the GS-1 and GS-4 classes:

Rate GS-1: $ 391,869 (19.3 percent of base rates)

Rate GS-4: $ 127,437 (2.6 percent of base rates)

OSBA Statement in Support at 4 (citing Joint Petition, ¶ 46). The OSBA observes that the agreed-upon revenue allocation proposal for the combined GS-1 and GS-4 classes is only modestly higher than the OSBA’s revenue allocation proposal when proportionally scaled-back. OSBA Statement in Support at 4 (citing OSBA St. 1 at 18-19). As such, the OSBA avers that the revenue allocation proposal in the Joint Petition is reasonable, recognizing the overall rate increase agreed to by the Joint Petitioners. OSBA Statement in Support at 4-5.

**e. CAUSE-PA**

CAUSE-PA notes that one of the concerns it had initially regarding UGI Electric’s proposed rate increase was the potential negative effect that the Company’s proposal to significantly increase its fixed residential customer charge could have on households with limited economic means. CAUSE-PA supports the reduction in the customer charge from $13 to $9.50 and avers that limiting the amount of the fixed charge increase will preserve the ability of low-income households to reduce their consumption to control their utility costs and, in turn, reduce other universal service costs. CAUSE‑PA Statement in Support at 4.

**f.** **CEO**

CEO also supports the reduction in the customer charge from $13 to $9.50 and avers that this reduction will increase the ability of the residential class to conserve energy and reduce their monthly bills. CEO Statement in Support at 2.

**g. RESA/NRG**

RESA/NRG had questioned the appropriateness of UGI Electric owning the proposed battery storage, because they believed that the battery would be acting as a generation resource due to UGI Electric’s proposal to have the battery participate in the PJM Frequency Regulation Market. RESA/NRG Statement in Support at 3 (citing RESA/NRG St. 1 at 8-11). RESA/NRG aver that the Settlement provision that UGI Electric will own the energy storage project but will not use the battery to participate in the PJM Frequency Regulation Market is a reasonable step forward. RESA and NRG also questioned whether UGI Electric’s ownership of the battery storage asset would provide the most cost savings and benefits for its distribution customers. RESA/NRG Statement in Support at 3. Based on the Settlement provisions on this issue, RESA/NRG conclude that the battery storage proposal, as modified by the Settlement, is a reasonable resolution of a complex and novel issue. *Id*. at 4.

**3. Ms. Brace’s Comments in Opposition to the Settlement**

In her Comments, Ms. Brace voices concerns about the Company’s increase to the distribution charge and the residential customer charge. Ms. Brace avers that the increase should be allocated to the generation charge. Brace Comments at 2. Ms. Brace also opposes this case being resolved through a black box settlement, because she believes that more information should be available to the public to ensure that the rate increase is reasonable and in the public interest. *Id*. at 3-4.

**4. ALJ’s Recommendation**

The ALJ’s Recommended Decision contains a detailed discussion of the ALJ’s analysis on each portion of the Settlement as well as the Parties’ respective positions on the Settlement. *See* R.D. at 19-44. For purposes of this Opinion and Order, we will summarize the ALJ’s recommendations on pertinent portions of the Settlement and portions of the Settlement that pertain to the Exceptions and Responses before us, including issues involving the revenue requirement, revenue allocation/rate design, the Company’s battery storage proposal, and COVID-19 cost deferral.

Overall, the ALJ found that the Settlement produces rates that are just and reasonable. The ALJ noted that the active Parties presented expert testimony in support of the various elements of the rate filing, engaged in discovery and reviewed and evaluated the filing, and engaged in extensive settlement negotiations and made compromises. The ALJ concluded that the unanimous agreement between the Company and the other Joint Petitioners resulted in a lower rate increase than UGI Electric originally proposed. The ALJ also determined that the Settlement is supported by substantial evidence, is in the public interest, and is consistent with the requirements of 66 Pa. C.S. § 1308. Accordingly, the ALJ recommended that the Commission approve the proposed settlement and that UGI Electric file a tariff supplement reflecting the rates set forth in its proposed compliance tariff attached to the Joint Petition as Appendix A to become effective no earlier than November 9, 2021. R.D. at 48.

Regarding the revenue requirement, the ALJ stated that the total increase in annual revenues of $6.15 million, an increase of approximately 7.1%, that the Joint Petitioners agreed to is approximately $2.55 million less than UGI Electric’s original request of $8.7 million. The ALJ observed that the agreed upon increase is approximately 70.6% of UGI Electric’s original request. The ALJ noted that the Parties agree that the revenue increase represents a “black box” settlement, whereby the Parties do not specifically identify or resolve individual rate base, revenue, expenses, and rate of return issues. R.D. at 19. The ALJ found that the agreed upon increase in annual revenues is in the public interest and should be approved. *Id*. at 21. The ALJ stated that while the agreed upon increase in revenues is less than the Company originally requested, UGI Electric acknowledges that the increase is essential to its ability to attract capital on reasonable terms and will allow it to earn a fair rate of return and provide safe, reasonable, and adequate service to its customers. *Id*. at 20 (citing UGI Electric Statement in Support at 5). The ALJ reasoned that all of the Parties agreed that the negotiated increase falls within the range of likely outcomes that would result from a fully litigated proceeding. R.D. at 20-21.

Regarding revenue allocation/rate design, the ALJ found that the Settlement provisions are reasonable and in the public interest and recommended that they be approved. R.D. at 23. The ALJ noted that the majority of the increase has been allocated to the residential customer class. *Id*. at 22 (citing UGI Electric Statement in Support at 6). The ALJ stated that under the Settlement, the amount of rate increase allocated to residential customers is reduced from $8.12 million to $5.44 million, thereby allowing the Company to more gradually move rates toward the true cost of service. R.D. at 22. The ALJ observed that the Commonwealth Court has declared that “cost of service” is the “polestar” of public utility ratemaking. *Id*. at 22 (citing *Lloyd*). The ALJ reasoned that the Settlement moves rates toward cost of service while reducing rate shock to customers. The ALJ also agreed with the OCA that a lower fixed monthly customer charge will provide an incentive to customers to assert greater control over lowering their bills through conservation and consumption reduction efforts. R.D. at 22. The ALJ concluded that if more of the increase is attributed to consumption charges rather than fixed charges, customers will have the opportunity to realize greater control over their usage and, consequently, the amount of the monthly bills. *Id*. at 22-23.

The ALJ also addressed the battery storage provisions of the Settlement and determined that the terms are reasonable and in the public interest and should therefore be approved. First, the ALJ emphasized that UGI Electric’s agreement not to use the battery storage project to participate in the PJM Frequency Regulation Market resolved the concern about the Company owning a generation asset, paid for by the Company’s distribution customers, from which the Company could earn a profit, while still allowing the Ruckle Hill Road customers to realize the benefits of the backup battery storage project to maintain service during outages. Second, the ALJ noted that the data tracking and reporting requirements of the Settlement will allow the Company and the Commission to track and monitor the performance of the battery storage system in order to assess its effectiveness and to better develop and fine tune future projects. R.D. at 25.

Further, the ALJ addressed COVID-19 cost deferral, specifically the Joint Petitioners’ agreement that UGI Electric’s revenue increase reflects a three-year amortization of the Company’s COVID-19 regulatory asset related to incremental uncollectible accounts expense, or $337,666 per year, which includes all incremental uncollectible expense through September 30, 2020. The ALJ found that this Settlement provision was a reasonable compromise of the Parties’ positions, which ranged from the two-year amortization period UGI Electric proposed to the five-year amortization period the OCA recommended. As such, the ALJ concluded that this provision should be approved as it was reasonable and in the public interest. *Id*. at 36.

**5. Exceptions and Responses**

**a. Consideration of the Exceptions**

In their Responses, both UGI Electric and I&E object to consideration of Ms. Brace’s Exceptions because the Exceptions were filed after the deadline set forth in the Secretarial Letter served in conjunction with the Recommended Decision on August 27, 2021, which required that Exceptions be filed within ten days of the August 27, 2021 service date, *i.e*., on September 7, 2021. UGI Electric Response at 1-2; I&E Response at 1. While we acknowledge that Ms. Brace’s Exceptions were not timely filed, we will consider them in this case in order to secure a just, speedy, and inexpensive determination in this proceeding, particularly as Ms. Brace is appearing *pro se*. 52 Pa. Code § 1.2(a),(d). Based on our review of the substantive contents of Ms. Brace’s Exceptions, we will, however, deny the Exceptions on the merits as set forth in more detail below.

**b. Exception No. 1, Responses, and Disposition**

Ms. Brace’s Exception No. 1 states:

The reasons for a rate change should be clear to the public; I do not believe that a “black box” settlement is ever in the public’s best interest as it leaves no trace of the established reasons for compromise or lack thereof, essentially negating the burden of proof that is supposed to be on the utility.

Exc. at 3. Ms. Brace objects to the “black box” settlement on that basis that she was not involved in the negotiations that led to the result in this case and because, as a member of the public, she does not understand the complex reasons for the concessions in the Settlement, particularly because many documents in this case are confidential. *Id*. at 4.

In its Response, UGI Electric states that Commission policy promotes settlements and that the Commission has long approved of “black box” settlements. UGI Electric Response at 2 (citing, *inter alia*, *Pa. PUC v. Aqua Pa., Inc.*, Docket No. R‑2011‑2267958 (Order entered June 7, 2012); *Peoples TWP*). Further, the UGI Electric Response states that this particular “black box” settlement is in the public interest for the reasons set forth in the various Joint Petitioners’ Statements in Support and in the Recommended Decision of ALJ Haas. UGI Electric Response at 2.

In its Response, I&E reiterates its position that the instant “black box” settlement is in the public interest. I&E Response at 1.

Ms. Brace believes that a “black box” settlement is never in the public interest. We disagree. It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a). We have developed this policy because, in our judgment, “the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.” 52 Pa. Code § 69.401.

The Commission has recognized that “black box” settlements can serve an important purpose in reaching consensus in rate cases:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.

*Peoples TWP*.

While the instant proceeding may have produced a “black box” settlement, we agree with the ALJ’s analysis and find that the terms and conditions reached by the Joint Petitioners achieve the appropriate balance between the interests of customers and the utility and result in rates which are just and reasonable and supported by substantial record evidence. UGI Electric, I&E, the OCA, the OSBA, CAUSE-PA, CEO, ChargePoint, and RESA/NRG all filed Statements in Support of approving the negotiated Settlement in this case without modification. The individual Statements in Support address how the Settlement is consistent with Commission policy encouraging settlements as a means of reducing the time and expense that would otherwise be expended by the parties in fully litigated proceedings. The Joint Petitioners submit that the Settlement reflects a compromise of positions and therefore satisfies the public interest review when evaluating settlements. *See* Joint Petition, Appendices F, G, H, I, J, K, L and M.

Specifically, the Joint Petitioners aver the following:

1. The compromise rate and revenue levels outlined in the Settlement will produce an adequate return on invested capital to ensure UGI Electric’s ability to deliver safe and reliable electric service to its customers; provide sufficient operating revenues to meet operating expenses, taxes and other charges; enable UGI Electric to maintain its creditworthiness at a level sufficient to raise necessary capital, while also providing a reasonable rate of return on its investment in electric property; and adequately address system reliability and other operational issues.

2. That, through discovery and negotiation, the compromise revenue increase balances the interests of UGI Electric and its customers inasmuch as UGI Electric will receive sufficient operating funds to provide safe and adequate service while ratepayers benefit from a reduction in the initial rate increase request.

3. That the negotiated agreements embodied in the Settlement reflect a difficult but reasonable compromise in the context of the extraordinary circumstances of the COVID-19 pandemic.

4. That the Settlement as a whole achieves rates which are just and reasonable and necessary for UGI Electric to provide safe and adequate service to its customers, and therefore, is in the public interest. *See* Joint Petition at 7-18; UGI Electric Statement in Support at 5-10, 13-15, 20-25, 27, 31-32, 40; I&E Statement in Support at 8‑11, 34; OCA Statement in Support at 6-8, 13; OSBA Statement in Support at 4-5, 7; CAUSE-PA Statement in Support at 4, 8; CEO Statement in Support at 1-2; ChargePoint Statement in Support at 2-4; and RESA/NRG Statement in Support at 3-5.

In his Recommended Decision, the ALJ found that the Parties engaged in extensive discovery in this proceeding. R.D. at 47. He noted that UGI Electric responded to comprehensive discovery requests from the other Joint Petitioners, wherein it provided a great deal of detailed financial information on the various revenue and expense elements that are determinative of its rate structure. *Id*. at 47-48. The ALJ further found that each of the Joint Petitioners used financial and economic experts to assist in reviewing and analyzing the many claims made by UGI Electric in its rate proposals and that it was only after this review and analysis by the various experts that the agreed upon settlement numbers were established. Although the many individual revenue and expense items may not be revealed and determined in the Joint Petition, these items were nonetheless considered by the Joint Petitioners in arriving at their respective settlement positions and, ultimately, in the agreed upon Settlement provisions. *Id*. at 48.

Accordingly, based on our review of the record, the Recommended Decision, and the Joint Petitioners’ Statements in Support, we find that the “black box” settlement in this proceeding is in the public interest and that the negotiated Settlement results in just and reasonable rates and in a lower rate increase than originally proposed by UGI Electric. For these reasons, we shall deny Ms. Brace’s Exception No. 1.

**c. Exception No. 2, Responses, and Disposition**

Ms. Brace’s Exception No. 2 states:

The term “public interest” should remain fluid but, when used, needs to be defined by the party using it; rate increases should be justified on these terms.

Exc. at 5. In this Exception, Ms. Brace argues that there is no clear definition of the “public interest” in the Code and, thus, it is difficult to discern if the public interest has been served. *Id*. at 6.

In its Response, UGI Electric states that Ms. Brace “does not consider the fact that the Parties to the Settlement represent a diversity of constituents and interests all of which were served by the outcome in this proceeding (as detailed in each Party’s Statement in Support of the Settlement).” UGI Electric Response at 2.

The I&E Response observes that the Settlement contained in the Joint Petition “provides UGI Electric, the Joint Petitioners, affected ratepayers, and the Commission with resolution of the issues presented in this proceeding, all of which is in the public interest.” I&E Response at 1.

We find that the public interest was well represented in the instant proceeding and that the Settlement contained in the Joint Petition is in accord with the “public interest” as that term is used in the context of a general rate increase case before the Commission.

Black’s Law Dictionary- 7th Edition (1979) defines the term “public interest as follows:

1. The general welfare of the public that warrants recognition and protection; and
2. Something in which the public as a whole has a stake; especially an interest that justifies government regulation.

The rates charged by a public utility and the determination of those rates as being just and reasonable are matters regulated by the Commission. 66 Pa. C.S. §§ 1301(a), 1308(d). The general welfare of the public as a whole depends upon the Commission discharging its duty to ensure that rates are just and reasonable. In doing so, the public welfare is served.

In the context of a general rate increase case such as this one, the Commission is aided by the active participation of entities representing various subgroups of the entire public. A number of these active participants have a statutorily imposed obligation to provide this representation, while others are self-created entities choosing to represent a delineated subgroup. Taken as a whole, these active participants cover the entire spectrum of the public whose welfare is to be protected.

The OCA is statutorily charged with the duty of representing “the interests of consumers”, *i.e.*, individual ratepayers, “in any matter properly before the commission,” such as the instant general rate increase case. 66 Pa. C.S. § 3206(a). The OSBA is statutorily charged with the duty of representing “the interests of small business consumers, in any matter properly before the commission,” such as the instant general rate increase case. 66 Pa. C.S. § 3206(b). I&E is statutorily charged with taking “appropriate enforcement actions, including rate proceedings . . . to insure compliance with this title [Title 66, Pennsylvania Consolidated Statutes], commission regulations and orders.” 66 Pa. C.S. § 308.2.(a)(11).

One could argue that these three entities alone constitute representation of the entire public whose welfare is to be protected. The OCA represents the interests of all of UGI Electric’s individual ratepayers, including, in this case, Ms. Brace. The OSBA represents the interests of all of UGI Electric’s small business ratepayers. I&E represents the Commission as the entity charged with ensuring that rates are just and reasonable and, therefore, protective of all of UGI Electric’s ratepayers of whatever category.

All three of these entities, frequently described as the “public advocates,” actively participated in the instant case, and all three participated in the negotiation of the Settlement contained in the Joint Petition and have stated their support for its adoption by the Commission. *See* OCA Statement in Support, OSBA Statement in Support, and I&E Statement in Support. We fully find that the combined efforts of the OCA, the OSBA, and I&E adequately and completely protect the public interest in this case.

In the instant proceeding, there are also other entities who actively participated and who represent other subgroups of the public as a whole. For instance, CAUSE-PA is an unincorporated association of low-income individuals that advocates to enable consumers of limited income in the Commonwealth of Pennsylvania to connect to and maintain affordable water, electric, heating, and telecommunications services. CEO is a not-for-profit corporation that advocates for the low-income population of Luzerne County, Pennsylvania. ChargePoint is a corporation operating a large electric vehicle charging network. RESA is a trade association of energy companies, including Pennsylvania licensed electric generation suppliers. NRG is a Fortune 500 integrated power company licensed and doing business in the Commonwealth of Pennsylvania.

Together, these entities represent low-income individuals (CAUSE-PA and CEO) and large corporations, either individually (ChargePoint and NRG), or collectively (RESA). By virtue of their respective constituencies, they represent the public interest of separate subgroups of the overall public. Each of them has stated that the public interest, from their perspective, is protected by the Settlement contained in the Joint Petition. *See* CAUSE-PA Statement in Support, CEO Statement in Support, ChargePoint Statement in Support, and RESA/NRG Statement in Support.

The “public interest” to be served in this general rate increase proceeding is the welfare of the public as compared to the welfare of a private individual or company. The Joint Petitioners are a diverse group of entities (some having a legally established responsibility) that when considered as a whole, clearly serve to represent the public interest of the community having a stake in the outcome of this case. Consequently, we shall deny Ms. Brace’s Exception No. 2.

**d. Exception No. 3, Responses, and Disposition**

Ms. Brace’s Exception No. 3 states:

A justification of “reasonableness of rates” needs to be held to a higher standard of examination, primarily that public utilities are compared, not to other utilities alone, but to the region in which they serve.

Exc. at 6.

In its response to Ms. Brace’s Exception No.3, UGI Electric points out that Ms. Brace “continues to focus upon UGI Electric’s corporate parent, *i.e.*, UGI Corporation” as the public utility for purposes of this proceeding. UGI Electric also states that the ALJ properly determined that the rates in the Settlement are reasonable in amount and allocation to customers. UGI Electric Response at 2.

In its response to Ms. Brace’s Exception No. 3, I&E states that “I&E fully supports the negotiated level of overall base rate revenue increase as a full and fair compromise.” I&E Response at 1.

Based on our review of the record and the well-established applicable law, we shall deny Ms. Brace’s Exception. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of its property dedicated to public service. *Pa. Gas & Water Co. v. Pa. PUC*, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield* at 692-3and *Hope Natural Gas*, as detailed *supra*.

In analyzing a proposed general rate increase, the Commission determines a rate of return to be applied to a rate base, measured by the aggregate value of all the utility’s property used, and useful, in the public service. In determining a proper rate of return, the Commission calculates the utility’s capital structure and the cost of the different types of capital during the period in issue. The Commission has wide discretion, because of its administrative expertise, in determining the cost of capital. *Equitable Gas Co. v. Pa. PUC*, 405 A.2d 1055 (Pa. Cmwlth. 1979).

Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes, and the company’s cost of capital. *Peoples TWP* at 28.

Ms. Brace correctly states that “[a] justification of “reasonableness of rates” needs to be held to a higher standard of examination.” The Joint Petitioners, through voluminous exhibits and a myriad of responses to discovery, including detailed examination and critiques of the cost of service, have established a very high standard of examination in this case. The compromises with respect to these elements that are embodied in the Settlement contained in the Joint Petition are a result of this detailed examination. The fact that this Settlement is a “black box” does not diminish the effectiveness of the examination conducted by numerous parties having various, and in some cases antithetical, goals.

The Joint Petitioners agree that the result reached falls within a reasonable range of what might be the outcome of a fully litigated case. This reasonable range is circumscribed by that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties as required by *Bluefield*. *Bluefield*,262 U.S. at 692. To determine a reasonable range, it has long been the practice in the field of public utility regulation to use information about other public utilities (business undertakings which are attended by corresponding risks and uncertainties) in the same general part of the country. That is, using information about other privately owned companies engaged in the provision of the same kind of public utility service to the public, preferably of a similar size and in the same geographic area. Therefore, comparisons with electric co-ops would not be an apples-to-apples comparison. *See A Guide To Utility Ratemaking (2018 Edition), James H. Cawley and Norman J. Kennard at 127-128. See also, generally, Principles of Public Utility Rates, 2nd Edition, James C. Bonbright, Albert L. Danielsen and David K. Kamerschen; The Regulation of Public Utilities: Theory and Practice, 3rd. Edition, Charles F. Phillips, Jr.*

To the extent that Ms. Brace’s Exception No.3 is an exception to the Recommended Decision, (as opposed to a statement of her personal generalized beliefs), we reject it as contrary to long established public utility practice in this and many other jurisdictions. Consequently, we deny Ms. Brace’s Exception No. 3.

**e. Exception No. 4, UGI Electric Response, and Disposition**

In her Exception No. 4, Ms. Brace argues that UGI Electric’s rate increase should be allocated to the generation charge. Ms. Brace avers that UGI Electric’s proposed rate increase and proposed Settlement are an attempt to disregard the spirit of Chapter 28 of the Code by allocating the rate increase to charges that are unavoidable to customers, namely the customer charge and distribution charge. Exc. at 8. Ms. Brace states that the only choice customers have is the entity to which they pay a generation fee and that regardless of the utility providing electricity generation service, customers are required to pay distribution charges to UGI Electric. *Id*. at 8-9. Ms. Brace contends that there is no market-based competition and no limit to UGI Electric’s ability to receive money from customers who cannot live without the service the Company provides. *Id*. at 9. Ms. Brace submits that rather than suggesting that the rate increase be allocated to the generation charge, the ALJ focused only on the issues pertaining to raising the customer charge and stated the following: “reducing the amount of the increase allocated to the fixed monthly customer charge will ensure that customers have greater control over lowering their monthly bills through conservation and usage reduction efforts.” *Id*. (citing R.D. at 22). Ms. Brace believes that while customers have control over the amount of electricity they use, allocating the increase to the generation fee would have the same effect while requiring UGI Electric to remain competitive.

In its Response, UGI Electric states that Ms. Brace’s argument ignores the reasonableness of the settled rates in this proceeding. The Company explains that as it stated in its Statement in Support, its initially proposed Rate R customer charge was supported by thorough and substantial evidence, but the Settlement reaches a reasonable compromise of the Parties’ litigation positions concerning increases to the proposed monthly charges. UGI Electric Response at 4.

Upon review, we find that Ms. Brace’s argument that UGI Electric’s rate increase should be allocated to the generation charge is not properly considered in this base rate proceeding which pertains to the recovery of distribution revenue.  It is clear under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801-2815 (Competition Act), and our Regulations that distribution rates and energy rates are distinct and separate from one another.  Section 2802(12) of the Code, 66 Pa. C.S. § 2802(12) states that Chapter 28 was created to “create direct access by retail customers to the competitive market for the *generation* of electricity…”. The Competition Act did not intend to make the distribution services provided by traditional electric utilities, who have constructed and maintained their systems since inception, become a competitive service. Instead, Section 2802(12) of the Code states, “Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission and distribution system.” Our policy statement regarding default service cost elements additionally explains that the Price-to- Compare (PTC)[[3]](#footnote-3) should be designed to recover all generation, transmission, and other related costs of default service. 52 Pa. Code § 69.1808(a).

The Commission does not allocate any Operation or Maintenance expenses to generation, and distribution base rate cases do not spill over into the generation or PTC for electric utilities. *See Pa. PUC, et al. v. PECO Energy Company – Electric Division*, Docket No. R-2018-3000164 (Order entered December 20, 2018) (under Section 54.187(e) of our Regulations, 52 Pa. Code § 54.187(e), EDCs are prohibited from recovering costs of default service in distribution rates, and an EDC’s PTC is audited annually by this Commission). Accordingly, Ms. Brace’s proposal would be inconsistent with the Code and our Regulations.

Moreover, we find that the Settlement reduces the impact of the rate increase on residential customers. Specifically, reducing the amount of the increase allocated to the fixed monthly customer charge from $13 to $9.50 will ensure that customers have greater control over lowering their monthly bills through conservation and usage reduction efforts and, in turn, may also result in lower universal service program costs. *See* OCA Statement in Support at 8; CAUSE-PA Statement in Support at 4.

**f. Exception No. 5, UGI Electric Response, and Disposition**

Ms. Brace’s Exception No. 5 states:

Recouping COVID-19 related expenses from customers while showing profit and continuing to pay the executives millions more than comparative electric coops is unethical.

Exc. at 9.

In its Response to Ms. Brace’s Exception No. 5, UGI Electric states that Ms. Brace “ignores the plain language of the Commission’s May 30, 2020 Secretarial Letter (regarding COVID-19 costs).” UGI Electric Response at 3. UGI Electric avers that Ms. Brace also disregards the Settlement’s provisions concerning: (1) the applicable period through which incremental uncollectibles expense associated with COVID-19 would be recovered, and (2) the three-year amortization period for the Company to recover those costs. *Id*.

Upon review, we shall deny Ms. Brace’s Exception, as we find that the Settlement provisions regarding COVID-19 cost deferral are consistent with this Commission’s actions and Orders concerning the COVID-19 pandemic, as detailed below, and are in the public interest. On March 6, 2020, Governor Tom Wolf issued a *Proclamation of Disaster Emergency (*Proclamation) that identified the COVID-19 pandemic as a disaster emergency affecting the entire Commonwealth. On March 13, 2020, relying on both the Proclamation and the Commission’s authority under the provisions of Section 1501 of the Code, 66 Pa. C.S. § 1501, Chairman Gladys Brown Dutrieuille issued an Emergency Order (*March 13 Emergency Order*), at Docket Number M-2020-3019244, establishing a prohibition on the termination of public utility service and directing the reconnection of service to customers previously terminated, to the extent it could be done safely, for the duration of the Proclamation, or until a time otherwise established by the Commission. The Commission ratified the *March 13 Emergency Order* at its March 26, 2020 Public Meeting.

On October 13, 2020, the Commission entered an Order (*October 13 Order*) modifying the *March 13 Emergency Order* by initiating Phase 2 of the public utility service termination moratorium. The *October 13 Order* continued the termination moratorium for “protected customers” at or below 300% of the federal poverty income guidelines (FPIG), under certain conditions, and established protections for certain residential and small business customers. The termination moratorium and protections established by the *October 13 Order* were set to expire on March 31, 2021.

On March 18, 2021, the Commission entered an Order (*March 18 Order*) returning to the regular collections process as set forth in the Code and the Commission’s Regulations, but with some additional protections. The *March 18 Order* lifted the service moratorium and allowed service disconnections to recommence effective April 1, 2021. However, the *March 18 Order* also established modifications/protections to existing collection policies that apply to all electric, natural gas, water, wastewater, telecommunications, and steam utilities subject to the Commission’s jurisdiction until December 31, 2021. These modifications/protections include:

1. For residential customers with incomes below 250% of the Federal Poverty Level (FPL), a utility is required to offer a payment arrangement for a minimum length of 5 years while allowing the customer to agree to or request a shorter payment arrangement and the utility to agree to a longer payment arrangement.

2. For residential customers with incomes between 250% and 300% of FPL, a utility is required to offer a payment arrangement for a minimum length of 2 years while allowing the customer to agree to or request a shorter payment arrangement and the utility to agree to a longer payment arrangement.

3. For residential customers with incomes over 300% of FPL, a utility is required to offer a payment arrangement for a minimum length of 1 year while allowing the customer to agree to or request a shorter payment arrangement and the utility to agree to a longer payment arrangement.

4. For small business customers, a utility is required to offer a payment arrangement for a minimum length of 18 months while allowing the customer to agree to or request a shorter payment arrangement and the utility to agree to a longer payment arrangement.

5. In response to informal and formal complaints filed by December 31, 2021, the Commission may:

1. Order one payment arrangement consistent with the terms outlined in Paragraphs 1- 3 above for a residential customer who is eligible for a new payment arrangement under the Public Utility Code.

b. Order one payment arrangement consistent with the terms outlined in Paragraphs 1- 3 above for a residential customer who has previously defaulted on a Commission payment arrangement, even where 66 Pa. C.S. §1405(d) has not been satisfied. This allowance for one additional payment arrangement is made solely in response to the COVID-19 pandemic and the March 13 Emergency Order.

c. Order one payment arrangement consistent with the terms outlined in Paragraph 4 above for a small business customer.

Neither residential nor small business customers shall receive more than one Commission payment arrangement with the extended repayment terms outlined in Paragraphs 1-4 above. The terms outlined in Paragraphs 1-3 above shall not apply to payment arrangements ordered under 66 Pa. C.S. §1405(e). For residential customers eligible for both a payment arrangement under 66 Pa. C.S. § 1405(e) and a payment arrangement under the terms outlined in Paragraphs 1-3 above, the Commission should order the payment arrangement most advantageous to the customer.

6. Utilities and the Commission’s Bureau of Consumer Services may accept income verification and business status information obtained through flexible means, for example, over-the-phone or via electronic mail, for the purpose of qualifying customers for payment arrangements or universal service programs.

*March 18 Order* at 4-6.

Additionally, the *March 18 Order* provided that for utilities that have implemented Commission-approved COVID-19 customer protection plans, those plans will remain in effect according to their individual terms. *March 18 Order* at 7. The *March 18 Order* also recognized that compliance with the *March 13 Emergency Order*, *the October 13 Order*, and the *March 18 Order* itself, may increase expenses for utilities. Consequently, the *March 18 Order* provided that:

… utilities shall continue tracking extraordinary, nonrecurring incremental COVID-19 related expenses and shall maintain detailed accounting records of such expenses. Additionally, the Commission authorizes electric, natural gas, water, wastewater, steam, and all rate base/rate of return telecommunications utilities to create a regulatory asset for any incremental expenses incurred above those embedded in rates resulting from the directives contained in the [March 18] Order. To be eligible for inclusion in a utility’s COVID-19 designated regulatory asset, the utility must maintain detailed records of the incremental extraordinary, nonrecurring expenses incurred as a result of compliance with the Commission’s March 13 Emergency Order, and the [March 18] Order.

*March 18 Order* at 5-6.

*The March 18 Order* also required these utilities to report, on a quarterly basis for the remainder of 2021, the following information:

1. Total number of residential and non-residential accounts at risk of termination at the end of the month and for the same month of the year prior.
2. Total aggregate dollars of arrears, broken down by the same account categories, at the end of the month and for the same month of the year prior.
3. The number of residential and non-residential accounts disconnected for non-payment with dollar amounts owed.

*March 18 Order* at 6-7.

We offer this detailed description of the action taken in our *March 18 Order* to show that we have provided both residential and small business customers with protections commensurate with the ongoing COVID-19 situation while also considering the economic needs of jurisdictional utilities.

The Settlement presented in the Joint Petition complies with the requirements of our *March 18 Order*. *See* Joint Petition at 13, 14-18. We have determined that the Settlement produces rates that are just and reasonable, provides vital customer protections, and affords UGI Electric the opportunity to receive a fair return on its investment. These are the matters that the law requires of us.

Ms. Brace’s characterization of what she believes is “unethical” action is unsupported by any relevant evidence and contrary to the facts in this case. Therefore, we will deny Ms. Brace’s Exception No.5.

**g. Exception No. 6, UGI Response, and Disposition**

In this Exception, Ms. Brace disagrees with the Joint Petitioners’ agreement that the Company’s battery storage proposal be approved, specifically because the Joint Petitioners have agreed that UGI Electric will not use the battery storage system to participate in the PJM Frequency Regulation Market. Ms. Brace avers that UGI Electric should use the battery storage system to participate in the PJM Frequency Regulation Market and be required to document how much of a profit the Company made so that the profit could be used to lower the cost of electricity for customers struggling to pay their bills. Exc. at 9.

In its Response, UGI Electric avers that Ms. Brace’s Exception ignores the substantial benefits that the battery storage proposal, as modified by the Settlement, will provide to the Company’s customers. UGI Electric avers that the Settlement enables the Company to address the unique reliability and resiliency issues experienced on the impacted circuit through the installation and rate base recovery of the battery storage system at the lowest cost to customers, while avoiding the issues the other Parties raised regarding participation in the PJM Frequency Regulation Market. UGI Electric Response at 3.

Under the circumstances, we find that the Settlement provisions concerning UGI Electric’s battery storage proposal are in the public interest.[[4]](#footnote-4) The Settlement provisions are narrowly tailored “based on the small size of the battery, the unique circumstances of the Ruckle Hill Road distribution circuit, including its voltage, its status as a worst performing circuit, the surrounding terrain, the nearby vegetation, and the load served by this circuit.” *See* Joint Petition at 9. The Settlement will benefit the customers served by the Ruckle Hill Road distribution circuit, because the backup battery storage project will maintain their service during outages. Additionally, the Joint Petitioners’ agreement that UGI Electric will not use the battery storage project to participate in the PJM Frequency Regulation Market resolved some of the Parties’ concerns that the battery may perform a generation function and, thus, the project should not be included in distribution rates. Further, through the battery storage program, UGI Electric will provide this Commission with information regarding the duration, extent, cause, and times for each outage, the duration and times the battery storage system was used to maintain service during the outage and loads on the facilities served by the battery storage system just prior to and during the outage. Joint Petition at 9-10. As such, the program will provide the Parties and this Commission with information and the opportunity to learn about how the Company operates the battery and the benefits the battery provides, which may also aid in the development of future battery storage projects and future regulatory policies concerning energy storage.

While we understand that Ms. Brace is also concerned about providing customers with assistance in paying their bills, we note that the Settlement contains various customer assistance provisions, including modifications to the Company’s universal service programs and continued outreach to customers impacted by the COVID-19 pandemic. *See* Joint Petition at 14-18. For all of these reasons, we shall deny Ms. Brace’s Exception No. 6.

**6. Disposition of the Joint Petition**

We find that the proposed Settlement balances the concerns of all Parties involved, is in the public interest, and should be approved without modification. In terms of the revenue requirement, the total increase in annual revenues of $6.15 million, an increase of approximately 7.1%, that the Joint Petitioners agreed to is approximately $2.55 million less than UGI Electric’s original request of $8.7 million. The Settlement will allow UGI Electric to earn a fair rate of return and provide safe, reasonable, and adequate service to its customers, while also reducing the impact of the rate increase on residential customers. The Joint Petitioners aver that based on a review of the cost of service studies and the various revenue allocation proposals presented in this proceeding, the Settlement is within the range of reasonable outcomes that would result from full litigation of this case. UGI Electric Statement in Support at 6; I&E Statement in Support at 8; OCA Statement in Support at 7. Further, by reducing the amount of the increase allocated to the fixed monthly customer charge, customers will have greater control over lowering their monthly bills through conservation and usage reduction efforts. *See* OCA Statement in Support at 8; CAUSE-PA Statement in Support at 4; CEO Statement in Support at 2.

In addition to these provisions, there are other provisions within the Settlement that are beneficial to the Company’s customers and the public. Among these provisions are the following: (1) the previously discussed battery storage proposal targeted to improve reliability on a worst performing Ruckle Hill Road distribution circuit (Joint Petition at 9); (2) the Company’s electric vehicle (EV) charging program designed to support the growth of EVs within the Company’s service territory by promoting EV charging infrastructure build-out and expanded access to EV charging infrastructure (Joint Petition at 10-11); (3) the Company’s various commitments and ongoing efforts to assist customers affected by the economic impacts of the COVID-19 pandemic, including efforts to promote existing assistance programs and to facilitate access to COVID-19-related public utility assistances sources, including Coronavirus Aid, Relief, and Economic Security Act and the American Rescue Plan, through mass media campaigns, bills inserts, and coordination with program providers (Joint Petition at 14-15); (4) numerous provisions and modifications concerning the Company’s universal service programs, and increased funding for the Company’s Low Income Usage Reduction Program and the Company’s agreement to increase its contribution to its Hardship Fund, commensurate with the percentage rate increase to the residential class resulting from this case (Joint Petition at 15-18).

Further, we find that the Settlement will result in significant savings of time and expenses for all Parties involved by avoiding the necessity of further administrative proceedings, as well as possible appellate court proceedings, thereby conserving administrative resources. The Settlement also benefits all Parties by providing regulatory certainty with respect to the disposition of the issues. For the reasons stated herein and in the Joint Petitioners’ Statements in Support, we agree with the ALJ’s conclusion that the Settlement is in the public interest and we shall approve it without modification.

**IV. Conclusion**

We have reviewed the record developed in this proceeding, including the ALJ’s Recommended Decision and the Exceptions and Responses filed thereto. Based upon our review, evaluation, and analysis of the record evidence, we shall deny the Exceptions filed Ms. Brace, approve the Settlement in its entirety, and adopt the ALJ’s Recommended Decision, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Exceptions filed by Brandi Brace on September 14, 2021, are denied.

2. That the Recommended Decision of Administrative Law Judge Steven K. Haas served on August 27, 2021, is adopted, consistent with this Opinion and Order.

3. That the Joint Petition for Approval of Settlement of All Issues, filed on July 19, 2021, by UGI Utilities, Inc. – Electric Division, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Commission on Economic Opportunity, ChargePoint, Inc., and the Retail Energy Supply Association and NRG Energy, Inc., is approved in its entirety without modification.

4. That UGI Utilities, Inc. – Electric Division shall not place into effect the rates contained in Supplement No. 26 to Tariff Electric – Pa. P.U.C. No. 6 and Supplement No. 2 to UGI Tariff Electric Pa. P.U.C. No. 2S.

5. That UGI Utilities, Inc. – Electric Division shall file tariff supplements with the Commission, reflecting the rates set forth in its proposed compliance tariff attached to the Joint Petition for Settlement of all Issues as Appendix A, to become effective on one (1) days’ notice after the date of entry of this Opinion and Order, for service rendered on and after November 9, 2021, so as to produce an annual increase in base rate operating revenues not to exceed $6.15 million, consistent with this Opinion and Order.

6. That after UGI Utilities, Inc. – Electric Division files the required tariff supplements set forth in Ordering Paragraph No. 5 of this Opinion and Order, the Formal Complaints filed by the Office of Consumer Advocate at Docket Number C‑2021-3024213 and by the Office of Small Business Advocate at C-2021-3024200 shall be deemed satisfied, and the Commission’s investigation at Docket No. R-2021-3023618 shall be terminated, and all three dockets shall be marked closed.

7. That UGI Utilities, Inc. – Electric Division shall provide the information about the battery storage system, listed in Paragraph 50 of the Joint Petition for Approval of Settlement of All Issues, in annual reports filed with the Commission’s Secretary’s Bureau, with a copy served on the Reliability and Emergency Preparedness Section of the Bureau of Technical Utility Services, by January 1st of each year that the battery storage system remains in service, with the first annual report to be filed by January 1, 2023.

8. That the Formal Complaint filed by Jennifer Mattingly against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3024500, is dismissed and marked closed.

9. That the Formal Complaint filed by Brandi Brace against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3024613, is dismissed and marked closed.

10. That the Formal Complaint filed by Kim Kotyk against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3024833, is dismissed and marked closed.

11. That the Formal Complaint filed by Barbara Brennan against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3024846, is dismissed and marked closed.

12. That the Formal Complaint filed by Lindsey Yeider Wosik against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3024927, is dismissed and marked closed.

13. That the Formal Complaint filed by Roger and Maria Hogue against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3025072, is dismissed and marked closed.

14. That the Formal Complaint filed by Lisa Infantino against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3025090, is dismissed and marked closed.

15. That the Formal Complaint filed by Mark Lazo against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3025091, is dismissed and marked closed.

16. That the Formal Complaint filed by Bridgett Brosius against UGI Utilities, Inc. – Electric Division at Docket Number C-2021-3025436, is dismissed and marked closed.

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Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: October 28, 2021

ORDER ENTERED: October 28, 2021

1. For example, full or partial settlements may allow the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and replies to exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision. [↑](#footnote-ref-1)
2. For purposes of this Opinion and Order, we will summarize certain pertinent portions of the Parties’ Statements in Support, including portions that pertain to the Exceptions and Responses before us. This includes a summary of the issues pertaining to revenue allocation, the Company’s battery storage proposal, and COVID-19 Cost Deferral. For a detailed discussion of the Parties’ positions on additional topics in the Settlement, see R.D. at 18-42. [↑](#footnote-ref-2)
3. The PTC is a “line item that appears on a retail customer’s monthly bill for default service. The PTC is equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service.” 52 Pa. Code § 69.1803. [↑](#footnote-ref-3)
4. Electric storage is a novel issue, and the Commission is currently exploring the viability of utility investment in electric storage as a distribution asset used to enhance or maintain reliability. *See Policy Proceeding-Utilization of Storage Resources as Electric Distribution Assets*, Docket No. M-2020-3022877 (Secretarial Letters issued December 3, 2020 (*December 2020 Secretarial Letter*) and August 12, 2021). The Commission stated, “Exploring this topic is warranted since utilization of batteries on the distribution grid, in appropriate circumstances, may offer an option to foster reliability that will have a less significant rate impact than other more conventional utility restoration or improvement investments.” *December 2020 Secretarial Letter* at 2. The Commission has solicited comments from interested parties concerning various questions on the issue of energy storage resources as electric distribution assets. The Commission sought the information to help guide any potential future regulatory policies. [↑](#footnote-ref-4)