**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2013-2360798

:

The Columbia Water Company :

:

:

The Office of Consumer Advocate :

: C-2013-2363612

v. :

:

The Columbia Water Company :

:

:

The Office of Small Business Advocate :

:

v. : C-2013-2363728

:

The Columbia Water Company :

:

:

Vincent E. Collier :

:

v. : C-2013-2364726

:

The Columbia Water Company :

**RECOMMENDED DECISION**

Before

Dennis J. Buckley

Administrative Law Judge

TABLE OF CONTENTS

[I. INTRODUCTION 1](#_Toc372704677)

[II. HISTORY 1](#_Toc372704678)

[III. FINDINGS OF FACT 4](#_Toc372704679)

[IV. PUBLIC INPUT TESTIMONY 11](#_Toc372704680)

[V. DISCUSSION 14](#_Toc372704681)

[A. The Public Input Hearing of September 3, 2013 16](#_Toc372704682)

[B. Recommendations of the OCA and I&E 17](#_Toc372704683)

[C. Cash Working Capital 19](#_Toc372704684)

[D. Unresolved Issues 20](#_Toc372704685)

[1. Pennvest Book Depreciation Reserve 20](#_Toc372704686)

[2. Materials & Supplies 22](#_Toc372704687)

[3. Merchandising Sales and Jobbing Work 22](#_Toc372704688)

[4. Acquisition Adjustment 23](#_Toc372704689)

[5. Engineering 26](#_Toc372704690)

[6. Bad Debt Expense 27](#_Toc372704691)

[7. Employee Salaries and Wages and Related Adjustment to Payroll Taxes 28](#_Toc372704692)

[8. Pensions & Benefits 30](#_Toc372704693)

[9. OCA Pension Adjustment 30](#_Toc372704694)

[10. Disability and Life Insurance 31](#_Toc372704695)

[11. Employee Recognition](#_Toc372704696) 32

[12. Vehicle Insurance 32](#_Toc372704697)

[13. Worker’s Compensation Insurance 33](#_Toc372704698)

[14. Accounting 34](#_Toc372704699)

[15. Office Expenses and Utilities 35](#_Toc372704700)

[16. Officers and Directors 35](#_Toc372704701)

[a. Adjustment to Reduce Salaries and Fees 36](#_Toc372704702)

[b. The Commission’s Ongoing Requirement for Time Records Should Continue 37](#_Toc372704703)

[c. Allocation 38](#_Toc372704704)

[E. I&E Proposed Adjustments 39](#_Toc372704705)

[1. PennVest Plant 39](#_Toc372704706)

[2. Officers, Directors, & Majority Stockholders Salaries 40](#_Toc372704707)

[3. Employee Recognition Expense Claim 41](#_Toc372704708)

[4. Taxes 41](#_Toc372704709)

[F. Rate of Return 42](#_Toc372704710)

[G. Columbia’s Proposed Adjustments for Performance 45](#_Toc372704711)

[H. Rate Structure 47](#_Toc372704712)

[VI. CONCLUSION 47](#_Toc372704713)

[VII. CONCLUSIONS OF LAW 49](#_Toc372704714)

[VIII. ORDER 50](#_Toc372704715)

I. INTRODUCTION

This Recommended Decision considers the outstanding issues in a base rate case filed by The Columbia Water Company (Columbia or Company).[[1]](#footnote-1) This Recommended Decision rejects the proposed rate increase of $773,210 as filed in that it is not just and reasonable, and so is not in the public interest, but directs Columbia to file an appropriately designed tariff that provides for an opportunity to collect additional revenues of $87,699 consistent with this Recommended Decision. A Commission decision in this matter is due no later than January 24, 2014.

Columbia has two water divisions. The Marietta Division provides water service in Marietta Borough and East Donegal Township in Lancaster County, and in Hellam Township in York County. The Columbia Division provides water service in Columbia and Mountville Boroughs, and in West Hempfield and Manor Townships, all located in Lancaster County. Columbia serves approximately 8,870 customers. CWC St. 1 at 2-3.

Columbia draws water from the Susquehanna River to supply its customers. Water from the Susquehanna River travels through pipes into Columbia’s receiving wells where water treatment begins. Columbia pumps the water from the receiving wells through a parallel sedimentation train and then into six dual media gravity filters. Water from the filters then enters a clearwell and is disinfected using chlorine. Columbia then pumps the water from the clearwell into its distribution system. Water quality samples are taken from various areas of the distribution system to assure quality. Weekly reports of all tests and operations of the plant are submitted to the Pennsylvania Department of Environmental Protection. CWC St. 1 at 3.

II. HISTORY

On April 25, 2013, the Columbia Water Company (Columbia or Company) filed Supplement No. 60 to Tariff-Water-Pa. PUC No. 7, which contained proposed changes in rates, rules, and regulations calculated to recover an estimated annual increase in base rate revenues of $773,210 from customers of its Columbia Division.[[2]](#footnote-2) The increase was to become effective on June 24, 2013.

Complaints against the proposed rate increase were filed: on May 16, 2013, by the Office of Consumer Advocate (OCA) at Docket No. C-2013-2363612, on May 17, 2013, by the Office of Small Business Advocate (OSBA) at Docket No. C-2013-2363728, and on May 15, 2013, by Mr. Vincent E. Collier at Docket No. C-2013-2364726. On May 21, 2013, the Commission’s Bureau of Investigation & Enforcement (I&E) entered an appearance in this proceeding.

By Order entered June 13, 2013, the Commission suspended the filing by operation of law until January 24, 2014.

A standard form Prehearing Order was issued on June 24, 2013.

A prehearing conference was convened at the Commission’s office in Harrisburg, Pennsylvania, on July 3, 2013. Counsel for each of the active parties attended.[[3]](#footnote-3)

On July 16, 2013, a second Prehearing Order established the procedural schedule in this case and memorialized agreements entered into by the parties at the Prehearing Conference on July 3, 2013.

On July 23, 2013, a third Prehearing Order denied a Motion to Compel filed on July 1, 2013, by the OCA and sustained the Objection to OCA Set I, Interrogatory No. 26, filed by Columbia on June 10, 2013.[[4]](#footnote-4)

On August 1, 2013, a Notice of Hearing was issued establishing September 4-6 as the dates for an evidentiary hearing in this case.

On August 20, 2013, a Notice of Hearing was issued setting September 3, 2013 as the date for a public input hearing in Columbia, Pennsylvania. Originally, no public input hearing had been requested by any of the public advocates.

On September 3, 2013, a public input hearing was held in Columbia, Pennsylvania, at which twelve witnesses gave sworn testimony. That hearing produced a transcript consisting of 84 pages and 4 exhibits.[[5]](#footnote-5)

After the public input hearing and consultation among the parties, it was decided that a three day hearing would be unnecessary in this case. Therefore, on August 29, 2013, a Notice was issued cancelling the hearing set for September 4, 2013.

On September 5, 2013, an evidentiary hearing was held in Harrisburg, Pennsylvania. At that hearing, Columbia was represented by Thomas J. Sniscak, Esquire, and William E. Lehman, Esquire. The OCA was represented by Erin L. Gannon, Esquire. I&E was represented by Richard A. Kanaskie, Esquire. The OSBA was represented by Daniel G. Asmus, Esquire. Testimony was received from David T. Lewis and Gary D. Shambaugh for Columbia. Testimony was received from Ethan H. Cline on behalf of I&E. Testimony was provided by Ashley E. Everette on behalf of the OCA. The OSBA did not present any witnesses. The hearing produced a transcript consisting of 118 pages, and 14 exhibits. The parties subsequently e-filed their testimony with the Secretary of the Commission.

The parties filed Main Briefs on September 26, 2013, with Reply Briefs filed October 7, 2013.[[6]](#footnote-6)

On October 31, 2013, Columbia filed an unopposed Petition for Protective Order. The Petition was granted and a Protective Order was issued that day. The record closed on October 31, 2013.

This case is now ready for decision.

III. FINDINGS OF FACT

1. Columbia’s original claim for rate base in its filing, as of December 31, 2013, was $13,527,774. (CWC Statement No. 2 at 11:14-15; GDS Exhibit No.1 at 1-17) During the course of the proceeding, the Company increased its rate base claim to $13,796,745. (GDS Rebuttal Exhibit No. 3 (Revised) at 3) The individual adjustments resulting in the revised rate base claim are as follows: (1) Reserve adjustment (4% CIM – PennVest Plant): Add $339,038 (CWC Statement No. 2R at 20:12-21; GDS Rebuttal Exhibit No. 3 at 3); (2) Cash working capital: Add $2,688 (GDS Rebuttal Exhibit No. 3 (Revised) at 3).

2. Columbia adjusted its total depreciated plant in service from its original filing of $24,706,812 to $25,045,850. (CWC Statement No. 2R at 20:12-21; GDS Rebuttal Exhibit No. 3 (Revised) at 3)

3. The reason for this adjustment is because Columbia overstated the book depreciation reserve related to the PennVest plant in service. The Company’s book depreciation ($1,853,844) for this plant includes annual depreciation accruals based upon the straight-line average remaining life methodology. However, the PennVest rate was based solely on the 4% Compound Interest method during the term of the rate. Therefore, there exists a difference between the book depreciation reserve and the capital recovery through customer rates of approximately $339,038 for this plant. (CWC Statement No. 2R at 20:12-21; Tr. at 142)

4. The Company’s claim for Materials and Supplies (M&S) in Inventory is $62,314. (GDS Exhibit No. 1 at 1-17)

5. OCA witness Everette recommended a negative adjustment of $4,592 for materials and supplies based on her use of a 13-month average, from January, 2012 to January, 2013, instead of the Company’s 3-year average. (OCA Statement No. 1 at 7:4-12; OCA Exhibit AEE-1S, Schedule 1S, line 3)

6. To accurately reflect a 13‑month average of materials and supplies, the Company would have to close its books on a monthly basis, which it does not. (CWC Statement No. 2R at 14:18-20).

7. Columbia closes its books annually, which is more economical for smaller companies, and these annual audited numbers, based on actual inventory, better represents M&S than Ms. Everette’s use of monthly estimates. (Tr. at 135-136)

8. The 3-year average better represents what smaller companies do and has been approved by the Commission in previous cases, including Columbia’s last rate case, *Pa. PUC v. Columbia Water Company*, Dkt No. R-2008-2045157 (Final Order entered June 10, 2009) at 29-32. (Tr. At 165 and 169)

9. The Company’s original claim for cash working capital was $248,967. (GDS Exhibit No. 1 at 1-17) Based on certain adjustments made during the course of this proceeding the Company’s revised claim is $251,655. (GDS Rebuttal Exhibit No. 2 (Revised) at 3)

10. The Company’s *pro forma* claim for Plant in Service is $35,003,303. (GDS Exhibit No. 1 at 2-9)

11. In 1993, the Company constructed $4,902,136 of fixed capital plant that included, but was not limited to, source of supply, pumping, transmission and distribution mains and customer service infrastructure improvements. The Company funded the construction by obtaining and being subject to the obligations of a PennVest loan. The Company has been recovering their investment in the PennVest plant through a volume charge applicable to all customer classes. (CWC Statement No. 2R at 29-16)

12. In 1993, at Docket No. R-00932594, the Commission adopted, in Ordering Paragraph No. 4 of its Final Order entered June 1, 1993, the Joint Stipulation of Settlement, dated April 30, 1993, which was entered into by the Company and OCA. The Commission allowed a return-on and a recovery of (annual depreciation expense) the investment in the PennVest plant and facilities. The Joint Stipulation for Settlement on page 3, paragraph 7 (GDS Rebuttal Exhibit No. 1) sets forth the ratemaking treatment as follows:

7. Regarding the ratemaking treatment of Plant in Service, the Company agrees to Rate Base treatment for plant additions of $4,547,617, constituting amount attributable to PennVest funding, rather than apply a surcharge equal to the debt service on the PennVest loan. The following items are also reflected in the total revenue of increase proposed in this Stipulation: (a) the inclusion of these plant additions in the rate base, along with the return on the increase plant at an overall rate of return of 7.27%; (b) depreciation expense computed at the Company’s current composite depreciation rate; (c) reflection of increased deferred income taxes. (CWC Statement No. 2R at 13:1-15; GDS Rebuttal Exhibit No. 1)

13. The PennVest volume rate was an unbundled rate base/rate of return rate which eventually became reconcilable. The 1997 Commission Order[[7]](#footnote-7) allowed Columbia Water to reconcile their rate, but the rate remained one developed based on rate base/rate of return. The reconciliation was to refine the rate to ensure it hit its rate base/rate of return income target. (Tr. at 139)

14. The Commission’s policy statement at 52 Pa.Code § 69.361 was intended to apply to companies who had not yet elected rate base or surcharge treatment, and Columbia’s election in 1993 precedes the 1994 policy statement. (Tr. at 179)

15. The ratepayers did not sign for the loan, promissory note or the pledge of accounts nor do they own the PennVest plant. (Tr. at 177)

16. Columbia has claimed in its filing an amortization expense of $15,039 for the expenses incurred in the acquisition of Marietta Gravity Water Company at Docket Nos. A-2012-2282219 and A-2012-2282221. (CWC Statement 2R at 19:9; GDS Exhibit No. 1 at 1-14)

17. Columbia has claimed *pro forma* bad debt expense in the amount of $11,000. (GDS Exhibit No. 1 at 1-15)

18. Columbia’s filing has a known and measurable level of bad debt expense. (Tr. at 134)

19. Columbia’s method of using audited, known and measurable current numbers is an accurate way of predicting bad debt expense.

20. Columbia has already allocated an average of 8% of its employees’ time to the Marietta Division; however, the specific percentage varies by employee and the specific amount of time devoted to Marietta Division tasks. (CWC Statement 1R at 2:14-3:8)

21. The Company’s original allocation of 2.31% for the salary of the sales person was based upon time spent in the fourth quarter (of 2012) and it is based upon the way Columbia assigns employees to do work tasks. (Tr. at 109)

22. Health insurance costs vary widely from employee to employee. Some employees opt out of coverage. Some employees enroll just themselves while others enroll their entire families. (Tr. at 113-114)

23. The allocations that Columbia provided take into account discrete, employee-specific, varying health insurance costs. (Tr. at 114) The Company’s allocations of employee health insurance benefits were based upon the percentage of the person’s time allocated to the Marietta Division and the actual costs of the person’s benefits. (CWC Statement 1R at 9:11-14)

24. The Company’s allocation of employee health insurance benefits to the Marietta Division were based upon the percentage of the person’s time allocated to the Marietta division and the actual costs of the person’s benefits. (CWC Statement 1R at 9:11-14)

25. The Company’s allocations of pension expenses were based upon the percentage of the person’s time allocated to the Marietta Division and the actual costs of the person’s benefits. (CWC Statement 1R at 9:11-14)

26. The Marietta Division has its own vehicle, and, thus, most of the vehicle costs are associated with that vehicle. (Tr. at 114) Many of the employees that do Marietta Division work do not use vehicles; for example, customer service personnel, the office manager, and the production superintendent. Even meter readers mainly walk and only use the vehicle to get to the service area. (Tr. at 114)

27. The Company, based upon a notice from its insurance carrier received during this rate case that its vehicle insurance rates will be increasing, has adjusted its expense claim upward by $837 due to the increase in the vehicle insurance premium.

28. Workers compensation insurance premiums are based upon wages and the classification of the employee. Using the actual employee hours worked for the Marietta Division results in Columbia’s 3.8% allocation. (CWC Statement 1R at 13:14-19)

29. The Company has increased its expense claim by $2,752 based upon information received from the carrier during this case due to an increase in the worker’s compensation premium. (CWC Statement No. 1R at 13:21-22; DTL Rebuttal Exhibit No. 1)

30. The Marietta Division has different rates, and the Company needs to use separate accounting tools to properly track and account for the costs associated with the Marietta Division. (Tr. at 115) The auditors will use the separate books of the two divisions to prepare one consolidated tax return. (Tr. at 116)

31. With the separate divisions, Columbia will be preparing separate budgets, keeping separate books, and preparing separate depreciation calculations and accruals. (CWC Statement 1R at 14:6-11)

32. The Company originally made an expense claim for Officers’ salaries of $68,000. (GDS Exhibit No. 1 at 1-15) The claim was subsequently adjusted to $66,144 to reflect a 4.3% allocation of the Officers’ salaries to the Marietta Division. (Tr. at 128; GDS Rebuttal Exhibit No. 3 (Revised) at 2)

33. Neither the Company’s Officers nor Directors have had any raise in salaries or fees since 2009. (CWC Statement No. 1 at 17:17-18)

34. Columbia has agreed to allocate 4.3% of it Officers’ salaries and Directors’ fees to the Marietta Division, thus reducing its claim for Officers’ salaries to $66,144 and Directors’ fees to $60,036. (CWC Statement No. 1R at 21:4-5; GDS Rebuttal Exhibit No. 3 (Revised), page 2)

35. The Company’s General Manager, Dave Lewis, has established that the Company meets or exceeds all Federal and State water quality standards and requirements. (CWC Statement No. 1 at 5:8-16)

36. From 2010 until present, the Company has had only two operational issues. In September, 2011, Columbia issued a boil water notice as a precaution due to flooding that occurred as a result of Tropical Storm Lee; however, no water quality issues were detected and the notice was issued as a precaution only. In March, 2013, Columbia issued a “Do Not Consume” Notice in response to someone who broke into a locked finished water storage tank. The Pennsylvania Department of Environmental Protection (Pa. DEP) found that the water was safe to consume and the notice was lifted. Pa. DEP complimented Columbia on how the situation was handled. (CWC Statement No. 1 at 5:18-6:3; Appendix 2 to CWC Statement No. 1)

37. The Company’s water pressure throughout its system meets all standards. (CWC Statement No. 1 at 6:11)

38. Since 2010, Columbia has had no informal complaints and only one formal complaint filed against it with the Commission. The formal complaint alleged that Columbia caused a leak in the customer’s plumbing when a meter was replaced. Columbia resolved the issue, crediting the customer’s account $75.00. Columbia has consistently had UCARE statistics that are equal to or better than all the other Class A utilities. (CWC Statement No. 1 at 6:13-19)

39. Since 2010, the Company has received no complaints regarding the taste or the odor of its water. (Tr. at 120-121)

40. Columbia has complied with Ordering Paragraph No. 5 of its 2008 Rate Case Order, and has provided officers’ and directors’ hours in its testimony (CWC Statement No. 1 at 15:12-16 and 17:3-5)

41. Columbia’s inclusion of its remaining used and useful undepreciated PennVest Plant and facilities in rate base is appropriate.

42. Columbia’s claimed expense of $15,039, representing a fifteen year amortization of $225,581 in expenses incurred while acquiring the Marietta Gravity Water Company is not appropriate.

43. Because it appears that Mr. Ron Weigel’s professional services are related directly to the acquisition of Marietta Gravity Water Company and not to this rate case, this $5,505 expense must be removed.

44. Columbia’s Pensions and Benefits claim which includes $6,051 for Employee Recognition, is inappropriate and must be removed.

45. The Columbia and Marietta Divisions keep separate books, budgets and depreciation calculations, and as Accounting costs are built into the Marietta Division’s rates $2,364 in Accounting costs must be attributed to the Marietta Division and must be removed.

46. Both Columbia and the OCA agree that 4.3% is an accurate reflection of the office and utility expenses that should be allocated to the Marietta Division, so 4.3% of Columbia’s claimed office expenses and utilities (or $774) must be allocated to the Marietta Division.

47. The I&E recommendation of a 7.07% overall rate of return derived from the use of recommended debt cost rate of 5.00%, recommended 50/50 capital structure, and recommended 9.15% cost of common equity is reasonable.

48. An additional 50 basis point premium to reflect Columbia’s management efficiency, a 1998 acquisition of a neighboring water system, and a 2012 acquisition of an affiliate water system is not supported by the evidence of record or reasonable.

IV. PUBLIC INPUT TESTIMONY

On September 3, 2013, a public input hearing was held in Columbia, Pennsylvania, which produced a transcript consisting of 84 pages, and 4 exhibits. The following are summaries of the testimony presented at that hearing.

Mary C. Wickenheiser

Ms. Wickenheiser is the Vice President of the Columbia Borough Council. She stated that the borough is just beginning to see some economic development and is of the opinion that a rate increase of the magnitude requested would discourage any water dependent business or industry from looking seriously at the borough as a possible location.

Samuel Sulkosky

Mr. Sulkosky is the Borough Manager of Columbia and sent a letter to the Commission which led to the scheduling of the public input hearing. Mr. Sulkosky related that at a meeting of the borough council on June 10, 2013, the Council voted to object to the proposed rate increase. Mr. Sulkosky testified that he believes that Columbia’s current rates and rate of return are adequate. Mr. Sulkosky believes that the proposed rate increase was undertaken by the Company to raise the rate of return, which is unjustified. Mr. Sulkosky also objected to the Company’s decision to separate the Marietta Division from the Columbia Division and to treat the two divisions differently, and contended that the Company is impermissibly passing along upgrade and acquisition costs related to the Marietta Division. Mr. Sulkosky pointed out that the borough is economically challenged, and that its population includes a disproportionately high percentage of low income, senior citizen and rental housing. Mr. Sulkosky reiterated that increasing utility rates will make economic development difficult and asked that the rate increase be denied or substantially reduced, or rolled back.

Leo S. Lutz

Mr. Lutz is the Mayor of Columbia Borough and complained that the rate structure used by Columbia is confusing. He objected to a 21% rate increase as stifling the economic development and revitalization efforts of the borough. He complained that the proposed rate increase would raise the current $35,000 for fire hydrant service up to $42,350, which would be a substantial increase to Columbia Borough and the ratepayers.

Vincent E. Collier

Mr. Collier filed a formal Complaint against the proposed rate increase at Docket No. C-2013-2364726. He testified that elderly people on fixed incomes and younger people on low incomes have not received a 21 percent increase in their incomes. He asked that the rate increase request be denied in its entirety and that any cost reductions should “start at the top of this top heavy company.” He asked that salaries, benefits and what he characterized as “frivolous expenses” be reduced. He alleged that he has seen company vehicles being used for non-business purposes (i.e. transporting items from yard sales). He complained that East Hempfield Water Company charges from 2.25 to 2.5 percent less for better quality water than does Columbia.[[8]](#footnote-8) He complained about the monthly service charge being imposed before any water is even used.

Ronald Fritz

Mr. Fritz testified that he also is very concerned about the potential impact of a rate increase on economic prospects for the borough, and particularly for industrial customers. He stated that he is worried about his children and the many poor children in Columbia. He stated that more should be done to keep domestic businesses from locating overseas.

Richard Spiegel

Mr. Spiegel stated that while he realizes that a business needs to make money, and that the Company has not had a rate increase since 2008, a lot of people have not received income increases for even longer than that. He stated that he had recently received correspondence from the Company demanding that he install a dual check valve. He pointed out the advantage that the Company enjoys as a regulated monopoly, without any competition, and stated that he would like to see the Company undertake cost control rather than ask for a substantial rate increase. He characterized a requested 20 percent rate increase as “unbelievable.”

Robert Snyder

Mr. Snyder testified that he is totally against the requested rate increase.

Tonja Gerlitzki

Ms. Gerlitzki testified that she finds it ironic that the rate increase has been made after the Marietta acquisition. She drinks bottled water in her home. Her wages have not gone up 21 percent in the last eight years while costs continue to increase. While she would understand a slight increase, she considers a 21 percent rate increase outrageous.

Frank Motley

Mr. Motley complained about the quality of the water, both taste and smell. He stated that the flavor is highly chlorinated, and that you can smell the chlorine. He uses a water filter. He lives below the poverty line and has not had income for two years. Additionally, his health is deteriorating. While he understands that a company needs rate increases from time to time, 21 percent is way too high. As the water becomes less desirable to drink, an increase in rates is ridiculous.

Sandra Agee

Ms. Agee testified that she thinks that the requested increase is too high. She also complained about the smell of chlorine in the water.

Carol Swain

Ms. Swain testified that the quality of the water in Marietta is much better than the quality of the water in Columbia. She drinks bottled water in Columbia.

Joe Lintner

Mr. Lintner testified that a storage tank owned by Columbia had a lock cut off in March, 2013. The water was found to be safe to drink, but asked whether increased security measures had been put in place.

V. DISCUSSION

A public utility has the burden of proof to establish the justness and reasonableness of every element of its rate increase request in all proceedings under 66 Pa.C.S. § 1308(d). The standard to be met by the public utility is set forth at 66 Pa.C.S. § 315(a):

**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 proceeding 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.

66 Pa.C.S. § 315(a)

The Commonwealth Court of Pennsylvania set forth the utility’s burden of proof in a rate proceeding pursuant to 66 Pa.C.S. § 315(a) as follows:

Section 315(a) of the Public Utility Code, 66 Pa.C.S. Section 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the public utility. *It is well-established that the evidence adduced by a utility to meet this burden must be substantial*.

*Lower Frederick Twp. Water Co. v. Pa. Pub. Util. Comm’n*., 48 Pa. Cmwlth. 222, 226-227, 409 A.2d 505, 507 (1980) (emphasis added). *See also*, *Brockway Glass Co. v. Pa. Pub. Util. Comm’n*., 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981).

In general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility’s burden of proof to establish the justness and reasonableness of every component of its rate request is an affirmative one and that burden of proof remains with the public utility throughout the course of the rate proceeding. There is no similar burden placed on other parties to justify a proposed adjustment to the public utility’s filing. The Pennsylvania Supreme Court has held:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations, and that is the burden which the utility patently failed to carry.

*Berner v. Pa. Pub. Util. Comm’n*., 382 Pa. 622, 631, 116 A.2d 738, 744 (1955).

However, a public utility does not need to affirmatively defend every claim it has made in its filing, even those which no other party has questioned, in proving that its proposed rates are just and reasonable. The Pennsylvania Commonwealth Court has held:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

*Allegheny Center Assocs. v. Pa. Pub. Util. Comm’n.*, 131 Pa. Cmwlth. 352, 359, 570 A.2d 149, 153 (1990) (citation omitted). See also*, Pa. Pub. Util. Comm’n. v. Equitable Gas Co.*, 73 Pa. PUC 310, 359 – 360 (1990).

Additionally, 66 Pa.C.S. § 315(a) does not place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. The burden of proof must be on a party to a general rate increase case who proposes a rate increase beyond that sought by the utility.

A. The Public Input Hearing of September 3, 2013

Compelling testimony was presented by Columbia’s ratepayers at the September 3, 2013 public input hearing, and their comments need to be considered, here. I understand that the vast majority of Columbia’s ratepayers have not received a 21% increase in income since 2008. On the contrary, the events in the national and international economies since 2008 cannot be ignored, and I do understand that every cost increase has real-world consequences for those who must pay them.

I must, however, point out that Columbia provides an essential service of a life-sustaining commodity, and Columbia is a public utility. Columbia, like all public utilities, must ask for a rate increase in the full light of day, subject to the scrutiny not only of the ratepayers, but of the public advocates, the Presiding Officer and the Commission. A utility cannot “hide” a rate increase in successively smaller packaging or adulterated products, and it should not be imperiled by the withholding of justified rate increases. My task, and that of the Commission, is to strike the appropriate balance between what the Company has requested, and what it has justified.

Similarly, I understand the testimony of the elected representatives who testified on September 3, 2013. If the cost of local infrastructure is too high, then it will have a potential negative effect on the decisions of business owners considering whether to locate their operations in that area. Columbia, like all other communities, is competing for the jobs that come with economic development. But again, I must point out that there is another side to this. The lack of adequate infrastructure is as much if not more of a deterrent to economic development as is an excessive cost structure. It is in the interest of the citizens that Columbia continue as a sound public utility.

B. Recommendations of the OCA and I&E

As active parties in this case, both the OCA and I&E have recommended multiple adjustments that would result in a rate rollback from Columbia’s present level of rates. Both parties presented the testimony of qualified witnesses in support of their recommendations. In some cases, and as will be explained below, I agree with the parties. But in many cases, I ask whether Columbia is being held to too strict a standard with respect to its operations. For example, in one matter, the OCA witness would have Columbia use a 13 month average whereas Columbia retorts that such an approach would be unduly burdensome for a small company as it would require Columbia to close its books every month (a contention with which the OCA witness disagrees). My analysis is not what Columbia could do in an ideal world of management practice. Instead, I accept Columbia’s contention that as a small company it does not have the luxury of a large staff overseeing internal operations to achieve results that, in theory, accommodate the valid, but in themselves costly, recommendations of the public advocates.

Columbia is a relatively small, “local” water company not, say, a major provider of intrastate electric service. From my perspective, the proposed adjustments should not be about what Columbia *might* do in an ideal world, but what Columbia has presented and whether that evidence supports Columbia’s rate request. Overall, Columbia’s management of its affairs as they relate to this specific case have been reasonable and, with limited exceptions, I am reluctant to accept proposed adjustments, that while in and of themselves may be supportable, are not reasonable for this utility. As has oft been stated, the Commission is not a super-board of directors, nor should it act as such, and I am concerned that a number of the proposed adjustments would have that effect if accepted. *Met Ed v. Pa.PUC* 437 A.2d 76 (1981) citing *Northern Pa Power Co v. Pa PUC* 5 A.2d 133 (1939).

The OCA has proposed adjustments to Columbia’s proposed capital structure, the cost of equity, rate base, and net operating income claims, including PennVest plant, materials and supplies, cash working capital, miscellaneous revenues, the amortization of an acquisition adjustment, engineering expense, bad debts, membership dues, registration fees, charitable contributions, allocations to the Marietta Division, general liability insurance, officers’ salaries and directors’ fees and regulatory assessments. If accepted, these adjustments would result in the OCA’s recommended revenue decrease of $320,267. As such, Commission adoption of the overall OCA position would require a recommended rate rollback from Columbia’s present level of rates, rather than any authorization for any requested level of increased rates. As will be discussed, below, many if not most of the proposed adjustments reflect an ongoing effort by the OCA to re-allocate costs between Columbia and its Marietta Division. CWC St. 1R at 19.

I&E recommended a level of annual revenues that is $243,609 lower than Columbia’s updated current annual revenues figure of $4,227,272. As such, Commission adoption of the overall I&E position would require a recommended rate rollback from Columbia’s present level of rates, rather than any authorization for any requested level of increased rates. As I&E cogently states:

A thorough review of the record produced in this proceeding demonstrates that, as explained herein, this Company has simply failed to provide substantial evidence in support of the reasonableness of its claims for a rate hike. Nor, as I&E asserts, has the Company’s presentation even justified the maintenance of its present level of base rates. The various Company claims identified herein should be rejected due to the failure to sustain the burden of proving their appropriateness. Failing to satisfy this burden, neither this utility’s proposed or present rates are in the public interest, and rather the rates that are just and reasonable will be those that provide for the I&E recommended level of annual revenues - rates that will generate revenues lower than those current [sic] allowed for this public utility. I&E MB at 9-10.

Specific I&E recommended adjustments include: the removal (reduction to rate base) of PennVest Plant, the removal of PennVest Accumulated Depreciation, the recommended removal of a portion of the expense claim for Officers, Directors, & Majority Stockholders Salaries by allocating 12% of the claim to the Marietta Division, the Company-accepted elimination of the “Charitable Contributions, the removal of disputed “Employee Recognition,” the Company-accepted partial reduction to “Membership Dues” the removal of PennVest Depreciation Expense.

The OCA and I&E proposed adjustments are considered and decided, below.

The point of departure in framing this discussion is to recognize several adjustments that Columbia made.

Columbia’s original claim for rate base in its filing, as of December 31, 2013, was $13,527,774. (CWC Statement No. 2 at 11:14-15; GDS Exhibit No.1 at 1-17) However, during the course of the proceeding, Columbia discovered an error and its correction increased the rate base claim to $13,796,707. (GDS Rebuttal Exhibit No. 3 (Revised) at 3) During the course of this case, Columbia made a revised rate base claim with several adjustments: (1) Reserve adjustment (4% CIM – PennVest Plant): Add $339,038 (CWC Statement No. 2R at 20; GDS Rebuttal Exhibit No. 3 at 3); (2) Cash working capital: Add $2,688 (GDS Rebuttal Exhibit No. 3 (Revised) at 3); (3) Deferred Federal Income Taxes: Deduct $72,793 (GDS Rebuttal Exhibit No 3 (Revised) at 3).

Columbia explains that the reason for this adjustment is because Columbia overstated the book depreciation reserve related to the PennVest plant in service. The Company’s book depreciation ($1,853,844) for this plant includes annual depreciation accruals based upon the straight-line average remaining life methodology. However, Columbia witness Shambaugh testified that the PennVest rate was based solely on the 4% Compound Interest method during the term of the rate. Therefore, there exists a difference between the book depreciation reserve and the capital recovery customer rates of approximately $339,038 for this plant. (CWC Statement No. 2R at 20:12-21; Tr. at 142).

C. Cash Working Capital

The parties agree on the methodology to be used to calculate cash working capital for Columbia Water. Specifically, the Company has used the formula method, or one-eighth (12.5%) of operating and maintenance (O&M) expenses. GDS Exh. No. 1 at 1-17. Using this method, Columbia calculated a claim for cash working capital of $248,967. Cash Working Capital will change and be ultimately established based upon the outcome of the Commission’s final ratemaking determinations.

D. Unresolved Issues

1. Pennvest Book Depreciation Reserve

The most contentious issue in this litigation is whether the PennVest book depreciation reserve should be added to rate base. Columbia says emphatically “Yes,” whereas the OCA and I&E say just as emphatically, “No.”

The OCA and I&E position is that utilities may choose to finance plant additions through inclusion in rate base or a principle and interest surcharge. OCA St. 1S at 38; I&E St. 3SR at 4. Without that “or,” Columbia can make a double recovery. As I&E states in its Main Brief:

That PennVest loan had been completely repaid by the Company in 2011 from proceeds received as a result of the Company’s decision to increase customer rates on a volumetric basis. Given the Company’s collection of the entire amount of the monies used to add the PennVest-financed plant to the system, it is fair and accurate to state that not one penny of the cost of this portion of plant has come out of the pockets of the Company and they have no right whatsoever to claim that they are entitled to a return of and a return on monies they’ve invested in the plant – because there are none. I&E MB at 21.

Likewise, the OCA maintains that Columbia’s argument flies in the face of established treatment of this issue:

Historically, the Commission has recognized two methods of recovery of the costs of plant funded by PennVest loans. The utility may choose to put the plant in rate base and recover the associated costs through depreciation expense and the opportunity to earn a return on the undepreciated plant over the useful life of the plant. Citing: *Pa. PUC v. National Util., Inc.,* 1994 Pa. PUC LEXIS 55 at \*17 (noting that the Commission permitted plant financed by WFLB loans to be included in the rate base of York Water Company in Docket No. R-850268, Order entered Nov. 25, 1986); *Pa. PUC v. Shickshinny Water Co*., 67 Pa. PUC 3, 6, 12-13 (1988) (denying utilities’ requests for rate base treatment and approving a principle/interest surcharge) (Shickshinny); *Pa. P.U.C. v. Lemont Water Co.*, R-000912114, Order (June 19, 1992) (allowing the Company to include the PennVest-financed plant in rate base instead of recovering a principle and interest surcharge) (Lemont). OCA MB at 10.

The OCA argues that consistent with those cases, Section 69.363 of the Commission’s regulations provides that only principle/interest may be recovered through a surcharge mechanism:

Water and wastewater companies with outstanding PennVest obligations that have not been reflected in rates or future PennVest obligations, may establish . . . an automatic adjustment by means of a sliding scale of rates or other method limited solely to recovery of the company’s PennVest principal and interest obligations.

52 Pa.Code § 69.363 (emphasis added).

In reply, Columbia points to the Commission’s Opinion and Order in *Pa. PUC v. Columbia Water Company*, Docket No. R-00932594 (1993) as the basis for the rate base/rate of return treatment approved for this plant, and insists that by arguing that the 1993 Commission-approved PennVest volumetric rate base/rate of return rate is a debt-service only surcharge, the OCA and I&E are challenging a Commission-approved rate. Columbia RB at 7-8.

Columbia goes on to argue that the OCA and I&E position conflicts with the United States Tax Code, renders depreciation lives meaningless, transforms company financed debt or loans used to construct plant into retroactive Contributions in Aid of Construction (CIACs) simply because the debt or loan was paid off using rate revenues as a source of monies, all of which violate the fundamental Constitutional provisions against confiscation of property and the right to earn a return on and of plant investment, Generally Accepted Accounting Principles (GAAP), and well-established ratemaking principles. Columbia concludes that once the plant treatment was approved by final Order in 1993 as a rate base/rate of return volumetric rate, it became “*prima facia* evidence of the facts found and remains conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.” 66 Pa.C.S.A. § 316. The volumetric rate base/rate of return rate for this plant was never appealed, and thus it remains conclusive. Columbia RB at 8-9.

I agree. The Commission’s Opinion and Order in *Pa. PUC v. Columbia Water Company*, Docket No. R-00932594 (1993) cannot be ignored. Columbia’s inclusion of its remaining used and useful undepreciated PennVest Plant and facilities in rate base is appropriate.

2. Materials & Supplies

Columbia claimed Materials & Supplies in rate base of $62,314. GDS Exh. 1 at 1-17. This claim is based on a three year average of the Company’s Materials & Supplies inventory. OCA Witness Everette explained that it is Commission policy to use a thirteen-month average of materials and supplies. In rebuttal, Company witness Shambaugh argued that if the expense is volatile, an average of a longer period should be used. CWC St. 2R at 14-15. Mr. Shambaugh also contended that the Company would have to close its books on a monthly basis in order to accurately reflect a 13-month average. CWC St. 2R at 14. I agree with Mr. Shambaugh. As stated above, this is an instance of where “what works and what is reasonable,” for this utility specifically should not be disturbed by what another party thinks is optimal and requests based on general policy. The OCA’s recommendation to reduce Columbia’s rate base claim by $4,592 should not be adopted.

3. Merchandising Sales and Jobbing Work

The Company claimed $15,762 of revenue received for Merchandising Sales and Jobbing Work as non-operating income. GDS Exh. No. 1 at 1-22; OCA St. 1 at 8. The OCA contends that the revenue for Merchandising Sales and Jobbing Work in the amount of $15,762 should be included in Columbia’s above-the-line operating revenue. OCA St. 1 at 8-10; OCA St. 1S at 2-3. The Company has already admitted that the $9,932 associated with sewer billing data should be categorized as operating revenue. The remaining $5,830 includes the revenues for bulk water sales and assisting Columbia Borough with turn-offs and turn-ons and are nearly identical to those in the Company’s 2008 rate case in which the Commission adopted the adjustment to operating revenue. In addition, the Company has charged the expenses associated with these revenues to the customers of Columbia Water Company. OCA Table II ; OCA Exh. AEE-1S, Sch. 1S.

Columbia disagrees that the $5,830 increase recommended by OCA should be included in operating revenues, arguing as follows:

As Mr. Shambaugh explained, “relative to the other items for bulk water sales and customer disconnect revenue, an average basis calculation will not reflect the lack of stability in those items. Those items are not under the direct control of the Company.” (Tr. at 133-134) Mr. Shambaugh testified that those revenues should be booked to the depreciation reserve for the respective plant items under the Uniform System of Accounts. (CWC Statement No. 2R at 17:13-17; GDS Rebuttal Exhibit No. 2) I&E witness Wilson agreed. (I&E Statement No. 2-SR at 3:4-19) Mr. Shambaugh also concluded that “funds received from the sale of meters (salvage) and the damage of a fence and air compressor (insurance) must be recorded to the accumulated depreciation reserve and not recognized as revenue for book and ratemaking purposes.” (CWC Statement No. 2R at 18:8-11) Furthermore, he stated that “proper utility accounting dictates that a utility should not recognize the gain or loss on the sale or disposal of fixed capital plant assets. Therefore, any adjustments necessary for the disposal of utility plant should be booked to the respective depreciation reserves.” (CWC Statement No. 2R at 18:12-16) Columbia RB at 27-28.

Columbia is correct. The requested $5,830 addition to revenue for the sale of bulk water, meters and damage insurance is rejected.

4. Acquisition Adjustment

Columbia has requested that an acquisition adjustment of $225,581 (the amount of the purchase price less the net original cost) be reflected in expenses in this case by amortizing it over 15 years, for an annual amount of $15,039. OCA St. 1 at 10. The amortization is related to the acquisition of Marietta Gravity Water Company (MGWC). The OCA maintains that the Company’s claimed expense related to the acquisition of MGWC should be rejected because the Company is not eligible for an acquisition adjustment under Section 1327. OCA St. 1 at 10-17; OCA St. 1S at 3-6. Columbia has not included the cost of MGWC assets in rate base, but has claimed an expense of $15,039, which represents a fifteen year amortization of $225,581, the amount of expense incurred in the process of acquiring the MGWC assets. OCA contends that Section 1327(a) establishes nine criteria that must be met before a utility can claim an acquisition adjustment in rate base and an amortization of the acquisition adjustment in expenses. 66 Pa.C.S. § 1327. Relevant to the instant proceeding, OCA states that Columbia fails to satisfy subsections (a)(3), (a)(7), and (a)(9). Section 1327(a)(3) requires that the acquired utility “was not, at the time of acquisition, furnishing and maintaining adequate, efficient, safe and reasonable service and facilities . . . .” 66 Pa.C.S. 1327(a)(3). OCA witness Terry L. Fought testified that MGWC was a viable water system at the time it was acquired by Columbia. OCA St. 3 at 6. OCA witness Everette testified that MGWC had adequate supply because of an existing interconnection between CWC and MGWC, which provided “spare capacity to respond to future growth in its service territory without significant capital additions for storage and sources of supply.” OCA St. 1 at 14 (citing 2008 Order at \*127). With respect to MGWC’s financial fitness, OCA witness Everette testified as follows:

[T]he Commission has made no findings of financial, managerial or technical inabilities on the part of MGWC. In fact, with regard to MGWC’s financial standing, the Annual Reports to the Commission filed by MGWC show net income of $206,454, $197,977, $160,768, $354,287 and $117,579, for the years 2008, 2009, 2010, 2011 and 2012 through October 4 (the time of acquisition), respectively. These amounts range from 18% to 44% of total operating revenue for these years. With regard to MGWC’s managerial fitness, David Lewis, the Vice President and General Manager of CWC, was also employed by MGWC as Superintendent for several years prior to the acquisition. With regard to MGWC’s technical abilities, as mentioned, David Lewis was MGWC’s Superintendent prior to the acquisition. Mr. Lewis’ technical capabilities as a Professional Engineer were as much available to MGWC as to CWC prior to the acquisition. [Further], MGWC has sought and received base rate increases when necessary (i.e., R-00050814, R-00005305, R-00963828).

OCA St. 1 at 13-14.

The OCA concludes that Columbia has not established that MGWC was not furnishing and maintaining adequate, efficient, safe and reasonable service and facilities as required by Section 1327(a)(3).

The OCA further contends that Columbia failed to satisfy Section 1327(a)(7) and Section 1327(a)(9) of the Code. Section 1327(a)(7) requires that “neither the acquiring nor the selling public utility, municipal corporation or person is an affiliated interest of the other.” 66 Pa.C.S. § 1327(a)(7). OCA witness Everette testified that Columbia and MGWC were affiliated interests pursuant to 66 Pa.C.S. § 2101(a)(3):

Donald Nikolaus was the President of and served on the Board of Directors of both CWC and MGWC. As shown in the Annual Reports to the Commission, at the time of acquisition, CWC and MGWC had several common shareholders who held in excess of one percent of the voting securities of each company. At the end of 2011, Mr. Nikolaus held 17.95% and 18.71% of CWC and MGWC, respectively. This qualifies the two companies as affiliated interests under 66 Pa.C.S. § 2101 (a), criteria 3. Additionally, as noted above, David Lewis was employed as the highest level manager of both companies prior to the acquisition.

OCA St. 1 at 15.

Section 1327(a)(9) states that the “excess of the acquisition cost over the depreciated original cost will be added to the rate base to be amortized as an addition to expense over a reasonable period of time with corresponding reductions in the rate base.” 66 Pa.C.S. § 1327(a)(9). The OCA points out that although the Company has not included any amount of the acquisition adjustment in rate base, it has included a fifteen year amortization of the adjustment in expenses. OCA St. 1 at 15. The OCA contends that based on the foregoing, Columbia has failed to satisfy all nine criteria of Section 1327 that must be met for a utility to be eligible for an acquisition adjustment.

Columbia argues that the claimed expense is not a purchase price adjustment because the “Company is simply requesting a 15 year amortization of expenses incurred, not price of assets, to acquire the Marietta Gravity Water Company.” CWC St. 2R at 19 (emphasis in original). The OCA contends that despite the Company’s attempt to bifurcate the cost of MGWC assets and the expenses incurred to acquire the assets, the expenses incurred to purchase MGWC are part of the purchase price acquisition adjustment. OCA St. 1S at 4. The OCA points out that Columbia has recognized that the acquisition cost includes all incurred costs by calling the claimed expense the “Utility Plant Acquisition Adjustment.” GDS Exhibit 1 at 1-14; GDS Rebuttal Exhibit at 1.

The OCA points out that in rejoinder, Columbia witness Shambaugh stated, for the first time, that at a minimum, $120,902 of costs should be capitalized. Tr. 138. The OCA argues that in addition to being untimely because it was raised for the first time in rejoinder, this position should be rejected because it is not what Columbia actually did. The OCA concludes that there is no evidence that Columbia Water capitalized the expenses related to legal fees, and the regulatory expenses. Thus, Mr. Shambaugh’s rejoinder testimony should be disregarded.

I agree with the OCA that Columbia’s claimed expense of $15,039, representing a fifteen year amortization of $225,581 in expenses incurred while acquiring the Marietta system should be rejected.

5. Engineering

The OCA objects to Columbia’s claimed *pro forma* 2013 expense of $13,500 for Engineering Contractual Services. GDS Exh. 1 at 1-15. Two of the invoices provided in support of this claim were for Ronald F. Weigel Consulting, both dated August 5, 2012, in the amounts of $2,325 and $3,180. OCA St. 1 at 22-23 (citing OCA Set I-32). The Company described the services as follows:

Mr. Weigel monitored public meetings, orders issued by the Commission, and rulemakings of potential interest to, or affecting, the Company. Assisted management in evaluating potential regulatory filings and reviewed filings prepared by the Company’s lawyers or consultants.

Id. (quoting CWC response to OCA Set III-31).

The OCA’s witness, Ms. Everette, testified that the expense related to the preparation of the current rate case and recommended that it be removed from engineering expense. OCA St. 1 at 23. In rebuttal, the Company clarified that Mr. Weigel’s services were, instead, related to the acquisition of the Marietta system and for ongoing monitoring of the Commission. CWC St. 1R at 3. As discussed with regard to the acquisition adjustment, *supra*, consulting fees related to the acquisition should not be charged to the Columbia Division customers because Columbia has not met the criteria for the utility to include an amortization of the acquisition adjustment expenses and it is not appropriate for the Columbia Division to pay all of the acquisition expenses related to the purchase of Marietta. OCA St. 1 at 10-17; OCA St. 1S at 4-5, 8.

In rejoinder, the Company provided examples of some regulatory matters that are not related to the Marietta acquisition for which it may or could use a consultant like Mr. Weigel. Tr. 110-111; CWC Rejoinder Exhs. 1, 2. Columbia never identified what portion – if any – of the expenses invoiced on August 5, 2012 for monitoring the Commission were unrelated to the acquisition. OCA St. 1S at 8. OCA witness Everette based her adjustment on what is known – that services invoiced on August 5, 2012 were related to the acquisition. CWC St. 1R at 3. The OCA recommends that the $5,505 ($2,325 + $3,180) expense be removed because it relates to the Marietta Gravity acquisition. OCA Table II; OCA Exh. AEE-1S, Sch. 1S; OCA St. 1S at 8. I agree. Mr. Weigel is a respected authority on regulatory matters with extensive experience in proceedings before the Commission. But because Columbia has not met the criteria for the utility to include an amortization of the acquisition adjustment expenses and it is not appropriate for the Columbia Division to pay all of the acquisition expenses related to the purchase of Marietta, and because it appears that Mr. Weigel’s services are related directly to that acquisition and not to this rate case, this $5,505 expense must be removed.

6. Bad Debt Expense

The OCA states that Columbia claimed *pro forma* bad debt expense of $11,000. OCA St. 1 at 24; GDS Exh. No. 1 at 1-15. The OCA argues that the claim should be adjusted to reflect a four year historical average of $9,192. OCA St. 1 at 24-25; OCA St. 1S at 9-12. The OCA contends that a four year historical average of actual bad debt expense accounts for variations from year to year and is a more accurate method to estimate future bad debt expense. OCA St.1S at 10.

Columbia argues that an increase in the bad debt expense of $564 over the test year 2012 expense is appropriate because “the real world of utility management recognizes that with customer rate increases, bad debt expense will likely increase because additional customers become delinquent on their water bills.” CWC St. 2R at 15. Columbia argues that the claimed bad debt expense of $11,000 is reasonable because it only amounts to 0.23% of the Company’s proposed billed revenues. CWC St. 2R at 16.[[9]](#footnote-9)

Columbia’s approach is based on the utility’s understanding of its business and customer base:

Mr. Shambaugh . . . explained that the Company’s filing has a known and measurable level of bad debt expense. (Tr. at 134) He went on to explain that when figuring bad debt expense, it is his position that the Company should use audited numbers and not estimates derived from an averaging basis as suggested by the OCA. (Tr. at 134) In Mr. Shambaugh’s opinion, the OCA uses a results-oriented calculation to reduce the Company’s claim. (Tr. at 134)

Mr. Shambaugh testified that it has been his experience (over 40 years’ experience in preparing various financial studies, including rate studies for electric, gas, water, wastewater, steam heat, chilled water, and telephone companies (CWC Statement No. 2 at 3:5-7)) that when you are dealing with rental apartments and things like that you have a higher level of bad debt expense going forward. (Tr. at 134) Mr. Shambaugh’s observations and testimony were, in essence, corroborated by the public input testimony offered by the Manager of the Borough of Columbia, who testified that “The borough is an economically challenged community with a disproportionately high percentage of low-income households, senior citizens and rental housing.” (Tr. at 35) The Company’s position of using audited, known and measurable current numbers, instead of OCA’s 4-year guesstimate is a more accurate way of predicting bad debt expense. Columbia MB at 21.

Both the OCA’s and Columbia’s approaches to this issue are reasonable, but the OCA has not offered a convincing argument with respect to why its methodology should be preferred. The requested adjustment is rejected.

7. Employee Salaries and Wages and Related Adjustment to Payroll Taxes

The OCA has an ongoing issue with the allocation of hours for Columbia employees who also perform work for Marietta Division. In sum:

The OCA disagrees with how Columbia allocated the hours of its hourly employees who perform work for Marietta. OCA St. 1 at 28-30. Ms. Everette explained that the data from a few months of time sheets is not a reasonable basis to allocate wages over the course of a year [a]nd opined that a more informed basis for allocating wages between the divisions is to use the 15% allocation that was determined by the Company based on the experience of David Lewis as Superintendent of Marietta Gravity. OCA St. 1 at 28. In other words, the OCA recommends applying the Company’s 15% allocation factor to the Salaries and Wages of all applicable salaried and hourly employees. Id. at 28-29. As Ms. Everette noted, not all employees do work for the Marietta Division and the OCA did not recommend allocating any of their salaries and wages to that division, *i.e.* Operators, Laborers, and Construction Manager. OCA St. 1 at 29. Ms. Everette allocated all remaining (or “applicable”) employees to the Marietta Division at 15%, for a total of $125,485. OCA Exh. AEE-1S, Sch. 2S. The resulting adjustment to the Company’s claim for Salaries & Wages is $4,117. OCA Exh. AEE-1S, Sch. 1S.

In response, Columbia argues that the 15% factor advocated by the OCA ignores that Columbia employees must still do Columbia Division work. CWC St. 1R at 2, 4-5. Further, the OCA admits that several of its objections were resolved by updates and corrections contained in Ms. Everette’s surrebuttal testimony, made in response to information provided in Columbia’s rebuttal testimony. OCA St. 1S at 15-17.

The OCA’s argument in this area is what adjustments its witness wants or what she eventually accepted:

Specifically, she accepted the Company’s 4.3% allocation for salaries of Customer Service personnel based on the fact that this position fluctuates with the number of bills sent for each division. OCA St. 1S at 16; CWC St. 1R at 5-6. Similarly, OCA witness Everette accepted the Company’s recommended 4.3% allocation for the Meter Reader based on the relative frequency of meter reads for each division. OCA St. 1S at 17; CWC St. 1R at 6-7. Ms. Everette also eliminated any allocation for the Fire Hydrant Painter because he does not work in the Marietta Division. OCA St. 1S at 17; CWC St. 1R at 7. Finally, Ms. Everette corrected her unintentional allocation to the Operator’s salary. OCA St. 1S at 17-18.

\* \* \*

OCA witness Everette noted that the allocation for the Construction Manager *may need to be adjusted in future cases after the treatment plant upgrade project ends*. Currently, he is spending 100% of his time on that project and no time on the Marietta Division. OCA St. 1 at 29 (citing Company response to OCA Set III-13). OCA MB at fn (emphasis added).

I agree with Columbia. The proposed adjustment is rejected.

8. Pensions & Benefits

Columbia claimed a Future Test Year Pensions & Benefits expense of $147,054. GDS Exh. 1 at 1-15. This claim includes expenses for Pensions, Disability/Life Insurance, Health Insurance and Employee Recognition. OCA St. 1 at 18-19 (citing OCA-I-29). Once again, the OCA argues that these claims represent a portion of employee costs that should be re-allocated to the Marietta Division. In addition, the OCA recommends adjustments to the amount of the claim for Health Insurance, Pension Expense, Disability/Life Insurance, and Employee Recognition.

Once again, the OCA’s witness applies the allocation percentage provided by Mr. Lewis for salaried employees. OCA St. 1 at 19-20. This approach by the OCA’s witness is not more reasonable than Columbia’s proposal to extrapolate an allocation from data for hourly employees that Columbia has deemed insufficient or to allocate zero costs to the Marietta Division until sufficient data is available. The proposed adjustment is rejected.

9. OCA Pension Adjustment

Columbia claims a total pension expense of $59,682. The OCA asked Columbia to provide evidence *of the most current pension deposit* and, in response, Columbia provided a copy of a check showing a payment of $57,944. On this basis, the OCA recommends an adjustment of $1,738 to reflect the amount that the OCA contends is not supported by the record. This requested adjustment is unreasonable and will be denied. Columbia responded to the request, and I am not willing to accept that just because the most current pension deposit does not reflect the total claimed expense that the total number is invalid. If there *is* a $1,738 shortfall, then it seems to me that this is an amount that Columbia must nevertheless make good. The proposed adjustment is denied.

The OCA also recommends that a portion of pension costs be allocated to the Marietta Division because, in the OCA’s opinion, Columbia’s proposed allocation be based on insufficient data. OCA St. 1 at 28; OCA St. 1S at 14. Columbia’s witness, Mr. Lewis, asserts that if a percentage allocation is used, it must be based upon the actual time spent on Marietta Division tasks and using the actual cost of their pension benefits. CWC Response to OCA-III-17. He states that if the allocation is calculated that way, it results in 8.75% of the total pension costs. The OCA’s witness, Ms. Everette, updated her calculation to base it on time spent rather than using 15% for each employee. OCA St. 1S at 20; OCA Exh. AEE-1S, Sch. 4. The OCA recommends that $4,846 related to Pension expenses be moved to the Marietta Division. OCA Table II; OCA Exh. AEE-1S, Sch. 1S. That recommendation is based on an arbitrary calculation, which in itself is based on an *opinion* that Columbia’s proposed allocation is based on insufficient data. The proposed adjustment is rejected.

10. Disability and Life Insurance

Columbia claimed that its Disability/Life Insurance expense was $10,176, which would be an increase of 10% over the 2012 claim. The invoice provided in response to discovery supports a claim of only $9,147. OCA St. 1 at 34 (citing CWC response to OCA-III-26. OCA witness Everette recommended that the Company’s claim related to Disability/Life Insurance should be reduced by $1,029 ($10,176 - $9,147). In rebuttal, Company witness Lewis testified that the Company received the renewal notice for the disability/life insurance premium and it has increased by $1,659. CWC St. 1R at 11. In the OCA’s view, Columbia did not provide any support for this claimed increase or provide a time period for which the expense is allegedly increasing. I disagree. I accept Mr. Lewis’ sworn testimony as both honest and accurate. The proposed adjustment is rejected.

The OCA also recommended that Disability/Life Insurance be allocated using the same (updated) calculations recommended for other Pension and Benefits expenses, for each full-time employee who is partially allocated to the Marietta Division. OCA St. 1 at 34; OCA St. 1S at 22. The OCA’s argument for re-allocation is not practicable. I agree with Columbia that the allocations of disability and life insurance benefits were based upon the percentage of the employee’s time allocated to the Marietta Division and the actual costs of the person’s benefits. CWC Statement 1R at 11:9-13. The OCA’s recommended negative adjustment of $765 to the Columbia’s disability and life insurance is too speculative. The proposed adjustment is rejected.

11. Employee Recognition

Columbia’s Pensions and Benefits claim includes $6,051 for Employee Recognition. OCA St. 1 at 35 (citing CWC response to OCA-1-29). This claim includes a “Hershey Park Outing” and the Employee/Officers Year End Banquet. Id. OCA witness Everette recommended that these items be removed from expenses for ratemaking purposes because they are not part of the employees’ compensation. OCA St. 1 at 35-36; OCA St. 1S at 22. I&E witness Wilson also recommended that the entire claim be denied. I&E St. 2 at 10.

In Columbia’s last rate case Columbia made similar arguments with regard to a Hershey Park outing and a Christmas party only to have those expenses removed. See 2008 RD at 23-25. Further, I agree with the OCA that the Commission has consistently disallowed these types of entertainment expenses as they are not necessary to the provision of public utility service. See *Pa. PUC v. Pennsylvania-American Water Co.*, 1993 Pa. PUC LEXIS 79, \*121-23 (*PAWC 1993*) (expenses for entertainment and gifts inappropriately included in utility’s rates because they did not directly relate to the provision of quality water service). I also agree with the OCA that Columbia did not provide specific information about the year-end banquet to demonstrate that it qualifies as an “employee recognition” dinner. While Mr. Lewis argues that these expenses are necessary for the Company to attract and retain skilled employees (CWC St. 1R at 12), they are simply not valid expenses consistent with established ratemaking principles. An adjustment of $6,051 is approved.

## 12. Vehicle Insurance

Columbia claimed $6,900 in the future test year for vehicle insurance. OCA St. 1 at 37-38; OCA St. 1S at 23-25. The OCA’s witness, Ms. Everette, recommended that Columbia’s vehicle insurance expense should be adjusted by allocating $589 to the Marietta Division. OCA St. 1S at 24. In response to OCA-III-48, Columbia indicated that “other vehicles on the policy were used by workers when doing work for the Marietta Division.” OCA St. 1 at 37. Columbia further indicated that “[a] portion of the shared vehicle’s commercial auto premium will be expensed to the Marietta Division using hours worked by staff in that division as the basis for sharing.” OCA St. 1 at 37. The OCA contends that the delayed allocation of vehicle insurance costs to the Marietta Division is not appropriate for ratemaking purposes, and Ms. Everette used the same allocation percentage for vehicle insurance as she used for employee salaries and wages.

To accept the OCA’s recommended adjustment, I would have to ignore the testimony of Mr. Lewis on this point:

Mr. Lewis testified that the Marietta Division has its own vehicle, and, thus, most of the vehicle costs are associated with that vehicle. (Tr. at 114) He explained that many of the employees that do Marietta Division work do not use vehicles; for example, customer service personnel, the office manager, and the production superintendent. Even meter readers mainly walk and only use the vehicle to get to the service area. (Tr. at 114) He further explained that the vehicle use associated with the Marietta Division is minimal even when you include the hours of those employees that do Marietta Division tasks and use vehicles and, if anything, it is less than 4 percent, which is the amount of time the Company allocated for the foreman and the meter readers and other employees who do Marietta tasks. (Tr. at 114-115) The Company’s vehicle costs will go up if they are used substantially for the Marietta Division, and those additional costs will be allocated to the Marietta Division. (Tr. at 115) Columbia MB at 29-30.

The proposed adjustment is rejected.

## 13. Worker’s Compensation Insurance

The OCA contends that Columbia’s claimed expense of $24,500 for worker’s compensation insurance should be adjusted to reflect an allocation of $2,938 to the Marietta Division. OCA St. 1 at 38-41; OCA St. 1S at 25-26. See OCA St. 1 at 38; CWC response to OCA III-55(App. B to OCA St. 1). The OCA recommends that 11.99% of the worker’s compensation insurance expense should be allocated to the Marietta Division. OCA witness Everette explained the 11.99% allocation as follows:

The Marietta Division’s three employees are included in CWC’s claim for workers’ compensation insurance. This means that I must use total salaries in developing the allocation. The total salaries allocated to the Marietta Division, including the three employees who are allocated 100%, represent 11.99% of total salaries (shown on line 29 of Schedule 2S). Therefore, 11.99% of workers’ compensation insurance should be allocated to the Marietta Division. This is based on my acceptance of Mr. Lewis’ statement that “The amount to be allocated should be based upon the actual amount of time allocated to the Marietta Division” (CWC Statement No. 1R, Page 13, Lines 16-17). OCA St. 1S at 25.

Consequently, $2,938 (11.99% of $24,500) should be allocated to the Marietta Division. OCA St. 1S at 26; OCA Table II; AEE-1S, Sch. 1S. However, the Marietta Division does not carry its own workman’s compensation insurance for Marietta employees. The proposed adjustment is rejected. With respect to this particular issue, and because Columbia must provide worker’s compensation insurance for its employees, the total increase should be allowed.

14. Accounting

Columbia claimed $28,300 for Accounting Contractual Services. GDS Exh. 1 at 1-15. Ms. Everette recommended that a portion of this cost should be allocated to the Marietta Division. OCA St. 1 at 42. Specifically, she used 12%, which represents the number of customers in the Marietta Division relative to the whole company. The resulting adjustment is $2,364. OCA Exh. AEE-1, Sch. 1, line 26.

In support of her allocation, Ms. Everette noted that the cost of necessary services, like Accounting are built in to the Marietta Division’s rates. She contends that allowing Columbia to recover the full cost of preparing/filing the tax return and audit would permit Columbia to double-collect this expense. OCA St. 1 at 42-43. The allocation of this cost would move $2,364 to the Marietta Division. Id.

Company witness Lewis objected to any allocation of the expense on the basis that the Company expects overall accounting costs to go up as a result of the acquisition. CWC St. 1R at 14. He stated that the two divisions will keep separate books, budgets and depreciation calculations that will be used for the consolidated tax filings and audits. Tr. 115. As a result, Mr. Lewis contended:

The Columbia Division’s accounting costs will not go down or somehow get “shared” with the Marietta Division, but instead the accounting costs will increase and the additional costs will get allocated to the Marietta Division. CWC St. 1R at 14

I agree with the OCA that because the two divisions keep separate books, budgets and depreciation calculations, and as accounting costs are built into the Marietta Division’s rates, to allow the inclusion of those costs in this case would be to allow double recovery. The OCA’s methodology is reasonable, and $2,364 must be attributed to the Marietta Division.

## 15. Office Expenses and Utilities

The Company claimed a future test year expense for Office Expenses and Utilities of $18,000. OCA St. 1 at 46; OCA St. 1S at 29-30. The OCA argues that this claim should be adjusted by $774 to reflect a 4.3% allocation to the Marietta Division. OCA St. 1S at 30. The office and utility expenses are for software support, financial software, and office computers. OCA St. 1 at 46. These costs are “related directly to the number of bills [the Company] prints and sends and to the payments [the Company] receives.” CWC St. 1R at 16. The Columbia Division produces 105,600 bills per year and the Marietta Division produces 4,690 bills per year. CWC St. 1R at 16. As a result, both Columbia and the OCA agree that 4.3% is an accurate reflection of the office and utility expenses that should be allocated to the Marietta Division. OCA St. 1S at 30; CWC St. 1R at 16. Thus, I agree that 4.3% of the Company’s claimed office expenses and utilities (or $774) should be allocated to the Marietta Division.

## 16. Officers and Directors

In considering this issue and related sub-issues, I note Columbia’s position that insufficient time had passed since the Marietta acquisition to determine the appropriate allocation of management time to the Marietta Division and that an amount will be allocated in the future based upon the amount of time the officers spend on Marietta Division items. For the most part, Columbia has made a reasonable, good-faith effort to support its requests. That being said, there are improvements, as will be noted below, that Columbia needs to make before filing its next base rate case.

Columbia claimed $68,000 of Salaries for Officers, Directors and Majority Shareholders and $62,500 for Directors’ Fees & Expenses in this proceeding. GDS Exh. 1 at 1-15. The OCA recommends an adjustment based on the reasonableness of these costs and also an adjustment to allocate a portion of these expenses to the Marietta Division. OCA St. 1 at 47, 56-57, 59-61; OCA St. 1S at 30-34, 37. The OCA’s third recommendation is that the Commission deny Columbia’s request to end the Commission’s directive in the 2008 case and continue to require the Company to account for actual hours spent by its officers and directors on Columbia business in relation to all other business interests. OCA St. 1 at 59-61; OCA St. 1S at 35-36.

### a. Adjustment to Reduce Salaries and Fees

The OCA argues that the evidence in this proceeding shows that the compensation of the officers and directors is excessive in relation to the time spent on Columbia business. The amount of Officers’ Salaries and Directors’ Fees that is charged to ratepayers should reflect the contribution provided to Columbia by its officers/directors. The OCA’s recommendation reduces the Officers’ Salaries expense by $12,456 and reduces Directors’ Fees by $20,995, or a total reduction of $33,451 from the Company’s claim of $130,835. OCA St. 1 at 55-57. See also OCA Table II, line 31; OCA Sch. 1S, line 31. The OCA’s witness Everette explained that Columbia may choose to set salaries and fees at any level; its Board of Directors is accountable to the shareholders. OCA St. 1 at 54-55. Only the amount of those salaries and fees that the Commission determines are just and reasonable, however, may be reflected in rates. Id. at 54-56. The OCA submits that reasonableness should be measured based on each officer and director’s contribution to the provision of safe and adequate service. Id.

OCA witness Everette determined that the rate paid to the Company President was most realistic. OCA St. 1 at 53, 56. Mr. Nikolaus averaged $178 per hour as a director and $206 per hour as an officer from 2010 to 2012. Id. Ms. Everette applied Mr. Nikolaus’ average rate of pay to the average total annual hours worked by the officers and directors from 2010 to 2012, which was 274 hours and 230 hours, respectively. Id. at 56-57. This results in a reduction of $12,456 to the claim for officers and $20,995 to the claim for directors, or a total reduction of $33,451. OCA Table II, line 31; OCA Sch. 1S, line 31. Ms. Everette’s recommendation allows $97,384 for Officers’ Salaries and Directors’ Fees expenses.

For its part, Columbia contends that the officers and directors are being compensated for the quality of their work more than just the quantity. CWC St. 1 at 19-20; CWC St. 1R at 18, 21-22. The OCA recognizes that these employees are salaried and that they do not work specific hours to earn their compensation. OCA St. 1 at 51, 53, 55; OCA St. 1S at 30. However, the OCA’s argument is based on hours and dollar amounts that are entirely hypothetical, and which take no recognition of any unique qualities of individual officers or of the challenges they face or the services they render to a company with its own unique business environment. For that reason, I agree with Columbia that the OCA, if not “engaging in micromanaging and invading the Company’s managerial discretion,” (CWC St. 1R at 19) is coming very close to it. Columbia’s request is reasonable, and the OCA’s recommendation to reduce the Officers’ Salaries expense by $12,456 and the Directors’ Fees by $20,995, for a total reduction of $33,451 is rejected.

b. The Commission’s Ongoing Requirement for Time Records Should Continue

The OCA correctly states that in 2008, the Commission directed Columbia, in its future rate cases, to provide an account of time spent by officers on Columbia business in relation to all other business interests. *2008 Order* at ¶¶55-56, 138. The OCA recommends that this requirement be continued. OCA St. 1 at 59-61; OCA St. 1S at 35-36.

In the present case, Columbia argues that its officers/directors should no longer be required to keep hourly time sheets for the time they spend on company business because their compensation is not based upon hourly rates. CWC St. 1 at 19-20.

It is my opinion that the Commission’s directive in its *2008 Rate Case Order* should continue in this case. Columbia cannot have it both ways and argue lack of time/experience with the Marietta Division acquisition on one hand, but refuse reasonable accountability on the other. I do believe that Columbia has made a good faith effort to comply with the Commission’s directive, but it must continue to do so. As I stated in my Third Prehearing Order denying the OCA’s Motion to Compel: “Columbia is not obliged to produce data with respect to the salaries, fees, stipends, reimbursed expenses or any other form of compensation paid to Columbia’s officers/directors by business interests other than the Company. What is required is an accounting of hours in relation to all other business interests as directed by the Commission in its *2008 Rate Case Order*. I will not presume to modify the Commission’s directive in this Recommended Decision.

c. Allocation

The OCA argues that Columbia did not allocate any of the Officers’ Salaries or Directors’ Fees to the Marietta Division. OCA St. 1 at 47 (citing the Company’s response to OCA Set III-14). As a result of the acquisition of the Marietta Gravity Water Company, the officers and directors of the Columbia Division are also the officers and directors of the Marietta Division. The OCA contends that it is therefore unreasonable to charge the Columbia Division customers for the entire cost of the officers and directors. OCA St. 1R at 36-37. Moreover, the Marietta Division has Officers’ Salaries and Directors’ Fees built into its existing base rates. OCA St. 1 at 57-58. To allow the Columbia Division to include the full amount of these costs in Columbia Division rates would allow the Company to double collect on these expenditures.

The OCA’s witness, Ms. Everette recommended that 15% of the total Officers’ Salaries and Directors’ Fees allowed by the Commission be allocated to the Marietta Division. OCA St. 1 at 58. That is based on the ongoing assignment by Ms. Everette of the “15% factor.” That is, that the time spent by Columbia’s officers and directors will be the same as or similar to the ratio of time spent by Columbia employees on the Marietta Division. Id. The OCA’s recommends a 15% allocation of the total Officers’ Salaries and Directors’ Fees allowed by the Commission to the Marietta Division. Ms. Everette recommended a total expense of $97,384 for Officers’ Salaries and Directors’ Fees ($56,444 for Officers’ Salaries and $40,940 for Directors’ Fees); 15% of this results in an allocation of $14,608 to the Marietta Division. OCA Table II; OCA Sch. 1S, line 32. This is an arbitrary allocation based on what the OCA’s witness sees as an appropriate outcome. There is no “magic” in 15% or any other percentage that might be calculated. Columbia’s original request is reasonable as based on the facts in this case. The proposed adjustment is denied.

E. I&E Proposed Adjustments

1. PennVest Plant

I&E filed well-reasoned, well organized Main and Reply Briefs. I&E has not disputed the Company’s use of a future test year that ends on December 31, 2013. I&E MB at 20. I&E’s position is succinctly summarized in its Main Brief:

Based on the Company's Rebuttal Exhibit No. 3, the Company's revised Rate base claim is now $13,796,707. As to the specific amounts involved with excluding all ratemaking components of the PennVest-financed plant, I&E Witness Cline recommends that the following claims be adjusted from the Company’s claim for ratemaking purposes: the original cost of $4,902,136 should be removed, less the associated $1,853,844 in claimed accrued depreciation. I&E Witness Cline repeats and confirms these amounts in his surrebuttal testimony. I&E St. No 3-SR, pp. 1-2, 8. In light of the various adjustments necessary to exclude all ratemaking effects of the exclusion of the PennVest-financed plant from the Company’s rate base claim, I&E has determined that the appropriate overall measure of value for the Company is an amount of $10,748,415.

For the reasons set forth above, I do not agree with I&E’s recommended exclusion of the PennVest plant from the rate base claim in this specific case. However, “but for” the unique regulatory history of this PennVest plant, I would be strongly inclined to accept I&E’s proposed adjustment.

To fully reflect the exclusion of the PennVest plant from the Company’s rate base claim, I&E also proposes a reduction in Columbia’s annual depreciation expense claim in the amount of $115,913. I&E MB at 26; I&E St. No. 3, pp. 11-13. Given the decision with respect to the PennVest plant, this further reduction will not be adopted.

2. Officers, Directors, & Majority Stockholders Salaries

I&E recommends a reduction of $5,512 to Columbia’s updated expense claim of $66,144 for Officers, Directors, & Majority Stockholders Salaries. I&E MB at 33-35; I&E St. 2, pp. 5-8; I&E St. 2-SR, pp. 4-5. Columbia filing, p. 1-15. I&E explains the rationale for this proposed adjustment as follows:

In her direct testimony, I&E Witness Wilson had originally recommended an allowance of $60,632, a reduction of $8,268 to the Company’s then $68,900 expense claim as a result of her allocation of a portion of this expense to the Marietta Division. I&E St. 2, pp. 5-8 and I&E St. 2-SR, pp. 4-5. I&E Witness Wilson provides her observations and analysis where she states that the Company has indicated that none of its officers’ salaries are allocated to the Marietta Division and that *insufficient time has passed since the acquisition to determine how much time will be spent on the Marietta Division*. I&E St. 2, p. 7 and I&E Ex. No. 2, Sch. 3. She concludes that, *in the absence of a formal study of time spent between the Marietta Division and Columbia Water issues*, 12% of officers’ salaries should properly be allocated to the Marietta Division, resulting in her recommended reduction of $8,268 to this expense. The 12% calculation represents the approximate overall customer base of the Marietta Division. I&E St. 2, pp. 7-8. I&E MB at 34 (emphasis added).

Within this single paragraph we find what I regard as the critical weakness in this rate case. Columbia has filed a base rate case for its Columbia Division. However, the public advocates suspect that some of the costs claimed by Columbia are attributable to the Marietta Division. Columbia consistently argues that insufficient time has passed since the acquisition to determine where costs are appropriately allocated. The public advocates attempt to deal with this by fashioning their own allocation factors, expressed as percentages derived from algorithms that do have a rational basis. I am, however, unwilling to impose adjustments based on hypothetical calculations. Once again, this is not a “large” utility, and there is some merit to Columbia’s ongoing contention that “not enough time has passed” to allow more precision in its filing. I also recognize that it has been five years since Columbia has come in with a base rate case, and when taken as a whole, the record does support some rate relief as opposed to the roll-back requested by the public advocates. With that being said, Columbia cannot continue indefinitely arguing that record keeping and cost allocation among its divisions is too complex. Implicit within the “not enough time has passed” argument is the implication that at some point enough time *will* have passed to allow greater precision in the Company’s accounting.

As with the OCA’s proposed adjustment, I find I&E’s proposed adjustment to be a hypothetical construct which takes no recognition of any unique qualities of individual officers or of the challenges they face or the services they render to a company with its own unique business environment. The proposed reduction of $5,512 ($66,144 - $60,632) to Columbia’s updated claim is not accepted.

3. Employee Recognition Expense Claim

I&E recommends the complete disallowance of Columbia’s expense claim of $6,051, styled in the Company’s filing as “Employee Recognition.” I&E St. 2, pp. 9-10; I&E St. 2-SR, pp. 7-8. The total claim results from two expenditures, $2,779 for a Hershey Park outing and $3,272 for an annual banquet. I&E Ex. No. 2, Sch. 6, p. 2; I&E MB at 35. This issue was resolved, above, and the expense claim of $6,051 has been disallowed.

4. Taxes

I&E requests a tax adjustment to state taxes and as reflected on I&E Table II at the line “Interest Synchronization” and reflects an amount of ($1,573) as shown in the “State Tax Effect” column. That figure represents the difference between Columbia’s interest expense and the I&E recommended interest expense that is based on the I&E recommended rate base multiplied by the weighted debt cost rate. I&E MB at 36; citing Appendix, Table II.

Because I accept the 5% debt cost being proposed by I&E, the tax adjustment is appropriate because this is the only way to adjust taxes for the interest expense being proposed by I&E versus that being proposed by Columbia.

F. Rate of Return

A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. In determining a fair rate of return the Commission has been guided by the criteria provided by the United States Supreme Court in the cases of *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Co.,* 320 U.S. 591 (1944). In *Bluefield*, the 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.

In *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591,  603 (1944), the Court stated:

[I]t is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

For reasons that I will explain, below, I&E has provided the most reasonable resolution of this issue.

Columbia has claimed a 9.18% overall cost of capital including an equity cost rate of 11.35%. Columbia proposes to utilize its hypothetical capital structure consisting of 35.6% long-term debt and 64.4% common equity. CWC St. 3, Appendix B, Sch. DWD-1 at 1.

The OCA submits, and I agree, that Columbia’s proposed rate of return is excessive due to an equity-rich capital structure and an overstated equity cost rate. The OCA recommends use of the actual capital structure of 44.15% long-term debt and 55.85% common equity. OCA MB at 66.

I&E recommends a 7.07% overall rate of return derived from the use of the I&E recommended debt cost rate of 5.00%, the I&E recommended 50/50 capital structure, and the I&E-recommended 9.15% cost of common equity. I&E MB at 37-54; I&E St. No. 1, pp. 7, 24, 35 & 45; I&E Ex. No. 1, Sch. 1. See also: I&E MB, Appendix A, Table III. Consistent with this recommended 7.07% overall weighted cost of capital, I&E asserts that Columbia’s proposed overall return should be disallowed because it is based upon an inappropriate capital structure and overstated faulty return on common equity calculation. I&E RB at 25. I agree.

In Columbia’s Main Brief, Columbia references the testimony of its rate of return witness Mr. D’Ascendis and attempts to support his recommended 11.35% cost rate of common equity, the use of the Company’s actual *pro forma* capital structure consisting of 35.60% debt and 64.40% equity at December 31, 2013, and an updated debt cost rate of 5.00%. Columbia MB at 45-59. Columbia’s proposed overall rate of return of 9.18% is shown in Table 1 attached to the Columbia Main Brief.

I&E argues, and I agree, that Columbia’s proposal is “heavily weighted” towards equity so as to maximize the overall rate of return:

As to any comparison between the capital structure approved in Columbia’s last base rate case and the current claim, I&E Witness Maurer investigated the Company’s capital structure in the five intervening years between the two cases and revealed that the average for that period was 42.45% debt and 57.55% equity. I&E MB, pp. 42-43; I&E St. No. 1, p. 14.

As such, Columbia’s utilized capital structure is not in line with their historical capital structure but is in fact more heavily weighted toward equity than the Company has been in any of the past five years. I&E MB, pp. 43-43; I&E St. No. 1, p. 14. Coincidentally then, the Company’s capital structure is more heavily skewed towards the higher priced equity around the time of the rate cases. *The fact that the Company’s capital structure from 2008 to 2012 is more in line with I&E Witness Maurer’s barometer group’s indicates that a capital structure of 50% long-term debt and 50% common equity is a more accurate representation of the capital structure that the Company normally holds and is more representative of the industry norm than the Company’s current claim of 35.60% long-term debt and 64.40% common equity*. I&E St. No. 1-SR, p. 7. I&E Reply Brief at 27-28 (emphasis added).

The OCA’s proposed 6.75% overall rate of return, while close to the I&E recommendation, is a bit too parsimonious, whereas Columbia’s requested 9.09% rate of return is excessive and is based on an overly generous methodology. I agree with the OCA’s analysis, if not with its specific recommendation, with respect to this issue:

All regulated utilities in Pennsylvania are required to provide safe, adequate, reasonable and efficient service as a matter of law. 66 Pa. C.S. § 1501. An appropriate rate of return on common equity assumes efficient and reasonable management of a utility. This is established by the fact that the Commission will allow a utility less than the indicated rate of return where service does not meet the requirements of Section 1501. See, e.g., *Pa. P.U.C. v. Pennsylvania Gas & Water Co*., 61 Pa. PUC 409, 415-16, 425, 427, 74 PUR4th 238, 244-45, 254, 256 (1986); *Pa. P.U.C. v. Pennsylvania Gas & Water Co*., 68 Pa. PUC 191, 195-96 (1988). It follows that a utility must be doing more than providing efficient and reasonable service in order to receive more than the indicated rate of return pursuant to 66 Pa. C.S. § 523.

It was for this reason, in the Company’s most recent base rate case that the Presiding Officer and the Commission rejected Columbia’s request for a 25 basis point rate of return premium to recognize management efficiency. *Pa. P.U.C. v. Columbia Water Co*., R-2008-2045157, Order at 91-92 (June 10, 2009) (2008 Order), Recommended Decision at 67 (Mar. 20, 2009) (*2008 RD*). The ALJ determined, and the Commission agreed, that the evidence provided by the Company showed compliance with Commission requirements and policies, i.e. reasonable and adequate service, which did not support a rate adjustment. Id. In the 2008 proceeding, the Company offered much of the same evidence it offers here. *2008 RD* at 63-65. For the same reasons stated in that case, the rate of return premium should be denied here. OCA MB at 87.

I&E’s recommended capital structure of 50% debt and 50% equity, is one that is fundamentally fair and better representative of Columbia. That structure is adopted as is I&E’s recommended 7.07% overall rate of return.

G. Columbia’s Proposed Adjustments for Performance

Mr. D’Ascendis’ recommended return on equity for Columbia includes the Company’s request for an additional 50 basis point premium to reflect Columbia’s management efficiency, a 1998 acquisition of a neighboring water system, and a 2012 acquisition of an affiliate water system. CWC St. 3 at 4, 36-37. The OCA has calculated that the fifty basis point reward would add approximately $68,988 to the Company’s annual revenue requirement.[[10]](#footnote-10)

Section 523 of the Public Utility Code makes clear that a utility cannot be rewarded with a rate of return premium without specific evidence to support the adjustment. 66 Pa.C.S. § 523(a). The statute provides that the Commission will consider evidence regarding the utility’s efficiency, effectiveness and adequacy of service. Section 69.721(g) of the Commission’s policy statements specifies that the Commission will consider evidence regarding acquisitions in finding whether any Section 523 adjustment is warranted, if the requesting utility provides specific evidence in support. 52 Pa.Code § 69.721(g).

Columbia has requested an 11.35% return on equity in this proceeding, which includes a 25 basis point adder to recognize the Company’s “outstanding service and commitment to the community.” CWC St. 1 at 10. Specific reasons cited by Columbia as justification for awarding a rate of return premium include: (1) compliance with water quality and pressure requirements, (2) efforts to minimize expenses and use existing staff efficiently, (3) extending lines to an area of Manor and West Hempfield Townships, and (4) acquiring Marietta Gravity Water Company. Id. at 7-9.

As the OCA correctly points out, all regulated utilities in Pennsylvania are required to provide safe, adequate, reasonable and efficient service as a matter of law. 66 Pa.C.S. § 1501. An appropriate rate of return on common equity assumes efficient and reasonable management of a utility. This is established by the fact that the Commission will allow a utility less than the indicated rate of return where service does not meet the requirements of Section 1501. See, e.g., *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa PUC 409, 415-16, 425, 427, 74 PUR4th 238, 244-45, 254, 256 (1986); *Pa. PUC v. Pennsylvania Gas & Water Co.*, 68 Pa PUC 191, 195-96 (1988). A utility must be doing more than providing efficient and reasonable service in order to receive more than the indicated rate of return pursuant to 66 Pa.C.S. § 523.

In this case, the evidence provided by Columbia shows compliance with Commission requirements and policies, *i.e.* reasonable and adequate service, but it does not even support a rate adjustment in the amount requested. Columbia provided testimony regarding its compliance with state and federal drinking water standards. The evidence regarding Columbia’s adequacy of service and water quality is not sufficient to warrant a rate of return premium of 0.25%.

Columbia also notes actions taken to minimize expenses and use existing staff efficiently, like finding ways to reduce chemical and electric costs and consumption, extending and repairing mains in-house rather than contracting those services, and establishing an electronic billing and payment program. CWC St. 1 at 7-8; OCA St. 1 at 19-20. In the 2008 case, Columbia noted that it had minimized staffing, taken steps to keep its operating expenses at the lowest responsible level, invested heavily in water system improvements and capital additions to insure the continued provision of quality water service and negotiated with cellular phone service providers for the rental of Company space for cellular towers, resulting in annual income of $44,000. The evidence does not show that Columbia has done more than provide efficient and reasonable service and no adjustment to the indicated rate of return is warranted.

Columbia asserts that extensions of service to Manor and West Hempfield Townships support a rate of return premium. CWC St. 1 at 7-8. The same evidence regarding extensions to Manor Township was presented in the 2008 rate case. *2008 Rate Case* Order at 88; *2008 RD* at 64. The Commission agreed with the ALJ’s conclusion that Columbia did not provide sufficient evidence to warrant a positive management performance factor adjustment. *2008 Rate Case Order* at 93; *2008 RD* at 67. Specifically, the ALJ stated:

With regard to the extensions of its franchise territory the evidence indicates that Columbia is providing adequate, reasonable service. These franchise expansions evidence Columbia’s efforts toward promoting regionalization of water service. This only complies with stated Commission policies set forth at 52 Pa.Code § 69.711(a). This is not sufficient to warrant a rate of return premium of 0.25%. Accordingly, the Commission should deny the requested 25 basis point adjustment related to management efficiency. *2008 RD* at 67.

The OCA notes that Columbia raises its acquisition of the Marietta system as support of its management efficiency and its “track record” of acquisitions. Section 69.721(g) provides that a rate of return premium may be requested where an acquisition (1) falls outside of the parameters of 66 Pa.C.S. § 1327 and (2) the utility has a “demonstrated track record of acquiring and improving the service provided to the customers of smaller and less viable water systems.” I agree with the OCA that Columbia’s acquisition of Marietta does not satisfy the requirements of Section 1327. Columbia has not established that Marietta was a less viable system or that it has improved service to those customers as envisioned by Section 69.721. The testimony of OCA witnesses Everette and Fought show that Marietta was not less viable than Columbia, nor has Columbia identified any improvements that the Marietta system needed at the time of acquisition that, if not completed, would jeopardize the adequacy of service. OCA St. 1 at 19-20; OCA St. 3 at 4.

H. Rate Structure

Any proposed increase in revenues was allocated on an “across-the-board” basis to all customers. The OCA’s and I&E’s objections to any rate increase at all notwithstanding, no party has opposed this structure or proposed rate structure or design changes.

VI. CONCLUSION

In this rate case, Columbia has requested an increase of annual operating revenues of $773,210 while I&E has recommended a decrease of $243,609 to that request, and the OCA has recommended a decrease of $320,267 to that request. This Recommended Decision must be supported by substantial evidence of record. While I am not persuaded that rates should be reduced as the public advocates request, neither am I persuaded that Columbia has met its burden establishing the justness or reasonableness of its proposed rates and terms of service.

There are three main outstanding issues in this case: (1) whether certain PennVest financed plant should be given rate recognition; (2) the allocation of additional Columbia expenses by the OCA and I&E to the Marietta Division, over and above what the Company had already allocated in the filing; and (3) the Company’s capital structure and rate of return.

Columbia’s inclusion of its remaining used and useful undepreciated PennVest Plant and facilities in rate base *is* appropriate. However, Columbia’s request for a combined upward adjustment of 50 basis points to its return on equity is not. With respect to an adjustment to reflect exemplary performance, I would characterize Columbia’s performance as competent, not exemplary.

While Columbia has offered some support for its revised operating revenue claim of $949,426, I am not persuaded that Columbia is entitled to implement rates designed to produce its as-filed increase in annual operating revenues of $773,210. After factoring in all accepted adjustments, Columbia should be allowed a revenue increase of $87,699 to be allocated on an “across-the-board” basis to all customers.

Columbia has not demonstrated that the costs associated with all of its various expense claims are just and reasonable, and while I understand Columbia’s argument with respect to both proposed rate of return and return on equity, I do not think that either as proposed by Columbia is justified. I&E’s recommendation of a 7.07% overall rate of return derived from the use of the I&E recommended debt cost rate of 5.00%, the I&E recommended 50/50 capital structure, and the I&E-recommended 9.15% cost of common equity is reasonable.

Finally, Columbia should, in future rate cases, provide a clear bifurcation of costs associated with its Marietta and Columbia Divisions as well as an accounting of hours devoted by its officers to company business, in their roles as officers and directors, in relation to the two divisions of the Company.

VII. CONCLUSIONS OF LAW

1. The Pennsylvania Public Utility Commission has jurisdiction over the Parties and subject matter of this proceeding. 66 Pa.C.S. §§ 701, 1308(d).

2. A public utility seeking a rate increase has the burden of proof to establish the justness and reasonableness of each element of its request. 66 Pa.C.S. § 315(a).

3. A public utility is entitled to rates that will allow it to recover its costs for expenses that are reasonably necessary to provide service to its customers. *Western Pa. Water Co. v. Pa. Public Utility Commission,* 422 A.2d 906 (Pa. Cmwlth. 1980).

4. The Commission must authorize a sufficient, or fair, rate of return to public utilities to ensure adequate revenues to cover operating expenses, debt serviced expenses and common and preferred (if necessary) dividends, as well as to maintain the financial integrity of the utility and enable the public utility to attract needed debt in equity capital in the marketplace or on reasonable terms, in competition with firms of similar risk. *Federal Power Commission v. Hope Natural Gas Co.,* 320 U.S. 591 (1944) and *Bluefield Water Works Improvement Co. v. Public Service Commission,* 262 U.S. 679 (1923).

5. It is important that there be enough revenues not only for operating expenses, but also for the capital costs of the business. These include service in the debt and dividends on the stock. By that standard, the return to the equity owner should be commensurate with returns on investment and other enterprises having corresponding risk. That return, moreover, should be sufficient to ensure confidence in the financial integrity of the enterprise, so as to maintain credit and to attract capital. *Federal Power Commission v. Hope Natural Gas Co.,* 320 U.S. 591, 603 (1944).

6. Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property, in violation of the Fourteenth Amendment. *Bluefield Water Works Improvement Co. v. Public Service Commission,* 262 U.S. 679, 690 (1923).

7. Pennsylvania Courts and the Pennsylvania Public Utility Commission have adopted the U.S. Supreme Court legal standards regarding the rate of return in *Hope* noting this case requires the Commission to balance utility company and ratepayer interests in setting rates. *Pennsylvania Electric Co. v. Pa. Public Utility Commission,* 509 Pa. 324, 502 A.2d 130 (1985).

VIII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That The Columbia Water Company shall not place into effect the rates contained in Supplement No. 60 to Tariff-Water-Pa. PUC No. 7 which have been found to be unjust and unreasonable and therefore, unlawful.

2. That The Columbia Water Company shall file tariffs, tariff supplements or tariff revisions containing proposed rates, rules and regulations, which are consistent with the Recommended Decision and which provides for a revenue increase of $87,699 to be allocated on an “across-the-board” basis to all customers.

3. That The Columbia Water Company’s tariffs, tariff supplements or tariff revisions may be filed upon one day’s notice, pursuant to the provisions of 52 Pa.Code §§ 53.31 and 53.101, be effective for service rendered on and after the date of entry of the Final Order in this matter.

4. That The Columbia Water Company shall comply with all directives, conclusions and recommendations in the Recommended Decision that are not the subject of individual ordering paragraphs as fully as if they were the subject of specific ordering paragraphs.

5 That The Columbia Water Company shall allocate the authorized increase in operating revenues to each customer class and rate schedule within each class in the manner set forth in the Recommended Decision.

6. That the investigation at Docket No. R-2013-2360798 be terminated and marked closed.

7. That the Complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2013-2363612 be terminated and marked closed.

8. That the Complaint filed by the Office of Small Business Advocate in this proceeding at Docket No. C-2013-2363728 be terminated and marked closed.

9. That the Complaint filed by Mr. Vincent E. Collier at Docket No. C-2013-2364726 be terminated and marked closed.

DATED: November 21, 2013 /s/

Dennis J. Buckley

Administrative Law Judge

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| TABLE I | | | | | | | | | | | | | | | |
| Columbia Water Company | | | | | | | | | | | | | | | |
| INCOME SUMMARY | | | | | | | | | | | | | | | |
| R-2013-2360798 | | | | | | | | | | | | | | | |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
|  |  | |  |  |  | Pro Forma |  |  |  | ALJ | |  | ALJ |  | Total |
|  | Pro Forma | |  | Company |  | Present Rates |  | ALJ |  | Pro Forma | |  | Revenue |  | Allowable |
|  | Present Rates (1) | |  | Adjustments (2) |  | (Revised) (3) |  | Adjustments (4) |  | Present Rates | |  | Increase |  | Revenues |
|  | $ | |  | $ |  | $ |  | $ |  | $ | |  | $ |  | $ |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Operating Revenue | 4,032,272 | |  | 9,392 |  | 4,041,664 |  | 0 |  | 4,041,664 | |  | 87,699 |  | 4,129,363 |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Expenses: |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| O & M Expense | 2,030,398 | |  |  |  | 2,030,398 |  | (20,675) |  | 2,009,723 | |  | 244 |  | 2,009,967 |
| Depreciation | 739,260 | |  | 0 |  | 739,260 |  | 0 |  | 739,260 | |  | 0 |  | 739,260 |
| Amortization | 15,039 | |  |  |  | 15,039 |  | (15,039) |  | 0 | |  | 0 |  | 0 |
| Taxes, Other | 134,931 | |  | 0 |  | 134,931 |  | 0 |  | 134,931 | |  | 0 |  | 134,931 |
| Income Taxes: |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| State | 75,186 | |  |  |  | 75,186 |  | (9,007) |  | 66,179 | |  | 8,737 |  | 74,916 |
| Federal | 171,208 | |  |  |  | 171,208 |  | (27,584) |  | 143,624 | |  | 26,764 |  | 170,388 |
| Regulatory Assessments | 24,159 | |  |  |  | 24,159 |  | 0 |  | 24,159 | |  | 525 |  | 24,684 |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Total Expenses | 3,190,181 | |  | 0 |  | 3,190,181 |  | (72,305) |  | 3,117,876 | |  | 36,270 |  | 3,154,146 |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Net Inc. Available for Return | 842,091 | |  | 9,392 |  | 851,483 |  | (72,305) |  | 923,788 | |  | 51,642 |  | 975,430 |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Rate Base\* | 13,527,774 | |  | 268,971 |  | 13,796,745 |  | 0 |  | 13,796,745 | |  | 0 |  | 13,796,745 |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| Rate of Return | 6.22% | |  |  |  | 6.17% |  |  |  | 6.70% | |  |  |  | 7.07% |
|  |  | |  |  |  |  |  |  |  |  | |  |  |  |  |
| **(1) Company Rate Filing Statement of Operating Revenues and Expenses at Present Rates page 1-22** | | | | | | | | |  |  | |  |  |  |  |
| **(2) Adjustment for sewer billing accepted by Company. See ALJ Recommended Decision page 22. ($9,932 includes the $9,392 sewer billing.)** | | | | | | | | | | | |  |  |  |  |
| **(3) Company Main Brief Table 1 , Income Summary, Pro Forma Present Rates and Recommended Adjustments to Rate Base.** | | | | | | | | | | | |  |  |  |  |
| **(4) See Table II for detail of ALJ Adjustments and Adjustments not in dispute.** | | | | | | |  |  |  | |  |  |  |  |  |
|  | |  |  |  |  | $ |  |  |  | |  |  |  |  |  |
| **\*Rate Base Proforma Present rates Table 1 Company Main Brief** | | | | |  | **13,527,774** |  |  |  | |  |  |  |  |  |
| **Company Adjustments to Rate BaseTable 2 Company Main Brief** | | | | |  | **268,971** |  |  |  | |  |  |  |  |  |
| **Adjusted Rate Base** | |  |  |  |  | **13,796,745** |  |  |  | |  |  |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| TABLE I(A) | | | | | | |
| Columbia Water Company | | | | | | |
| RATE OF RETURN | | | | | | |
| R-2013-2360798 | | | | | | |
|  |  |  |  |  |  |  |
|  |  |  |  |  | After-Tax |  |
|  |  |  |  |  | Weighted |  |
|  | Structure |  | Cost |  | Cost |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
| Long-term Debt | 50.00% |  | 5.00% |  | 2.50% |  |
| Common Equity | 50.00% |  | 9.15% |  | 4.57% |  |
|  |  |  |  |  |  |  |
|  | 100.00% |  |  |  | 7.07% |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
| Source - ALJ Recommended Decision page 11 item 47. | | | | |  |  |
|  |  |  |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| TABLE I(B) | | | | | |
| Columbia Water Company | | | | | |
| REVENUE FACTOR | | | | | |
| R-2013-2360798 | | | | | |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| 100% |  |  |  |  | 1.00000000 |
| Less: |  |  |  |  |  |
| Uncollectible Accounts Factor (\*) | | | |  | 0.00277825 |
| PUC, OCA, OSBA Assessment Factors (\*\*) | | | | | 0.00599149 |
| Gross Receipts Tax | | |  |  | 0.00000000 |
| Other Tax Factors | |  |  |  | 0.00000000 |
|  |  |  |  |  |  |
|  |  |  |  |  | 0.99123026 |
|  |  |  |  |  |  |
| State Income Tax Rate (Company Rate Filing page 2-12) | | | | | 0.09990000 |
|  |  |  |  |  |  |
| Effective State Income Tax Rate | | |  |  | 0.09902390 |
|  |  |  |  |  |  |
| Factor After Local and State Taxes | | | |  | 0.89220636 |
|  |  |  |  |  |  |
| Federal Inc. Tax Rate (Company Rate Filing page 2-12) | | | | | 0.34000000 |
|  |  |  |  |  |  |
| Effective Federal Income Tax Rate | | | |  | 0.30335016 |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| Revenue Factor (100% - Effective Tax Rates) | | | | | 0.58885620 |
|  |  |  |  |  |  |
| **(\*) Company Filing page 1-15 and 1-10** | | | |  |  |
| **Bad Debt page 1-15** | | **11,000** | **=** | **0.0027782** |  |
| **Revenue page 1-10** | | **3,959,334** |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| **Company Rate Filing Supporting Schedule No. 10 (page 2-15)** | | | | | |
|  | **PUC Assessment** | |  | **0.0044903** |  |
|  | **OCA Assessment** | |  | **0.0013821** |  |
|  | **SBA Assessment** | |  | **0.0001191** |  |
|  |  |  |  | **0.0059915** |  |



|  |  |  |  |
| --- | --- | --- | --- |
| TABLE III | |  |  |
| Columbia Water Company | |  |  |
| INTEREST SYNCHRONIZATION | |  |  |
| R-2013-2360798 | |  |  |
|  |  |  |  |
|  | Amount |  |  |
|  | $ |  |  |
|  |  |  |  |
|  |  |  |  |
| Company Rate Base Claim\* | 13,796,745 |  |  |
| ALJ Rate Base Adjustments | 0 |  |  |
|  |  |  |  |
| ALJ Rate Base | 13,796,745 |  |  |
| Weighted Cost of Debt | 2.50% |  |  |
|  |  |  |  |
| ALJ Interest Expense | 344,919 |  |  |
| Company Claim \*\* | 219,064 |  |  |
|  |  |  |  |
| Total ALJ Adjustment | (125,855) |  |  |
| Company Adjustment | 0 |  |  |
|  |  |  |  |
| Net ALJ Interest Adjustment | (125,855) |  |  |
| State Income Tax Rate | 9.99% |  |  |
|  |  |  |  |
| State Income Tax Adjustment | (12,573) |  |  |
|  |  |  |  |
| Net ALJ Interest Adjustment | (125,855) |  |  |
| State Income Tax Adjustment | (12,573) |  |  |
|  |  |  |  |
| Net ALJ Adjustment for F.I.T. | (113,282) |  |  |
| Federal Income Tax Rate | 34.00% |  |  |
|  |  |  |  |
| Federal Income Tax Adjustment | (38,516) |  |  |
|  |  |  |  |
| \* Includes Company Adjustment of $268,971 (see Company Main Brief Table 1) | | | |
|  |  |  |  |
| \*\*Rate Filing page 1-22 |  |  |  |

1. The parties were able to resolve many of the issues in this case, but settlement eluded them given significant differences with respect to many of Columbia’s requests and its disagreement with many proposed adjustments. This Recommended Decision takes up the remaining issues in controversy in this rate case. [↑](#footnote-ref-1)
2. Columbia has two divisions: the Columbia Division and the Marietta Division. This rate case is only for the Columbia Division. [↑](#footnote-ref-2)
3. Mr. Collier was provided with notice of the prehearing conference, but he did not attend. He did, however, attend the public input hearing on September 3, 2013, and made a sworn statement at that time. [↑](#footnote-ref-3)
4. The issue ruled on in the Order was directly analogous to a line of discovery raised by the OCA in Columbia’s 2008 rate case; that is, a discovery request for salaries and an accounting of the percentages of time spent by the officers and managers of Columbia, an issue that would recur at the hearing on September 5, 2013. See, *Pa. Public Utility Commission, et al. v. The Columbia Water Company*, Docket No. R-2008-2045157 (Final Order entered June 10, 2009). [↑](#footnote-ref-4)
5. Samuel Sulkosky, the Borough Manager of Columbia, sent a letter to the Commission which led to the scheduling of the public input hearing. [↑](#footnote-ref-5)
6. The OCA filed a correction to its Reply Brief on October 8, 2013. The OSBA did not file briefs in this case. [↑](#footnote-ref-6)
7. *Pa. P.U.C. v. Columbia Water Co*., R-00974007 (1997) [↑](#footnote-ref-7)
8. Mr. Collier owns rental property in East Hempfield’s service territory. [↑](#footnote-ref-8)
9. As the OCA notes, in direct and rebuttal testimony Columbia reflected an incorrect percentage of bad debt expense, stating that it was 0.023%. OCA St. 1S at 11. Company witness Shambaugh corrected it to 0.23%. Tr. 131. [↑](#footnote-ref-9)
10. Using the Company’s proposed equity ratio of 64.4%, a 0.25% equity bump results in a 0.16% bump to ROR (64.45% x 0.25% = 0.16%). Sch. DWD-1 at 1. Using the rate base claimed in Columbia’s revised rebuttal testimony of $13,796,707, each 0.25% adder results in an additional $34,492 of revenue requirement ($13,796,707 x 0.25% = $34,492). GDS Rebuttal Exh. 3 at 3. [↑](#footnote-ref-10)