



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

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December 6, 2013

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.  
The Columbia Water Company  
Docket No. R-2013-2360798

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Exceptions** in the above-captioned proceeding.

Copies are being served on all active parties of record, as reflected in the attached Certificate of Service. If you have any questions, please contact me at (717) 783-6151.

Sincerely,

Charles Daniel Shields  
Senior Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 29363

CDS/snc  
Enclosure

cc: Parties of Record  
Hon. Dennis J. Buckley  
Robert F. Powelson, Chairman  
John F. Coleman, Jr., Vice Chairman  
James H. Cawley, Commissioner  
Pamela A. Witmer, Commissioner  
Gladys M. Brown, Commissioner  
Chief Counsel Pankiw, Law Bureau  
Director Cheryl Walker Davis, OSA

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## A. INTRODUCTION

On April 25, 2013, The Columbia Water Company (“Columbia” or “Company”) filed Supplement No. 60 to Tariff Water-Pa. P.U.C. No. 7 to become effective June 24, 2013, containing proposed changes in rates, rules, and regulations calculated to produce \$773,210 (19.18%) in additional annual revenues, utilizing a future test year ended December 31, 2013.<sup>1</sup> On May 20, 2013, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance. The Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) were also parties to the proceeding.

By Order entered June 13, 2013, the Commission instituted an investigation and thus suspended the filing by operation of law until January 24, 2014, unless permitted by Commission Order to become effective at an earlier date. The case was assigned to Administrative Law Judge (“ALJ”) Dennis J. Buckley who presided over the entire proceeding. During the course of the proceeding, I&E conducted extensive discovery and incorporated a number of the Company responses into I&E exhibits attached to the testimonies of the three (3) I&E expert witnesses.

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<sup>1</sup> This case is only the latest of a number of base rate filings made by this utility in the last twelve years. See: Docket Nos. R-00016423; R-00049409; R-00061496; and Docket No. R-2008-2045157.

The I&E testimony and exhibits were admitted into the record during the evidentiary hearing held September 5, 2013.<sup>2</sup> On September 26, 2013, I&E filed its Main Brief. As noted in the I&E Main Brief, the Company had already accepted and incorporated a number of the I&E recommendations made during the course of the proceeding into their final overall claim. I&E MB, p. 14. On October 7, 2013, I&E filed its Reply Brief in this matter.

On November 25, 2013, ALJ Buckley issued his Recommended Decision (“RD”). As reflected the Recommended Decision, the ALJ reduces Columbia Water’s \$773,210 request to an allowable increase in annual revenues of \$87,699. RD, pp. 1, 51.

The ALJ recommended adoption of a number of the I&E recommendations as set forth in detail in the I&E Main and Reply Briefs and the I&E Testimony and Exhibits. Specifically and importantly, the ALJ recommended adoption of the

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<sup>2</sup> As to the specific I&E testimony and exhibits entered into the record in this proceeding, for I&E Witness Rachel Maurer, Fixed Utility Financial Analyst - the Direct Testimony of Rachel Maurer was admitted as I&E Statement No. 1; the Exhibit to Accompany the Direct Testimony of Rachel Maurer was admitted as I&E Exhibit No. 1; and the Surrebuttal Testimony of Rachel Maurer was admitted as I&E Statement No. 1 SR. Tr. p. 208. I&E MB, pp. 4-5.

For I&E Witness Christine Wilson, Fixed Utility Financial Analyst - the Direct Testimony of Christine Wilson was admitted as I&E Statement No. 2; the Exhibits to Accompany the Direct Testimony of Christine Wilson was admitted as I&E Exhibit No. 2 [Proprietary] and I&E Exhibit No. 2 [Non-Proprietary]; and the Surrebuttal Testimony of Christine Wilson was admitted as I&E Statement No. 2-SR. Tr. p. 207. I&E MB, pp. 4-5.

For I&E Witness Ethan Cline, Fixed Utility Valuation Engineer - the Direct Testimony of Ethan Cline was admitted as I&E Statement No. 3; the Exhibit to Accompany the Direct Testimony of Ethan Cline was admitted as I&E Exhibit No. 3; the Surrebuttal Testimony of Ethan Cline was admitted as I&E Statement No. 3-SR. Tr. p. 176. I&E Witness Wilson also provided an Errata Sheet to replace page 19 of her Direct Testimony [I&E St. No. 2] and made several changes to the figures reflected on pages 14 & 15 of her Surrebuttal Testimony. I&E MB, pp. 4-5.

exact I&E-recommended overall rate of return percentage figure of 7.07%, derived from incorporating the I&E-recommended 50/50 capital structure, the I&E-recommended debt cost rate of 5.00% and the I&E-recommended 9.15% cost of common equity. RD, pp. 43-45. On another issue related to rate of return, the ALJ also agreed with I&E (and OCA) that the Company's claim for an additional 50 basis point premium to the cost of common equity, to reflect Columbia's asserted management efficiency, was not supported by the evidence of record and was not reasonable. RD, pp. 11, 46-48.

The ALJ also recommended adoption of the I&E recommended disallowance of Columbia's expense claim of \$6,051, styled in the Company's filing as "Employee Recognition" and also adopted the I&E recommendation for a necessary adjustment to state taxes.<sup>3</sup> RD, p. 42. Further, the ALJ noted the Company's acceptance during the proceeding of the removal of their claim for "Charitable Contributions" and the partial reduction to the "Membership Dues" claim. Both claims had been contested by I&E and the Company's actions, to their credit by such acknowledgement, demonstrated the legitimacy of the I&E position on those issues. RD, p. 18.

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<sup>3</sup> As shown in the I&E Main Brief on I&E Table II, at the line "Interest Synchronization" that reflects an amount of (\$1,573) in the "State Tax Effect" column.

## **B. SUMMARY OF EXCEPTIONS**

These instant Exceptions address the three (3) Bureau of Investigation and Enforcement positions that the ALJ recommended the Commission not adopt. I&E contends that the ALJ failed to properly recommend adoption of those I&E positions and hereby respectfully submits these Exceptions Nos. 1, 2 & 3 seeking adoption of each from the Commission.

For Measure of Value, I&E excepts to the Recommended Decision and advocates Commission adoption of the I&E recommendation to remove from the Company's total rate base claim the portion related to certain PennVest financed plant, with an original cost of \$4,902,136, less the associated \$1,853,844 in claimed accrued depreciation.

For Expenses, I&E excepts to the Recommended Decision and advocates Commission adoption of the I&E recommendations remove \$115,913 for the Company's Depreciation Expense claim. This adjustment is consistent with and directly related to the I&E Measure of Value recommendation to exclude the undepreciated value of the PennVest plant from rate base. I&E's third Exception also relates to the ALJ's failure to adopt the I&E recommendation regarding one other expense claim. Specifically, the Recommended Decision failed to adopt the I&E recommendation to remove \$5,512 from the expense claim for "Officers, Directors, & Majority Stockholders Salaries" due to allocating 12% of the claim to

the Marietta Division; and instead accepted a lesser percentage allocation made in the Company's rebuttal testimony during the course of the proceeding.

For the reasons provided herein and in both the I&E Main and Reply Briefs, I&E respectfully requests that the Commission grant the instant Exceptions and adopt each and every one of the I&E recommendations in its final Order resolving this base rate proceeding.

### **C. EXCEPTIONS**

#### **I&E EXCEPTION NO. 1**

##### **The ALJ Erred By Not Recommending That The Commission Exclude The Fully Financed PennVest Plant From The Company's Measure of Value [Rate Base] Claim.**

I&E Main Brief, pp. 18-28

I&E Reply Brief, pp. 5-21

Recommended Decision, pp. 20-22 & 39-40

In his Recommended Decision, the ALJ failed to properly adopt the I&E recommendation that the Company's Measure of Value [rate base] claim exclude the depreciated value of plant funded entirely from a Pennsylvania Infrastructure Investment Authority ("PennVest") loan. RD, pp. 20-22, 39-40. As specifically emphasized by I&E in both its Main and Reply Briefs, this plant was completely funded by ratepayers through an accelerated and adjusted charge that allowed the Company to timely repay the underlying principal and interest pursuant to the PennVest loan repayment schedule. I&E Main Brief, pp. 18-28. I&E Reply Brief, pp. 5-21. As such, I&E hereby excepts to the Recommended Decision on this

issue and recommends that the Commission reduce the Company's rate base claim by \$3,048,292 to remove the depreciated value of the PennVest financed plant improperly sought to be included in rate base.<sup>4</sup> I&E Main Brief, pp. 18-28. I&E Reply Brief, pp. 5-21.

As also explained in detail in the I&E Main Brief, this appropriate removal of the identified PennVest-financed plant from the Company's rate base claim further requires a corresponding reduction to the claimed level of Depreciation Expense related to that plant. I&E MB, pp. 26-28. I&E RB, pp. 20-22. The ALJ's failure to adopt the accompanying I&E recommendation to exclude the related Depreciation Expense claim is addressed in Exception No. 2 herein.

While failing to appropriately adopt the I&E position to exclude the PennVest plant from rate base, the ALJ opines that:

[F]or 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. RD, p. 38.

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<sup>4</sup> As explained in the I&E Main Brief, the measure of value, or rate base is the depreciated original cost of a company's investment in utility plant determined to be used and useful in the public service at the end of the test year plus other additions and deductions that the Commission determines to be necessary plant in order to keep the utility operating and providing safe and reliable service to its customers. I&E MB, pp. 18-19.

In the I&E Main Brief, the terms "measure of value" and "rate base" are used interchangeably. The depreciated original cost for plant in service at the end of the future test year is determined by subtracting the book reserve, which is the accumulation of all prior annual depreciation expense and other items such as salvage value from the original cost of the plant in service used and useful in the public service at the future test year end. I&E MB, pp. 18-19.

The depreciated original cost of the plant in service is determined by taking a "snapshot" look at the depreciated original cost value of used and useful utility plant in service at a specific point in time. That point in time in this case is the end of the future test year. I&E MB, pp. 18-19. I&E St. No. 3, p. 2.

Clearly then, the ALJ reluctantly made his recommendation. And as to the “reasons set forth above” referenced by the ALJ, they can be interpreted to represent the crux of his reasoning for not excluding the PennVest plant from rate base as recommended by I&E (and OCA). That discussion is provided by the ALJ at pages 20-22 of the Recommended Decision. RD, pp. 20-22. In providing that reasoning for his determination, the ALJ states that “[T]he Commission’s Opinion and Order in *Pa. PUC v. Columbia Water Company*, Docket No. R-00932594 (1993) cannot be ignored.” RD, p. 22. Again, that proceeding was the genesis for the recognition of the completion of the plant some twenty years ago.

Presumably in the Recommended Decision here, the ALJ concluded that, in the exercise of the scope of his authority, he was bound to adhere to the terms and conditions agreed to by OCA and the Company in that 1993 proceeding. This appears to be the case, since in the paragraph preceding, the ALJ cites to Columbia’s Reply Brief when he notes in the Recommended Decision that the volumetric rate base/rate of return rate for the plant was never appealed. RD, p. 21.

It is indeed telling that the ALJ chose to use the phrase “cannot be ignored” when referring to the 1993 case because the fundamental point made repeatedly by both I&E and OCA on this issue is that the Company did ignore the results of that 1993 case and instead elected to repeatedly transform the subsequent collection of the PennVest loan repayment into a surcharge mechanism for all intents and

purposes. To be clear, the I&E Reply Brief addressed this issue directly in a separate section, pointing out that by the Company's own subsequent actions to avail itself of the benefits of a surcharge, they deviated from the terms of the Joint Stipulation approved in the 1993 case and therefore those terms were no longer applicable.<sup>5</sup> I&E RB, pp. 8-10. As specifically stated in the I&E Reply Brief, the record evidence presented in this proceeding indisputably disclose that in the rate cases that followed the 1993 case, the Company removed the PennVest-funded plant from rate base, removed the surcharge revenues and excluded the PennVest loan from its capital structure in calculating its base rate revenue requirement. I&E RB, pp. 9-10. The record also reflects that the Company instituted a volumetric charge, then changed and reconciled that charge several times over the term of the PennVest loan repayment schedule to ensure that adequate monies were collected from ratepayers, and then subsequently extinguished that charge when the loan was repaid. I&E RB, p. 20. As such, there is no valid reason to now alter that ratemaking treatment of the plant by recognizing it in rate base.

Such subsequent actions on the part of Columbia to morph the collections into a surcharge approach were apparently either not taken into consideration or not given sufficient weight by the ALJ when he concluded that he was bound to

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<sup>5</sup> That section of the I&E Reply Brief was entitled, "2. The Company's Reference To A Joint Stipulation As Supporting Their Present Inclusion of PennVest Plant In Rate Base Is Both Misleading And, Given Subsequent Company Action, Rendered Inapplicable." I&E RB, pp. 8-10.

adhere to the rate base/rate of return treatment approved for this plant in the 1993 case. RD, p. 21. This present situation is a perfect example of the strength of our regulatory process whereby issued Recommended Decisions of the Administrative Law Judges are reviewed by the full Commission. The Commission possesses full authority to recognize the actions of Columbia to now attempt to essentially “game” the system. Having switched gears since the 1993 case and collected additional monies to fully repay their PennVest loan liabilities with an adjusting rate component, they now seek rate base recognition to collect even more monies from ratepayers for the exact same plant. Again here, the Commission has the full authority to adopt the I&E and OCA positions and determine that the provisions of the 1993 case are no longer applicable since the Company was the entity manifestly failing to adhere to rate base treatment parameters originally provided for at that time.

As to the applicable ratemaking and fundamental equities of the instant situation, the I&E Main Brief repeatedly emphasizes that the Company’s 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. Those collections were adjusted on a number of occasions over the years – the classic earmark of a surcharge. Given the Company’s collection of the entire amount of the monies used to add the PennVest-financed plant to the

system, it is accurate to state that no Company monies were expended to finance any portion of the cost of the plant. I&E MB, p. 21.

And, it is important that the Commission be cognizant of the distinctly adverse precedential effect of allowing this Company maneuver to succeed. Such a claim is anathema to the concept of the establishment of fair, just and reasonable rates. Here, the Company seeks to have the Commission endorse the ability of a utility to institute an accelerated, repeatedly adjusted charge to fully recover the monies used to finance the plant through PennVest loan repayments and then allow that utility to turn around and collect additional revenues from ratepayers by placing that very same plant (at its depreciated value) in rate base.

Frankly put, were the Commission to allow such a meritless rate base claim to succeed here, it is more than likely that numerous other jurisdictional public utilities who had instituted an accelerated charge and collected monies from customers to repay their PennVest loan would attempt to follow suit and include such a claim in their next base rate filing. Under that unwelcomed scenario, those other utilities could cite to this case and insist that they too can now include the undepreciated value of their PennVest financed plant in their rate base and correspondingly collect “a return of and a return on” monies they did not supply.

I&E submits that such similar claims from other utilities, all seeking to further raise their rates by virtue of the allowable rate base treatment of their PennVest financed plant, is in no way appropriate or lawful. Rather, I&E asserts

that sound and just ratemaking principles necessitate that the Company's instant unwarranted and undeserving claim and its corresponding expense claim be completely excluded as a result of this proceeding. I&E MB, pp. 23-24.

And to be clear, this precise argument regarding the adverse consequences of granting this rate base claim was presented in the I&E Main Brief, where it states that a question that arises in general is the effect upon future rate proceedings that include a similar claim by other jurisdictional water or wastewater utilities (with past or even existing rates designed to collect PennVest loan repayments) seeking the same unwarranted and undeserved double dipping bonus proposed here by Columbia. I&E MB, pp. 23-24. As such, there can be no credible assertion from the Company that I&E is now making this argument for the first time in its Exceptions.

Also of significance, it appears that the ALJ was aware of such adverse precedential effect of his recommendation here as he conceivably attempted to limit its applicability, by stating (as cited earlier in these Exceptions), that "but for" the "unique regulatory history of this PennVest plant," he would have been "strongly inclined" to accept I&E's proposed adjustment. RD, p. 39.

However, it is unlikely that such a qualification here by the ALJ will be duly recognized by other utilities who become aware that Columbia Water sought and received both PennVest full-recovery surcharge methodology treatment and then also received rate base treatment for the exact same plant. Rather, those

utilities will see only the outcome of the proceeding, miss the nuance of the ALJ's qualification, and under those circumstances begin to seek comparable rate base treatment for their own PennVest financed plant.

As additional support for the straightforward conclusion that the Company cannot completely recover every dollar, plus interest on the PennVest loan that completely financed certain plant and then seek to have the undepreciated value of the plant included in rate base, the I&E Main Brief referenced the Commission's policy statement at 52 Pa. Code § 69.361, that states:

PENNVEST loans were established to provide funding to water and wastewater companies for improvements of drinking water and wastewater treatment facilities in this Commonwealth. The Commission is required to establish expedited practices, procedures and policies to facilitate and accomplish repayment of the loan obligations. See section 14 of the PENNVEST Act (35 P. S. § 751.14). Companies with outstanding PENNVEST loans not currently reflected in rates and companies that will receive PENNVEST loans in the future are encouraged to establish under 66 Pa.C.S. § 1307(a) (relating to sliding scale of rates; adjustments) and subject to Commission approval, an automatic adjustment by means of a sliding scale of rates limited solely to the recovery of PENNVEST principal and interest obligations, **instead of seeking recovery of these amounts under 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) base rate filing.**

[Emphasis Added] I&E MB, pp. 22-23. I&E St. No. 3, p. 4.

The development of this policy statement plainly illustrates that the Commission considered that a water or wastewater utility may choose to finance plant additions through *either* rate base inclusion *or* the use of a PennVest

surcharge on its customers, and certainly not both. I&E MB, pp. 22-23.

Respectfully, the Recommended Decision also fails to recognize the applicability of the Commission clear position on this issue.

In conclusion, and as explained in both the I&E Main and Reply Briefs, it bears repeating that the real circumstance here that “cannot be ignored” is that this utility provided no monies of its own whatsoever to the original cost of the PennVest financed plant that would entitle them to earn the requested “return of and a return on” its depreciated value in rate base. I&E Main Brief, pp. 18-28. I&E Reply Brief, pp. 5-21.

For the reasons stated herein and in the I&E Main and Reply Briefs, the Commission should not adopt the ALJ’s recommendation and rather should grant this I&E Exception in its Final Order resolving this present proceeding.

## **I&E EXCEPTION NO. 2**

### **The ALJ Erred By Not Recommending A Reduction To The Company’s Depreciation Expense Claim by \$115,913 To Reflect The I&E-Recommended Removal Of The PennVest Plant From Rate Base.**

I&E Main Brief, pp. 26-28, 32-33  
I&E Reply Brief, pp. 20, 22  
Recommended Decision, pp. 39-40

The ALJ erred in the Recommended Decision by not adopting the I&E recommendation to reduce the Company’s Depreciation Expense claim by an amount of \$115,913, a figure that was added by the Company to that expense item as a result of the Company’s efforts to have the PennVest Plant (the subject of the

previous I&E Exception) included in rate base. Specifically, the Recommended Decision provides that, “[T]o 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.” RD, pp. 39-40.

Due to the relationship of this Depreciation Expense claim to the issue of whether the related PennVest plant should be included in rate base as sought by the Company, the I&E Main Brief addressed the issue as a separate subsection in both the RATE BASE and EXPENSES sections. I&E MB pp. 26-28 and 32-33. As noted in the I&E Main Brief, this adjustment has the established dollar-for-dollar revenue-effect characteristic of any expense adjustment.<sup>6</sup> I&E MB, p. 27.

As asserted in the I&E Main Brief, while the Company opposes the I&E recommendation to remove the undepreciated value of the PennVest-financed plant from their rate base claim, it is undisputed that Commission adoption of the I&E position requires the application of the corresponding I&E recommended

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<sup>6</sup> As explained in the I&E Main Brief, “Annual depreciation expense” is the loss of value of an asset over its useful life. In this proceeding, the Company’s annual depreciation expense claim is \$739,260, determined by taking the original cost annual depreciation of \$984,321 less the annual depreciation expense associated with CIAC of \$245,061. I&E St. No. 3, p. 12; Columbia Ex. No. 1, pp. 1-3. On pages 2-10 of their initial filing, the Company provided a breakdown of the \$984,321 original cost annual depreciation expense as of December 31, 2013, and a breakdown of the annual depreciation expense associated with CIAC. The Company used straight line/average service life method using the average service life methodology. I&E St. No. 3, pp. 12-13; Columbia Ex. No. 1, pp. 1-3. I&E MB, p. 27.

amount of \$115,913 to reduce the Company's overall annual Depreciation Expense claim. I&E MB, p. 28. As restated in the I&E Reply Brief, this expense issue rises or falls according to the resolution of the issue of the Company's attempt to claim the depreciated value of PennVest plant as part of its rate base. I&E RB, p. 22.

For the foregoing reason identified here and in the I&E Main and Reply Briefs, and consistent with the I&E recommendation that the Commission remove the PennVest plant from the rate base claim, the Commission should grant this I&E Exception and allow a level of expense in the amount of \$623,347, a reduction of \$115,913 (\$739,260- \$115,913), to the Company's annual depreciation expense claim.

### **I&E EXCEPTION NO. 3**

**The ALJ Erred By Not Recommending That The Commission Adopt the I&E Recommended Reduction of \$5,512 to the Company's Updated Expense Claim of \$66,144 for Officers, Directors & Majority Stockholders Salaries.**

I&E Main Brief, pp. 33-35  
I&E Reply Brief, p. 22  
Recommended Decision, pp. 18 & 41-42

In the Recommended Decision, the ALJ erroneously failed to adopt the I&E recommendation that the Company's updated expense claim of \$66,144 for Officers, Directors, & Majority Stockholders Salaries be reduced by \$5,512 as a

result of the I&E-recommended allocation of 12% of the original claim to the Marietta Gravity Division.<sup>7</sup> RD, pp. 41-42. I&E MB, pp. 33-35. I&E RB, p. 22.

In reference to the fact that the officers, directors and majority stockholders are the same for the Marietta Gravity Division, the ALJ states at page 41 of the Recommended Decision that, “[T]he 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.” RD, p. 41.

In response, I&E respectfully submits that, while the ALJ does *acknowledge the rational basis for the I&E recommendation, his characterization of I&E’s selection of the 12% allocation factor as hypothetical is not sustainable.* Rather, the I&E Main Brief makes clear that no formal study of the time spent by the officers, directors and majority stockholders between the Marietta Division and Columbia Water issues. To determine the appropriate basis to make an allocation that was indeed necessary, I&E Witness Wilson computed the total number of customers in both divisions and referenced that 12% of that total number of customers were in the Marietta Division. I&E MB, pp. 34-35. I&E

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<sup>7</sup> To understand the I&E updated adjustment, in the amount of \$5,512, it is necessary to first understand the Company’s “update” to this expense claim during the proceeding. The Company original claim was \$68,900, and applying the I&E 12% allocation reduced the claim to \$60,632. During the proceeding, the Company did allocate 4% of the claim to the Marietta Division, reducing their claim to \$66,144. As such, the I&E recommended expense claim amount, that remained unchanged, was applied to the now-lower Company claim of \$66,144 to provide for an I&E reduction of the \$5,512 (\$66,144 - \$60,632). I&E MB, pp. 33-35. I&E RB, p. 23. I&E Stmt. No. 2-SR, pp. 4-6.

St. 2, pp. 7-8. To further support that percentage as a legitimate basis for the recommended 12% allocation, I&E Witness Wilson also calculated the January 1, 2013, through May 31, 2013, total percentage of wages attributable to the Marietta Division that was provided by the Company in a confidential response to OCA interrogatory OCA-I-20. I&E MB, pp. 34-35. While not disclosing any confidential details, she identified that the referenced response revealed that the Company has allocated 13% of total wages to the Marietta Division. Again, respectfully, that percentage figure is not hypothetical, nor is its use to confirm the legitimacy of reflecting a nexus between the Company's own allocation of 13% of wages to the Marietta Division and the comparable percentage of 12% for the number of Marietta customer compared to the two-division customer total. As such, I&E submits that it is reasonable and appropriate to adjust the expense claim ~ and to use a 12% allocation factor (until an actual year's worth of hourly data becomes available). I&E MB, pp. 34-35.

In addressing this issue, the Recommended Decision contains an observation that merits response here. At pages 41 and 42, the ALJ states, "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." RD, pp. 41-42.

In response, it should be make clear that I&E has not proposed to either reduce the salaries of the involved officers, directors and majority stockholders or to suggest that all water utilities are similar in structure or operation. Nor is I&E attempting to ignore the obvious fact that each salaried individual brings her or his unique qualities to their assigned duties. In contrast, the sole basis of the I&E adjustment is to incorporate the sound ratemaking principle that the customers of one entity should not be required to pay for services provided to another entity. As such, if and when the Marietta Division elects to file for a base rate case, the 12% allocation made by I&E here can be properly assessed upon those customers receiving those benefits of the shared duties of the combined officers, directors and majority stockholders. And it is again worth noting that, while the initial Company filing made no allocation to the Marietta Division, they did make a minor allocation in their rebuttal testimony. As such, the ALJ's observations cited above are not applicable to the reason, rationale or effect of the I&E recommendation regarding this salary expense claim. For the reasons stated herein and in the I&E Main and Reply Briefs, the Commission should not adopt the ALJ's recommendation and rather should grant this I&E Exception in its Final Order resolving this present proceeding.

**D. CONCLUSION**

For the reasons set forth herein, the Bureau of Investigation and Enforcement respectfully requests the Pennsylvania Public Utility Commission to grant each of these three (3) I&E Exceptions to the Recommended Decision and incorporate the results, along with the I&E positions already adopted by the Administrative Law Judge in his Recommended Decision, in its final Order concluding this fully litigated base rate case proceeding.

Respectfully submitted,



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Dated: December 6, 2013

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**SECRETARY'S BUREAU**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2013-2360798  
The Columbia Water Company :

**CERTIFICATE OF SERVICE**

I hereby certify that I am or will serve the foregoing **Exceptions** on December 6, 2013, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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Charles Daniel Shields  
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