**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| PA Public Utility Commission  Office of Consumer Advocate  Guillermo Barbosa  Erle Grubb  Yvette Lawson  Adrian and Diane Martenco  John Litak  v.  Community Utilities of Pennsylvania, Inc. – Water Division | :  :  :  :  :  :  : | R-2016-2538660  C-2016-2540738  C-2016-2548235  C-2016-2548262  C-2016-2549382  C-2016-2549995  C-2016-2556961 |
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**RECOMMENDED DECISION**

Before

Eranda Vero

Administrative Law Judge

I. HISTORY OF THE PROCEEDINGS

This Recommended Decision recommends the Commission approve the Joint Petition for Full Settlement filed on September 13, 2016 which will increase rates to produce $345,000 in additional annual operating revenues, or 32.22% increase, over present rates, because it is in the public interest.

On April 6, 2016, Community Utilities of Pennsylvania, Inc. – Water Division (CUPA or the Company), filed Supplement No. 1 to Tariff Water - Pa. P.U.C. No. 1 to become effective June 5, 2016, containing proposed changes in rates, rules, and regulations calculated to produce $427,817 (39.96%) in additional annual revenues from customers based on a historic test year ending December 31, 2015, and a future test year ending December 31, 2016.

By Order entered May 5, 2016, and pursuant to 66 Pa. C.S. § 1308(d), Supplement No. 1 to Tariff Water - Pa. P.U.C. No. 1 was suspended by operation of law until January 5, 2017, unless permitted by Commission Order to become effective at an earlier date.[[1]](#footnote-1)

By the same Order entered May 5, 2016, the Commission instituted an investigation into the lawfulness, justness and reasonableness of the proposed rate increases in the tariff filing. This investigation also included consideration of the lawfulness, justness, and reasonableness of the Respondent’s existing rates, rules, and regulations.

The case was assigned to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, or the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

There were six formal Complaints filed against the proposed rate increase. On April 19, 2016, the Office of Consumer Advocate (OCA) filed a Formal Complaint at Docket No. C-2016-2540738, a Public Statement and a Notice of Appearance for Christine Maloni Hoover, Esq., and Kristine E. Marsilio, Esq. Also on April 19, 2016, Phillip C. Kirchner, Esq., filed a Notice of Appearance as counsel for the Bureau of Investigation and Enforcement (I&E).

On May 23, 2016, Guillermo Barbosa filed a Formal Complaint at Docket No. C-2016-2548235 opposing the proposed rate increase. On May 26, 2016, Erle Grubb filed a Formal Complaint at Docket No. C-2016-2548262 opposing the proposed rate increase. On May 27, 2016, Yvette Lawson filed a Formal Complaint at Docket No. C-2016-2549382 opposing the proposed rate increase. On June 6, 2016, Adrian and Diane Martenco filed a Formal Complaint at Docket No. C-2016-2549995 opposing the proposed rate increase. On July 14, 2016, John Litak filed a Formal Complaint at Docket No. C-2016-2556961 opposing the proposed rate increase.

By Notice dated May 25, 2016, the Commission informed the parties that a telephonic prehearing conference was scheduled in this matter for Wednesday, June 8, 2016, at 2:00 p.m. to discuss, among other things, procedural matters. By Prehearing Conference Order dated May 26, 2016, the undersigned Administrative Law Judge (ALJ) directed the parties to submit prehearing memoranda, to prepare to discuss procedural issues, to take affirmative steps if the status of an active participant was desired, and to develop a procedural schedule for this proceeding.

The prehearing conference was held as scheduled on June 8, 2016. Present through counsel were CUPA, I&E, and OCA. Public input hearings were discussed and a schedule was set for hearings and formal testimony by the parties. The schedule included two in-person public input sessions to be held on July 8, 2016 – one at Penn Estates Community Center, in East Stroudsburg, PA 18301, at 1:00 p.m., and another at the Hanover Township Community Center, in Bethlehem, PA 18017, at 6:00 p.m.

Pursuant to the litigation schedule, on June 16, 2016, the Company served the direct testimony of witnesses Steven M. Lubertozzi (CUPA Statement No. 1), Chuck Madison (CUPA Statement No. 2), and Brian Halloran (CUPA Statement No. 3) with supporting exhibits.

The actions taken at the prehearing conference were memorialized in a Prehearing Order dated June 15, 2016.

Adrian Martenco was the only *pro se* Complainant who elected to be an active participant in this case pursuant to the Prehearing Conference Order dated June 15, 2016.

On July 19, 2016, counsel for CUPA informed me that the Company, I&E and OCA were working towards the resolution of all issues in this matter and requested that all deadlines for submission of testimony be moved back by one day. I notified the active parties via e-mail that I would grant the request.

On July 21, 2016, the Company, I&E and OCA requested via e-mail that all deadlines for submission of testimony be moved back an additional two days. I notified the active parties via e-mail that I would grant the request.

On July 22, 2016, the Company, I&E and OCA informed me that they had reached an agreement in principle settling all the issues in this proceeding and requesting that I suspend the litigation schedule.

By Order dated August 18, 2016, I suspended the litigation schedule in this proceeding and cancelled the evidentiary hearings scheduled for August 23-24, 2016.

On September 13, 2016, a Joint Petition for Full Settlement of Rate Proceeding was filed and served. Signatories to the Joint Petition for Full Settlement of Rate Proceeding include CUPA, OCA and I&E (collectively, Settling Parties or Joint Petitioners). Each of the Settling Parties provided a Statement in Support appended to the Joint Petition for Full Settlement of Rate Proceeding.

On September 13, 2016, the Settling Parties filed a Joint Stipulation for Admission of Evidence. The Settling Parties stipulated to the authenticity and admission of CUPA’s rate filing and direct testimony of Steven M. Lubertozzi (CUPA Statement No. 1), Chuck Madison (CUPA Statement No. 2), and Brian Halloran (CUPA Statement No. 3) with supporting exhibits, into the evidentiary record in this matter for the purpose of providing the record with historical data.

Also on September 13, 2016, OCA served a copy of the Joint Petition and attachments on the *pro se* Complainants, along with a letter instructing the Complainants to review the Joint Petition and indicate to the ALJ in writing by September 27, 2016, whether they choose to join in the Joint Petition, oppose the Joint Petition, or not oppose the Joint Petition. Enclosed was a signature page that the *pro se* Complainants could sign and return to the ALJ if they wished to join the Joint Petition.

By letter dated September 21, 2016, Adrian Martenco informed me that he disagreed with the Joint Petition for Settlement but would not actively oppose it. The remaining *pro se* Complainants did not take any action with regard to the Joint Petition for Settlement.

On October 4, 2016, I issued a Protective Order related to proprietary information involved in the proceeding.

The record closed on October 4, 2016. This matter is now ripe for recommendation.

II. PUBLIC INPUT HEARING

* 1. East Stroudsburg, PA

The public input hearing in East Stroudsburg, Pennsylvania, convened as scheduled on July 8, 2016, at 1:22 p.m. at the Penn Estates Community Center. Twenty-three people testified under oath and opposed the proposed rate increase as unjust and unreasonable.

Michael Sak testified that the water quality in Penn Estates is poor. He stated that there is sediment in his water which forces him to change his water filters every 30 days rather than every 90 days. Tr. 59 and 61. He also registered his dissatisfaction with the water pressure he receives from the Company asserting he can barely turn on a faucet and that the situation is even worse on the second level of his home. According to Mr. Sak, the Company blames the low water pressure on the location of his house and has offered him no real solutions or hope for any improvement on the current situation. Tr. 59. Finally, Mr. Sak objected to the rate increase stating that the Company should look into trimming costs before increasing rates to increase its profits. *Id*.

In his testimony, Sean Reilly first noted that it had been difficult for him to obtain a copy of the rate increase filing. He stated that he had to read the document at the sewage plant and was not allowed to make a copy or take photographs nor was the document available electronically. He also stated that the docket number was not included on the notice of the filing. Tr. 63-64. Mr. Reilly next objected to the rate increase and opposed the rates of Westgate and Penn Estates being blended in a manner that would give Penn Estates a larger increase. Tr. 65-66.

Kiran Chaturvedi agreed with Mr. Sak that the water pressure is low and that the water quality is poor. He explained that he cannot drink the water because it bothers his stomach and contains sediment which makes it difficult to bathe with as it needs to be softened. Tr. 71-72.

In his testimony, Richard Kane objected to the prior sale of Penn Estates water system. Tr. 74-75. He further stated that he suspected that his meter is not measuring usage correctly. Tr. 107.

In her testimony, Judith Boyskey asserted that she didn’t understand why she was paying so much for water when there were no system improvements undertaken by the Company. She testified that the water contained sediment, was yellow in color, and smelled bad. She further testified that she could not drink the water and that she didn’t have any water pressure. Tr. 83.

Chenita Thompson-Brooks testified that she had to replace her water heater twice in seventeen years due to the water’s hardness. She next objected to the proposed rate increase as astronomical and urged the Company to look into other alternatives before going ahead with the proposed increase. Tr. 87-88.

Erle Grubb opined that water is a natural resource and the community has a right to obtain safe and affordable water. He explained that in the year 2000, the community had seen an increase in rates of 33% and recently a merger had taken place. Tr. 91. He asked that the Commission regulate the rates so that their essential rights to be able to access safe and affordable water could be guaranteed and maintained. Tr. 92-93.

Guillermo Barbosa objected to the rate increase in his testimony. He testified that he and his wife live on a fixed income and the increase would be a hardship for them. He felt it was unfair that the Company would use the increase to modernize their own equipment at the cost of their customers. He further explained that the community had eight different wells and some wells provide better water than others. Tr. 95-96.

Tonia Braniuk testified that her water pressure had decreased over the 10 years she had lived in the community. She also stated that the taste of the water is poor and she must filter it to be able to drink it. She objected to the rate increase averring that there was no improvement in water service after the last increase and the quality has only been going down. She further noted that it was difficult to afford a 40% rate increase for families who only experience a 1-3% pay increase. Tr. 99.

Wayne Ranne testified that he has lived in the area for twelve years and has been through three hot water heaters during that time. He also averred that the person who reads his meter does not get close enough to the meter to read it and he has had to call the Company four or five times get the right reading. Tr. 103-04. Finally, Mr. Ranne testified that the water quality is poor and that he cannot drink the water because it tastes bad. Tr. 104.

In his testimony, Ronald Gatti stated that he wanted quality water, quality sewage treatment, and good service and is willing to pay reasonable rates for it. However, he expressed concern that the changing corporate structure was to provide a higher rate base to seek greater returns and questioned what the rate hike was based on. Tr. 108-09. Mr. Gatti echoed previous testimony that he could not see the filing on the Commission’s website because the case number was not given to customers in the notice of the rate increase. He had to go to the sewage plant in order to see the filing. He further testified that he had initially received a notice from the Company informing customers that the requested rate increase was for a 30% increase. However, he found that the proposed increase for Penn Estates’ residents was not 30% but 48%. He pointed this out to a Company representative and not too long thereafter, a new notice was sent out indicating the requested rate increase was 48%. Tr. 109.

Mr. Gatti further testified to his understanding that two companies are being blended together and Penn Estates is being charged for proposed changes in Bethlehem. He noted that the Company’s notice says that the current rates are based on figures from 2011 and since that time, there has been a 13% increase in costs. He questioned why a 48% increase in rates was needed when there had only been only a 13% increase in costs and questioned the reliability of the information being provided to customers. Tr. 109-10.

Robin Nicholson in her testimony questioned the accuracy of all the documents that the CUPA has submitted in light of the fact that she received two notices with different proposed rate increases. She testified that she already pays a substantial amount for water and sewer; $70 a month for her household of two. She averred that a 48% increase in rates was ludicrous and beyond what anyone in the community could afford or sustain. She questioned the Company’s rationale for the increase finding it to be extremely confusing and weak. Tr. 113-15.

Next, Ms. Nicholson testified that she had to use bottled water because of the taste of the water and the sediment she found in it. She averred that she had purchased a water heater only last year and this year had to replace the water pressure valve because of sediment. She closed by noting that she felt gouged by the water company and powerless because there was no other choice. Tr. 114-5.

Karen Tomkins testified first regarding the water quality and explained that she had lived in Penn Estates for 20 years and had had to replace several hot water heaters but could not continue to do so in the future. She testified also that the water eats through copper piping and destroyed the water filtration system in her refrigerator as well as the trap in the kitchen sink. She agreed with Mr. Sak that the Company needs to be more efficient in trimming costs and waste. Tr. 118-19.

Raymond Mazzie testified that his water was the best he drank in his life and that he has excellent water pressure. However, he expressed that he was aware that other residents suffered from horrible water and low pressure and that he was concerned that in case of a fire, there wouldn’t be enough pressure to put the fire out. Tr. 122-23. Mr. Mazzie also opposed the rate increase noting that many people in the area live on fixed incomes. Tr. 124.

In her testimony, Lorraine Mazzie stated that she currently pays $100 a month for her water and if the increase were granted, she would be paying $147 a month. She also noted that she had an unimproved lot for ten years and had to pay $144 a quarter for water and sewer even though she didn’t use it. She objected to the rate increase. Tr. 128.

Jennifer Nicholson testified that although her house has a filtration system, she often has to bypass it due to the expense of having to change the filters frequently. She testified that her water has an unpleasant odor and taste. She stated that the possibility of a 48% increase was alarming and she questioned the Company’s business practices if there was a need for a significant increase all at once. Ms. Nicholson further questioned the accuracy and validity of the Company’s documents as well as the evidence supporting the rate increase. Tr. 131-32.

Roberta Ogelsby-Deas testified that she had lived in Penn Estates for almost twenty years and had watched the price for water and sewage go up dramatically. She testified that her monthly bill five years ago was approximately $34 a month and now it is $75 a month. Tr. 134, 136. She objected to the rate increase stating that it was burdensome and not justified and that Penn Estates was now bearing the weight of other communities. Tr. 136-37. Ms. Oglesby also averred that her water pressure had dropped and that she had once been charged for water for her neighbor’s pool and experienced difficulty in having the issue resolved with the Company. Tr. 134-35. Additionally, she noted that there was charge for paying her bill online and objected to this practice. Tr. 135-36.

David Montalvo also protested the rate increase in his testimony. He expressed frustration that he couldn’t control his water bill by using less water because usage is such a small portion of his bill. He clarified that it didn’t matter if he used 8,000 gallons of water or 3,000 gallons, he still had to pay a minimum of $50 a month for water treatment; lowering his consumption would not lower his bill by much. He stated that he should only pay to treat the amount of water he actually used. Tr. 142-43. Mr. Montalvo also testified that there were noticeable issues with his water pressure. Tr. 144.

In his testimony, Luna Mishoe averred that the trend has been that one year the Company will request a rate increase for water and then the next year for sewer and it goes back and forth every year or every other year. He noted that many of the homeowners in the community are struggling financially with many of them retired and others commuting to New York for work. Tr. 146-47. He testified that the Company’s figures for operating expenses were not a just indication of the need for a rate increase and stated that although he did not know what the increase would be used for, it was way out range for CUPA’s Penn Estates customers. He asked that a reasonable rate increase be tied to the average salary or social security increase for the area and that the rates remain stable for the next five year period and no more than one increase for the following five year period. Tr. 148-49.

Gary Campbell testified that the sediment in his water caused him to have his water heater replaced and that the water is not fit even for making coffee. He indicated that if he was going to be getting a rate increase, he wanted his water quality to improve. Tr. 151.

In her testimony, Gail Payne emphasized that the water does not taste good, that she cannot drink it all, and that it tastes bitter. Tr. 153. She also objected to the rate increase stating that 48% was extreme and it was price gouging. Tr. 154.

Gregory Harvey objected to the rate increase asserting that he could not find justification for it. He explained that the community is established and feeds off existing wells. No new wells are being dug, clarifiers were not being used, there is no filtration system, and the Company is not paying much for chemical expenses. He also testified that although the customers paid a flat fee for sewer, sewage from other places was being brought in and processed through Penn Estates’ sewage system and the Company was paid a fee for that as well. He ended by saying that he has lived in three other states and this is the highest rate he has ever paid. Tr. 156-157.

In her testimony, Bettyanne Nevil averred that she had had trouble filing a complaint in this case because it is not clear which company owns her water system. She testified that she did not receive notices of the proposed rate increase. She also expressed frustration that she could not get the rate case documents online and had to go to the sewer office to see them. Tr. 160-63.

* 1. Bethlehem, PA

The public input hearing in Bethlehem, Pennsylvania, convened as scheduled on July 8, 2016, at 6:04 p.m. at the Hanover Township Community Center. Fifteen people testified under oath and opposed the proposed rate increase as unjust and unreasonable.

Senator Mario Scavello asked the Commission to consider the impact of the rate increase on the residents of Westgate service territory noting that many in the community lived on fixed incomes. He testified that for Pennsylvania homes using 60,000 gallons of water the average annual water bill is $382. For the nearby residents served by the Bethlehem Water Authority, the average annual water bill is $355, slightly less than the state average. However, CUPA’s customers currently pay $520 annually for 60,000 gallons of water. He further noted that a 22% rate increase would result in customers paying approximately $633 annually. Tr. 184.

Senator Scavello asserted that while the Company argues that the future test year projections will result in a $206,000 deficit by the end of 2017, it is proposing to increase the costs to consumers which would result in a $174,000 surplus. He noted the hardship a rate increase would have on residents and asked that the Commission decline the proposed increase. Tr. 185.

Vivian LeVan testified that her water is already very expensive and that she was disappointed to find out that her water was coming from the city of Bethlehem and was not the quality spring water that she got years ago. Tr. 188. She further testified that on several occasions her water has had a brown color and a stench to it. She stated she is not satisfied with her water service and that she hoped for a lower rate. Tr. 189-91.

Thomas Pillitteri indicated that he objected to a rate increase and testified that it seemed the utility was being inefficient in its cost structure and running its business at a very high cost level. He clarified that a 22% increase equated to a 4% increase per year which was higher than the inflations rate. He suggested that the utility should only increase its rates in line with inflation. Tr. 193-94.

In his testimony, Jyotin Sachdev expressed disapproval of the utilities’ practice of requesting very high rate increases just so that they can be approved for lower increases. He believed this to be a marketing ploy and an insult to the customers. Tr. 198. In addition, Mr. Sachdev questioned whether the Company’s meters have been calibrated by the State Department of Weights and Measures and stated that his consumption does not seem to be measured with precision and accuracy. Tr. 199-198.

Ron Madison testified that he was an engineer and had 28 years of experience in civil and environmental engineering working with water systems. He objected to the rate increase and testified that CUPA’s customers had received a 39% increase in rates in 2007 despite the utility company incurring fewer costs as it now buys the water from the City of Bethlehem. In 2010, CUPA’s customers had received another 12.7% increase in rates, with a third increase in 2013 when the City of Bethlehem increased its rates. He averred that if the requested rate went into effect, CUPA’s customers would pay double what Bethlehem customer’s pay for the same water. Tr. 204-07.

Mr. Madison further testified that CUPA’s system improvements have been minimal and he is still looking for the improvements that should have been funded by the past rate increases. He asked that the Commission not approve any rate or customer charge increase. He averred that the Company’s operational costs have decreased and that although the system needs improvements, they have not been made. He questioned why a rate increase is needed if there are no operational cost increases and no capital improvements. Tr. 208, 210-11.

Vincent Horvath and Robert Emberger opposed any rate increase. They testified that it did not make sense to consolidate the rates of the Westgate system with the Penn Estates system as they are two very different systems. They stated that the proposed rate increase was unrealistic and asked that the Commission consider the cost structure of each water system separately. Tr. 214-18, 271-72.

In his testimony, Paul Scheltzer protested the rate increase averring that the customers had received an increase in 2007 of 39% and another increase in 2010. Tr. 220.

Peter Angelou opposed the rate increase noting that many of the residents were retired and lived on a fixed income. He also objected to the amount of the increase and testified that he had previously been president of a water corporation for Middle Smithville Township and the bills were a third of what the customers of CUPA currently pay. He further testified that he had experienced a strong smell of chlorine in his water. Tr. 224-25.

Richard Levan testified that he had been a resident of the community since 1984 and had initially been very satisfied with the water quality. However, starting about 20 years ago, he has received intermittent smelly and cloudy water. He also indicated that his bill was higher than the bills of the residents of surrounding areas and stated he was against the rate hike. Tr. 228-29.

Ann McEnery expressed strong opposition to the proposed rate increase of 22%. She noted that this was 7% higher than what was stated as the proposed increase by CUPA in its notice of proposed rate changes sent to its customers. She testified that she and her husband live in the Bridle Path community which is an active adult community of 350 residents and that she, and many other Bridle Path residents, lives on a fixed income. Tr. 232. She averred that her community had already seen an increase in water adjustment charges of 150% in 2015, and that a 22% increase was substantial. Tr. 233, 235. She requested that the Company be required to make its financial statements publicly available. Tr. 236.

Dominick Coppola also opposed the rate increase stating that he already pays bills which are 46% higher than those of neighboring communities. Tr. 251. He averred he had received a notice that the Company was requesting a 15.5% increase but in fact, it was requesting a 22% increase. Tr. 253. He questioned what infrastructure improvements CUPA had undertaken and at what cost, and how this impacts the current and proposed rates. Tr. 256. Mr. Coppola also averred that a rate increase would cause a significant burden to the Bridle Path community residents. Tr. 257.

David Gonsiorowski expressed in his testimony that he believed the expenses stated by the Company in its rate filing were overstated and questioned the application of reserves for capital improvements over time as well as of the need for additional capital at this time. Tr. 265-66.

In her testimony, Jane Mackie objected to the rate increase and stated that the Company needed to be more transparent. Additionally, she agreed with previous testimony that usage measurement needed to be more accurate. Tr. 268.

Michael Balsama also objected to the lack of transparency regarding the Company’s financial condition in his testimony. He suggested that if the Company could not survive on the current rates, then the City of Bethlehem should purchase the water system. Tr. 270.

III. JOINT STIPULATION FOR ADMISSION OF EVIDENCE

On September 13, 2016, a Joint Stipulation for Admission of Evidence (Stipulation) was filed by the Settling Parties. Each of the Settling Parties stipulated to the authenticity of CUPA’s rate filing and direct testimony, and requested their admission, in their entirety, into the evidentiary record in this matter, for the purpose of providing the record with historical data. The Stipulation is attached to this Recommended Decision. This request is reasonable and will be granted in the ordering paragraphs below.

IV. TERMS AND CONDITIONS OF THE SETTLEMENT PETITION

The principal terms and conditions of the proposed Settlement, contained in Paragraphs 14-21, Section II of the Petition, are as follow:

14. The Settlement consists of the following terms and conditions:

(a) Upon the Commission’s approval of this Settlement, but no earlier than January 5, 2017, the Company will be permitted to charge the rates for water service set forth in the proposed Tariff Supplement attached hereto as **Appendix A** (“Settlement Rates”), to become effective upon one day’s notice. Instead of the $427,817 (39.96%) increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of $345,000 (32.22%) as shown in greater detail on the Proof of Revenues attached hereto as **Appendix B**.

(b) The Company agrees to a consolidated customer charge for Westgate and Penn Estates for a standard 5/8” meter to be $17.25 per month (down from the proposed rate of $22.32 per month). Following are the consolidated customer charge rates for all meter sizes:

Meter Size Base Charge

5/8” $17.25

1” $43.13

1.5” $86.25

2” $138.00

Unmetered - Public Fire protection $28.13

Unmetered – Other Availability (billed quarterly) $18.81

(c) The volumetric rate for all meter sizes per 1,000 gal. per month is as follows:

Penn Estates $6.26

Westgate $7.27

(d) Upon approval and implementation of the rates set forth in **Appendix A**, the Company will not file for another general rate increase for its Pennsylvania water territories (Penn Estates and Westgate) under Section 1308(d) of the Public Utility Code, 66 Pa. C.S. §101 *et seq*., prior to January 6, 2018. However, if a legislative body, the judiciary, or an administrative agency, including the Commission, enacts or orders any fundamental changes in policy or statutes that directly and substantially affect the Company’s cost of service, the Settlement shall not prevent the Company from filing a tariff or tariff supplement to the extent necessitated by such action. In addition, this provision shall not preclude the Company from seeking extraordinary rate relief under Section 1308(e) of the Public Utility Code, 66 Pa, C.S. § 1308(e).

(e) The Company will provide to OCA and I&E periodic reports and confirmation of capital projects as set forth in its testimony. The Company reserves the right to substitute or add other projects if necessary and warranted in the Company’s reasonable judgment.

(f) The Company will provide a hard copy of future general rate case filings to a designee of the Penn Estates Property Owners Association at the time of filing.

(g) This Settlement represents a step that moves toward consolidation of rates between the existing rates divisions. The Parties specifically agree that rates can be consolidated over time, and that rates are moved toward consolidation in this case. The Company may seek the remaining movement towards consolidation of rates in any subsequent rate case; however, I&E and OCA reserve the right to challenge any such proposed rates.

(h) The purchase water adjustment charge will continue to apply only to Westgate customers for purposes of rates set in this case. The baseline items determined in the Company’s most recent PWAC calculation and used in this proceeding are:

(61,358,245 gallons X $3.969/gallon) + ($16,307.00 fixed charges) = $259,837.88

(i) I&E and OCA agree not to oppose the concept of a consolidated DSIC if and when the Company seeks one. I&E and OCA do not waive any other objections or positions they may take in any future DSIC filings, or related filings, including whether the Company has met the requirements to establish a DSIC of any type. The Company agrees that it will not seek a waiver of the 5% cap on the DSIC for the first three years of a DSIC if the Company receives approval for a DSIC before December 31, 2019. The Company retains the discretion to decide whether to seek a DSIC and the above shall not be construed as mandating a DSIC filing.

(j) During the public input hearing held in Penn Estates on July 8, 2016, several CUPA customers alleged water quality, odor and/or pressure issues. The Company will investigate and provide a report to OCA and I&E on these issues by October 31, 2016.

**Additional Settlement Terms**

15. The Commission’s approval of the Settlement shall not be construed as approval of any Joint Petitioner’s position on any issue but rather as an agreed-to compromise of the Joint Petitioners’ competing positions. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement any term specifically agreed to by the Joint Petitioners or to enforce this Settlement.

16. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

17. This Settlement is conditioned upon the Commission’s approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and give and take of positions. As a result of that consideration, the Joint Petitioners believe that the settlement agreement meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission’s Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

18. All Joint Petitioners shall support the Settlement and make reasonable and good faith efforts to obtain approval of the Settlement by the ALJ and the Commission without modification. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

19. The Joint Petitioners recognize that this Joint Petition is a settlement of, and binding upon, only among the parties signing this document. The OCA represents it will, on the date of the signing of this settlement petition, send a letter providing instructions concerning the Complainant’s opportunity to address the proposed Settlement. OCA also represents that the letter will explain that the Complainant has until September 27, 2016 to join, disagree but not actively oppose, or object to the proposed settlement and provides contact information for ALJ Vero and the OCA.

20. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint Petitioners and such counterparts shall be considered as one document.

21. The Joint Petitioners agree and request that if the Settlement is approved, the OCA’s Formal Complaint in this matter should be marked satisfied and closed due to the Settlement.

V. DISCUSSION

A. Applicable Legal Standard

The purpose of this investigation is to establish rates for Community Utilities’ customers which are “just and reasonable” pursuant to Section 1301 of the Public Utility Code, 66 Pa.C.S.A. § 1301.

A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pennsylvania Gas and Water Co. v. Pennsylvania Pub. Util. Comm’n*, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia,* 262 U.S. 679 (1923) and *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield* the United States Supreme Court stated:

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

*Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia*, 262 U.S. 679, 692-3 (1923).

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

Commission policy promotes settlements, 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yields significant expense savings for the company’s customers. That is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165, (Commission Opinion and Order entered October 4, 2004); *Pa. Pub. Util. Comm’n v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991).

This recommendation is prepared for the Commission to act in accordance with Section 1308(d) of the Public Utility Code, which states in pertinent part,

Whenever there is filed with the commission by any public utility … any tariff stating a new rate which constitutes a general rate increase, the commission shall promptly enter into an investigation and analysis of said tariff filing and may by order setting forth its reasons therefore, upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and the commission may, at any time by vote of a majority of members of the commission serving in accordance with law, permit such tariff to become effective, except that absent such order such tariff shall be suspended for a period not to exceed seven months from the time such rate would otherwise become effective. Before the expiration of such seven-month period, a majority of members of the commission serving in accordance with law, acting unanimously, shall make a final decision and order, setting forth its reasons therefore, granting or denying, in whole or in part, the general rate increase requested.

66 Pa.C.S.A. § 1308(d).

Pursuant to Section 315(a),

**§ 315. Burden of proof**

1. **Reasonableness of rates.—**In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

66 Pa.C.S.A. § 315(a). Consequently in this proceeding, CUPA has the burden to prove that the rate increase it has proposed through the Settlement is just and reasonable. Furthermore, the Settling Parties have reached an accord on the issues and claims that arose in this proceeding and submitted a Joint Petition for Settlement for Commission review. In reviewing the Settlement, the question which must be answered is whether the Settlement is in the public interest. The Settling Parties have the burden to prove that the Settlement is in the public interest.

CUPA is a Pennsylvania corporation and is a wholly-owned subsidiary of Utilities, Inc. (UI). UI owns approximately 50 water and sewer utilities operating in 15 states, including CUPA. See CUPA Statement No. 1, at 3. CUPA was incorporated in 2015 for implementation of the merger into a single entity of the three separate wholly-owned Pennsylvania subsidiaries of UI that provided water and sewer services in Pennsylvania. The merger application was approved by the Commission’s December 3, 2015 Order at Docket No. A-2015-2504889 *et al.* The water subsidiaries that are the subject of this rate increase proceeding are Penn Estates and Westgate.

Penn Estates is a residential subdivision located in Monroe County Pennsylvania. As of May 2016, there were approximately 1,727 residential connections served by the water company and approximately 58 available connections. Water is supplied by seven deep wells drilled in three aquifers. The distribution system consists of approximately 158,400 feet of 6-inch and 8-inch PVC water mains. All service connections are metered. See CUPA Statement No. 2 at 2-3.

CUPA’s service territory known as Westgate covers portions of Hanover Township in Northampton County. The water supply source for the Westgate system is from the City of Bethlehem. Water flows through two bulk water interconnects equipped with compound meters and backflow prevention devices. The water distribution system consists of 69,000 feet of water main. There are approximately 962 customer connections. See CUPA Statement No. 2 at 7.

B. Analysis

The Joint Petitioners submit that the Settlement is in the public interest because it provides for an annual operating revenues increase of $345,000 or 32.22%, in lieu of the originally requested $427,817 or 39.96% increase. In addition, the monthly customer charge for a standard residential customer 5/8” meter is $17.25 as compared to the filed rate request of $22.32. Settlement at 9-10, ¶¶ 6-7. According to Joint Petitioners, the Settlement achieves a reasonable and beneficial result while curtailing the costs of litigation in avoiding evidentiary hearings, briefing, further time by the Commission and the parties. The Joint Petitioners arrived at the Settlement terms after extensive review of discovery by the statutory advocates, a tour of CUPA’s facilities, and engaging in in-depth discussions. They state that the Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. The Settling Parties advocate that the proposed Settlement is just, reasonable, in the public interest and should be approved without modification.

The individual parties that make up the Joint Petitioners offer further arguments of why the Settlement is in the public interest in their statements of support attached to the Joint Petition. These reasons are provided in the analysis below.

* 1. Revenue Requirements

The Settlement provides for rates designed to produce an annual increase in operating revenue of $345,000 (32.22%) instead of the $427,817 (39.96%) increase requested in the filing. Settlement ¶ 14(a). In its Statement in Support, the Company noted that for the 12 months ended December 31, 2015, the Company earned a -2.22% return on equity, and an overall 1.88% rate of return on the funds that finance the assets used in providing service to its customers. See CUPA Statement in Support at 9; see also, CUPA Statement No. 1 at 6. Since

the last two rate cases[[2]](#footnote-2), the Company has invested significantly in infrastructure improvement in the Westgate and Penn Estates territories, while facing a shortfall in revenues due to declining usage. See CUPA Statement in Support at 9-13; see also CUPA Statement No. 1 at 7, CUPA Statement No. 2 at 4-8, and CUPA Statement No. 3 at 6-7. In CUPA’s view, the revenue increase proposed in the Settlement is in the public interest because it provides CUPA with the ability to continue to provide environmentally safe, reliable and efficient water services to its customers and meet its financial obligations.

In its Statement in Support, OCA submits that the revenue and rate design provisions of the Settlement are in the public interest. Based on its own analysis of CUPA’s filing and discovery responses, the OCA believes that the revenues proposed in the Settlement represent amounts which would be within the range of the likely outcomes in the event of full litigation of the case. OCA Statement in Support at 3.

I&E agrees with the Company and OCA that the Settlement is in the public interest because it ensures that CUPA will receive sufficient operating funds to provide continued safe and adequate service, while its customers are protected from the impact of the initial proposed increase. I&E Statement in Support at 5. Moreover, I&E explains that the additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a "Black Box" settlement. I&E Statement in Support at 4. A "Black Box" agreement does not specifically identify the resolution of any disputed issues. *Id.* Instead, an overall increase to base rates is agreed to while the parties retain all rights to further challenge all issues in subsequent proceedings. *Id.* I&E argues that a “Black Box” settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses. *Id.* I&E Statement in Support at 4. I&E maintains that an agreement to the resolution of each and every disputed issue in this proceeding between all the parties would have been highly unlikely. I&E Statement in Support at 4-5. Pursuing litigation of all the issues in this proceeding would have increased the expenses claimed by CUPA in relation to this case, and because litigation of a rate case is a recoverable expense, curtailment of these charges is in the public interest. I&E Statement in Support at 6.

I agree with the Settling Parties that the provisions of the proposed Settlement concerning revenue requirements are in the public interest. The $345,000 increase in annual operating revenues proposed in the Settlement is $82,814 less than the originally requested $427,814 increase, and it will enable CUPA to cover its expenses and to continue to invest in facilities that will allow the Company to continue to provide a high quality of service and water to its customers. A comparison of an average water bill for a CUPA residential customer under the Company’s current rates, the rates initially proposed by the Company, and the rates under the Settlement reveals the following:

**Penn Estates**

**Current Rates Proposed Rates Settlement Rates**

**$30.75[[3]](#footnote-3) $45.46 (or 47.83% increase)[[4]](#footnote-4) $41.10 (or 33.65% increase)[[5]](#footnote-5)**

**Westgate**

**Current Rates Proposed Rates Settlement Rates**

**$40.36[[6]](#footnote-6) $48.45 (or 20.04% increase)[[7]](#footnote-7) $48.53 (or 20.24% increase)[[8]](#footnote-8)**

See Settlement ¶ 23. This comparison highlights how the provisions of the Settlement lessen the impact that the CUPA’s rate increase will have on the monthly water bill of a typical CUPA residential customer.

1. Rate Design

CUPA believes that the Settlement represents a reasonable step towards consolidation or unitization of rates between the existing rates divisions. See Settlement ¶ 14(g). CUPA states that the consolidation or unitization of rates between a water company’s divisions is a concept that is favored by the Commission[[9]](#footnote-9) and notes that consolidated rates will allow the Company to spread capital costs over a larger base of customers, ultimately benefitting and protecting all customers from rate shock. The Company believes that in the long-term, unitized rates will strengthen CUPA and allow its customers to enjoy lower rates via fewer rate cases and lower rate case expense. CUPA Statement in Support at 15.

According to CUPA, the present Settlement moves the Company’s rates materially toward consolidation. In particular, the Company has agreed to consolidate its customer charge so that both Penn Estate and Westgate residential customers with 5/8” meters will be charged a customer charge of $17.25 per month. See Settlement ¶ 14(b). The agreed upon customer charge represents a significant reduction from the filed rate request of $22.32. The Company believes that a reduced customer charge allows customers more control over the charges on their total bill. See CUPA Statement in Support at 14.

Looking towards the future, the Settling Parties have agreed not to oppose the concept of a consolidated DSIC if the Company decides to seek one. Settlement ¶ 14(i). CUPA agrees that it will not see a waiver of the 5% cap on the DSIC for the first three years of a DSIC if and when the Company receives approval for a DSIC before December 31, 2019. *Id.*

Lastly, in terms of rate design the Settlement provides that the purchase water adjustment charge will continue to apply only to Westgate customers for purposes of rates set in this case. Settlement ¶ 14(h). CUPA states that this is a fair and reasonable distinction between its customer base as only Westgate customers use the water which is the subject of the adjustment charge. See CUPA Statement in Support at 17.

In its Statement in Support, OCA submits that the gradual consolidation of rates between customers in the Penn Estates and Westgate service territories is in the public interest, as it will help to ensure the avoidance of rate shock for Penn Estates customers, who were paying a rate lower than that of Westgate customers prior to CUPA's filing. OCA Statement in Support at 4. Furthermore, OCA believes that a lower customer charge than that originally requested by the Company will allow CUPA's customers a better opportunity to control the overall charges on their bills. *Id.*

I agree with the Settling Parties that the Settlement provisions regarding the Company’s rate design are in the public interest. The Settlement proposes a monthly customer charge of $17.25 for a standard residential customer equipped with a 5/8" meter, instead of the originally requested $22.32 customer charge. The reduced customer charge ensures that any water conservation measures undertaken by CUPA customers are more effective in controlling their overall water bills. Moreover, the Settlement represents a concrete step towards consolidation of rates between CUPA's existing rates divisions. Specifically, the Settlement provides for the immediate consolidation of the customer charge for both Penn Estates and Westgate residential customers and supports the concept of a future consolidated DSIC for CUPA.

1. Stay Out

Under the proposed Settlement, the Company will not file for another general rate increase, as defined in 66 Pa.C.S. § 1308, until January 6, 2018. Settlement ¶ 14(d). In its Statement in Support, OCA notes that if the Company files as soon as the stay out expires and if the next case is fully litigated, then the current rates would be in effect for approximately 21 months. OCA Statement in Support at 4. The Settling Parties agree that the stay out will provide for some level of rate stability for the Company's customers in the Penn Estates and the Westgate service territories. See I&E Statement in Support at 5, CUPA Statement in Support at 16.

I agree that the stay out provision provides some degree of rate stability to the ratepayers, which benefits CUPA's customers since the rate adjustments for the near future are known and scheduled. Additionally, the stay out provision provides a benefit that would not be available to the parties if they litigated the case.

1. Notifying OCA and I&E on New Projects

Pursuant to the terms of the Settlement, the Company has agreed to provide OCA and I&E periodic reports and confirmation of capital projects as set forth in CUPA's testimony. See Settlement ¶ 14(e), see also CUPA Statement No. 2. The Company reserves the right to substitute or add projects if necessary and warranted in the Company's judgment. Settlement ¶ 14(e). In OCA's view, this Settlement provision is in the public interest because it helps to ensure that the Company is making necessary capital improvements to its distribution system in order for customers to receive quality, uninterrupted water service. See OCA Statement in Support at 4. According to I&E, the heightened reporting requirements placed upon CUPA by this Settlement provision will ensure that the Company adheres to the detailed capital improvement plan laid out in CUPA Statement No. 2. See I&E Statement in Support at 4.

I find that that the Settlement provision regarding the periodic reports and confirmation of capital projects is in the public interest. This Settlement provision balances the Company's need to have funds for upcoming projects against the confirmation that such projects or substitute projects were undertaken or completed. This increased level of transparency will help ensure accountability on the part of the Company, while providing its consumers with a better idea of what their payments are utilized for.

1. Notice of Future Rate Case Filings

The Company maintains that the Settlement benefits its customers by providing additional notice regarding future rate case filings. CUPA Statement in Support at 18. Under the Settlement at paragraph 14(f), the Company will provide a hard copy of future general rate case filings to a designee of the Penn Estates Property Owners Association at the time of filing. *Id.* According to OCA , this Settlement provision will help ensure that the Company's customers have a reasonable means of accessing information relating to future rate cases. OCA Statement in Support at 5. In I&E's view, this change in the Company's practice is in the public interest because it will allow ratepayers to review and analyze with greater ease, any future proposed rate increase submitted by the Company. I&E Statement in Support at 4-5.

I find that this Settlement provision addresses the concerns raised at the public input hearings where several CUPA customers testified that they had experienced difficulty accessing information related to the present rate case. See e.g. Tr. at 63, 109. I agree with the Settling Parties that making the information on future rate increases more accessible will allow for more inclusion of the public in the ratemaking process and promote a greater public understanding of the ratemaking process. Accordingly, I conclude that this Settlement provision is in the public interest.

1. Water Quality

During the public input hearing held in Penn Estates on July 8, 2016, a few CUPA customers alleged that there were water quality, odor, and pressure issues with the service provided by the Company. See e.g. Tr. 59, 70-72, 83. CUPA has agreed to investigate these issues and provide a report on its investigation to OCA and I&E by October 31, 2016. Settlement ¶ 14(j). I find that this provision is in the public interest as it will help ensure that the Company’s customers receive safe and adequate water service.

D. Recommendation

The effect that the increased rates proposed in the Settlement will have on the CUPA customers in both the Penn Estates and Westgate service territories must be balanced against the need of the same customers to have access to safe and reliable water and the Company’s right to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. The Settlement represents an outcome that is preferable to the time, expense and uncertainty of litigation before the Commission and potentially, appellate courts, the reasonable costs of which may be borne by the ratepayers. Based on the totality of the record I find that the rates as proposed under the Settlement for CUPA are just and reasonable. I also find that the Joint Petition is in the public interest and recommend its adoption without modification. Consequently, I recommend that the Commission’s investigation at Docket No. R-2016-2538660 be marked closed once the Joint Petition is approved and the appropriate documents have been filed in compliance with Commission regulations. I also recommend the formal complaints filed by: the Office of Consumer Advocate at Docket No. C-2016-2540738; Guillermo Barbosa at Docket No. C-2016-2548235; Erle Grubb at Docket No. C-2016-2548262; Yvette Lawson at Docket No. C-2016-2549382; Adrian and Diane Martenco at Docket No. C-2016-2549995; and John Litak at Docket No. C-2016-2556961 be dismissed.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. § 701.

2. To determine whether the parties' settlement should be approved, one must decide whether the settlement promotes the public interest. See *Pennsylvania Public Utility Commission v. C.S. Water and Sewer Associates,* 74 Pa. P.U.C. 767 (1991); *Pennsylvania Public Utility Commission v. Philadelphia Electric Company,* 60 Pa. P.U.C. 1 (1985).

3. The Joint Petition for Settlement submitted by the Company, the OCA and the I&E is in the public interest

VII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Community Utilities of Pennsylvania Inc. – Water Division shall not place into effect the rates, rules, and regulations contained in Supplement No. 1 to Tariff Water - Pa. P.U.C. No. 1 regarding its purchase water cost recovery base rate as filed on April 6, 2016, the same having been found to be unjust, unreasonable, and therefore, unlawful.
2. That the Community Utilities of Pennsylvania Inc. – Water Division’s rate filing and direct testimony of Steven M. Lubertozzi (CUPA Statement No. 1), Chuck Madison (CUPA Statement No. 2), and Brian Halloran (CUPA Statement No. 3) with supporting exhibits, are admitted, in their entirety, into the evidentiary record in this matter to the extent they provide the record with historical data.
3. That the rates, terms and conditions contained in the Joint Petition for Full Settlement of Rate Proceeding submitted by Community Utilities of Pennsylvania Inc. – Water Division, the Office of Consumer Advocate, and the Bureau of Investigation and Enforcement, be approved and adopted consistent with the discussion contained herein.
4. That upon the Commission’s approval of this Joint Petition for Full Settlement of Rate Proceeding, Community Utilities of Pennsylvania Inc. – Water Division will be permitted to charge the rates for water service set forth in the proposed Supplement No. 4 to Tariff Water - Pa. P.U.C. No. 1 which is attached to the Joint Petition for Settlement as Appendix A.

5. That Community Utilities of Pennsylvania Inc. – Water Division will file a tariff or tariff supplement in substantially the same form as that attached to the Joint Petition for Settlement as Appendix A of the Rate Investigation at Docket No. R-2016-2538660 reflecting the rates, rules, and regulations to become effective upon at least one day’s notice but no earlier than January 5, 2017, upon entry of the Commission Order approving the recommendation to adopt the Joint Petition for Full Settlement of the Rate Proceeding consistent with the discussion contained herein.

6. That upon acceptance of the appropriate compliance filing, the investigation at Docket No. R-2016-2538660 be terminated and the record be marked closed.

7. That the formal Complaint filed by the Office of Consumer Advocate at Docket No. C-2016-2540738 is dismissed.

8. That the formal Complaint filed by Guillermo Barbosa at Docket No. C-2016-2548235 is dismissed.

9. That the formal Complaint filed by Erle Grubb at Docket No. C-2016-2548262 is dismissed.

10. That the formal Complaint filed by Yvette Lawson at Docket No. C-2016-2549382 is dismissed.

11. That the formal Complaint filed by Adrian and Diane Martenco at Docket No. C-2016-2549995 is dismissed.

12. That the formal Complaint filed by John Litak at Docket No. C-2016-2556961 is dismissed.

13. That the Secretary’s Bureau mark the following dockets closed: R-2016-2538660; C-2016-2540738; C-2016-2548235; C-2016-2548262; C-2016-2549382; C-2016-2549995; and C-2016-2556961.

Dated: October 4, 2016 /s/

Eranda Vero

Administrative Law Judge

1. The last public meeting before the end of the suspension period on January 5, 2017, is on December 22, 2016. [↑](#footnote-ref-1)
2. The basic rates and charges for CUPA’s operating divisions were previously approved in separate rate proceedings for each division. Basic water rates and charges for CUPA’s Penn Estates service territory were most recently approved by the Commission’s March 29, 2012 Order at Docket No. R-2011-2255159. Basic water rates and charges for CUPA’s Westgate service territory were most recently approved by the Commission’s January 28, 2010 Order at Docket No. R-2009-2117389. See CUPA Statement No. 1 at 5. [↑](#footnote-ref-2)
3. Penn Estates assumes average usage of 3,943 gallons in 2015. [↑](#footnote-ref-3)
4. Penn Estates assumes average usage of 3,810 gallons in 2016. [↑](#footnote-ref-4)
5. Penn Estates assumes average usage of 3,810 gallons in 2017. [↑](#footnote-ref-5)
6. Westgate assumes average usage of 4,439 gallons in 2015. [↑](#footnote-ref-6)
7. Westgate assumes average usage of 4,303 gallons in 2016. [↑](#footnote-ref-7)
8. Westgate assumes average usage of 4,303 gallons in 2017. [↑](#footnote-ref-8)
9. *Pa. PUC v.* *Superior Water Co., Inc.,* Docket No. R-2008-2039261, et al., (Opinion and Order entered February 5, 2009) (“[F]or years the Commission’s policies and determinations have supported single tariff pricing and rate consolidation in acquisitions and rate cases. As we have often noted, the benefits of single tariff pricing outweigh its negative aspect.”) [↑](#footnote-ref-9)