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June 28, 2018

Via Electronic Filing

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

In re: Docket No. R-2017-2631441, *et al.*
Pa. P.U.C. *et al.* v. Reynolds Water Company

Dear Secretary Chiavetta:

We are counsel to Reynolds Water Company in the above matter and are submitting, via electronic filing with this letter, the Company's Reply to the Exceptions of Customer Complainants. Copies of the Reply to Exceptions are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By

Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)
Bradley R. Gosser, CPA (via email, w/encl.)
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2631441
James Vessella	:	C-2017-2634797
Bea DeCiancio	:	C-2017-2635838
Office of Consumer Advocate	:	C-2017-2636654
John D’Urso	:	C-2017-2636679
Margaret Foust	:	C-2018-2644372
Plem Patterson	:	C-2018-2647045
Matthew Nestor	:	C-2018-2647060
Ryan Foust	:	C-2018-2647069
Brian Hills	:	C-2018-2647070
Laurel Litwiler	:	C-2018-2647272
Thomas Hanzes	:	C-2018-2647305
Clark Eberhart (VFW)	:	C-2018-2647318
Mildred J. Heile	:	C-2018-3000054
Helen Canady	:	C-2018-3000065
Lucas Shilling	:	C-2018-3000087
Diana Cole	:	C-2018-3000207
Gilbert and Marilyn Brant	:	C-2018-3000208
David Roeder, Sr.	:	C-2018-3000250
Natalie McCloskey	:	C-2018-3000419
Marie Potts	:	C-2018-3000505
Sean Belback	:	C-2018-3000566
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Reynolds Water Company	:	

**REPLY OF REYNOLDS WATER COMPANY
TO EXCEPTIONS OF CUSTOMER COMPLAINANTS**

I. INTRODUCTION

Reynolds Water Company (“RWC”) is a Pennsylvania public utility that provides water service to 722 customers in Pymatuning, Delaware and Hempfield Townships, Mercer County, Pennsylvania.

On October 30, 2017, RWC filed Supplement No. 5 to Tariff Water-Pa. P.U.C. No. 4 (“Supplement No. 5”) to be effective January 1, 2018. If approved, Supplement No. 5 would increase RWC’s annual water revenue by \$236,829 based on a future test year ending June 30, 2018.

On April 6, 2018, RWC, the Bureau of Investigation and Enforcement (I&E”) and the Office of Consumer Advocate (“OCA”)¹ filed a Joint Petition for Settlement of Rate Investigation (“Settlement”) proposing, *inter alia*, to replace the proposed annual revenue increase of \$236,829 with a reduced annual increase of \$160,000, offset by a \$1,400 Accumulated Deferred Income Tax normalization credit – a net increase of \$158,600 in annual revenue. The increase is to be implemented in two Phases.

By Recommended Decision, dated May 16, 2018, and issued May 29, 2018, Administrative Law Judge Dunderdale recommended that the Public Utility Commission (“Commission”) approve the Settlement with minor modifications to settlement tariff language.

Timely Exceptions to the Recommended Decision were filed, on or before June 18, 2018, by Complainants James Vessella, John D’Urso, Margaret Foust, Plem Patterson, Ryan Foust, Brian Hills, Laurel Litwiler, Helen Canady, Lucas Shilling, Gilbert and Marilyn Brant, David Roeder, Sr. and Marie Potts.

¹ RWC, I&E and the OCA are sometimes referred to herein, collectively, as the “Settling Parties.”

Late-filed Exceptions were filed by Complainant Bea DeCiancio on June 20, 2018. RWC also received Exceptions from Complainants Matthew Nestor, Thomas Hanzes, Clark Eberhart (VFW), Mildred J. Heile and Sean Belback. The Exceptions of Complainants Nestor, Hanzes, Eberhart, Heile and Belback, however, were apparently not filed with the Public Utility Commission (“Commission”).

RWC replies herein to the Exceptions of the Customer Complainants using the topic headings from Complainants’ Exceptions, as Complainants did not separately number their Exceptions.²

Although Complainant’s object to the settlement and any rate increase, we emphasize that the settlement, recommended for approval in the Recommended Decision, is the result of Commission approved mediation. Ordering Paragraph 5 of the Order entered December 21, 2017, encouraged mediation and referred the rate filing for Alternative Dispute Resolution, if possible.

II. Reply to Complainants’ Exceptions

A. Recommended Decision, Page #1

Customer Complainants challenge the Recommended Decision stating that they are opposed to the settlement increase of 30.4%. The participation of the Settling Parties in Commission encouraged mediation supports a conclusion that the Joint Settlement Petition furthers the public interest and is consistent with it. It does not support Complainants argument that the settlement and rate increase should be denied.

The settlement is supported by the financial information submitted by the Company. I&E and the OCA, moreover, engaged in discovery none of which was challenged by RWC. The OCA’s

² The page references cited by Complainants in the headings within their Exceptions are to pages of the Recommended Decision.

discovery included questions about water quality and quantity. In regard to water quality, the Company provides annual Consumer Confidence Reports to its customers. The OCA also conducted an on-site visit to review RWC's current and proposed water system facilities and related operations. Through their diligent efforts, the Settling Parties were able to resolve the proceeding.

RWC's last rate increase was in mid-April 2010. Current rates, thus, have been in effect for more than eight years. It is unrealistic to expect current rates to continue in effect forever. Over the past eight years, the Company's return has deteriorated to the point where it is presently experiencing a net operating loss and a negative return. A rate increase is unavoidable.

It is well established that RWC is legally entitled to the opportunity to earn a fair rate of return. *Bluefield Water Works and Improvement Co. v. Public Servicer Comm'n of West Virginia*, 262 U.S. 679 (1923). Present rates are legally insufficient as they do not provide RWC with an opportunity to earn a fair rate of return. As stated above, RWC has a net operating loss and a negative rate of return at present rates.

The Recommended Decision concludes as follows:

The question that remains is whether the Settlement is fair, just, reasonable and in the public interest. Upon reviewing the terms and conditions of the Settlement, and the Statements in Support offered by Reynolds, BIE and OCA, I agree with the signatories. This Settlement resulted after Reynolds, BIE and OCA engaged in discovery, mediation and discussion.

Though the settlement does not grant all of the individual Complainants' concerns, those concerns were considered and, in the Settlement, have been balanced and met as reasonably as the circumstances will permit. Reynolds will have the increased revenue needed to accomplish its improvement projects, and to earn a reasonable return on its investment.³

³ Recommended Decision at 26.

RWC submits that the Commission should adopt the Recommended Decision and deny the Exceptions of the Customer Complainants.

B. History of Proceedings, Page 5

In the History of Proceedings, page 5, the Recommended Decision recites RWC's disagreement with Complainants' assertion in their respective statements in opposition to the settlement that all fire hydrants are locked down. In their Exceptions, Complainants now acknowledge that all hydrants are in working order but that some are not available for firefighting purposes.

RWC works with the Transfer Fire Department to identify hydrants that are available for firefighting emergencies. Twenty-six hydrants are reflected in the proof of revenue included as Appendix B to the Joint Settlement Petition. A twenty-seventh hydrant, used by the Transfer Fire Department to fill its tanker truck, is also included in the proof of revenue.

RWC is careful about allowing unnecessary and/or inappropriate access to hydrants in order to maintain system integrity and reliability. RWC provides and will continue to provide fire hydrant service consistent with its tariff. We note that the Transfer Fire Department did not find it necessary to participate in this proceeding.

RWC submits that the Commission should adopt the Recommended Decision and deny the Exceptions of the Customer Complainants.

C. Terms and Conditions of Settlement, Page 5

Complainants disagree with the Settling Parties assertion that the proceeding can be settled without formal litigation. Complainants expressed their disagreement with the Settlement by filing individual statements in opposition to it. Their opposition was addressed by Judge Dunderdale in the

Recommended Decision. Complainants have been afforded due process notice and an opportunity to be heard. Their Exceptions should be denied.

(a) Revenue Increase and Phase In

Complainants disagree with the settlement increase in revenue and the filing of the settlement tariff supplement on one day's notice. The settlement increase is just and reasonable and supported by financial information as set forth above.

(b) Page 5, Accumulated Deferred Income Tax Normalization Credit

Complainants question the settlement term providing for an accumulated deferred income tax normalization credit. The Tax Cuts and Jobs Act of 2017 ("TCJA") reduces the Federal Income Tax Rate ("FIT") and also impacts the reserve for accumulated deferred income tax ("ADIT") liabilities.

Although the TCJA was enacted while the rate proceeding was pending, the Settling Parties were able to address the impact of the TCJA in the settlement rates. The settlement revenue requirement calculation reflects the reduced FIT of 21%. RWC calculated the impact of the TCJA on its deferred tax liability at December 31, 2017 to be \$20,784 ("ADIT Adjustment"). RWC also calculated an annual ADIT adjustment based on a 15-year normalization period. The annual adjustment which is reflected in the settlement revenue requirement is \$1,400.

Finally, in compliance with the Commission's Temporary Rates Order entered March 15, 2018 at M-2018-2641242, the Settling Parties have addressed the impact of the TCJA during the suspension period and provided, in settlement, a one-time bill credit of \$1.00 per customer to address the suspension period ADIT amortization of \$700. The Federal Tax term addresses the totality of tax matters under the TCJA.

Complainants offer no basis for questioning the negotiated settlement term. Listings in the local Businessman's Association have no bearing on the settlement term.

(a) Revenue Increase and Phase In, Page 6

Complainants disagree with Phase I of the settlement increase in revenue. The settlement increase is just and reasonable and supported by financial information as set forth above.

(c) Monthly Billing, Page 7

Complainants wonder why an analysis of costs and benefits is needed before moving to monthly billing. Additional costs will be incurred by moving from quarterly to monthly billing. The Settling Parties appropriately recognized that an analysis of costs and benefits should be undertaken before a decision is made to go forward with monthly billing or remain with quarterly billing. The term is not disrespectful to veterans or to the disabled.

(e) Billing Format, Page 7

Complainants misunderstand the billing format settlement term. With this settlement term, RWC will modify its bill format to show the PENNVEST surcharge is for Reynolds Disposal Company. Complainants claim that RWC owns PENNVEST and that there is a medical marijuana venture in the community has no bearing on the proposed change in the billing format, which, we submit, is reasonable. PENNVEST is the Pennsylvania Infrastructure Investment Authority. RWC does not own PENNVEST.

(f) Stay Out, Page 7

Complainants disagree with the two year stay out and propose an eleven year stay out. Complainants mistakenly believe that the stay out is related to a PENNVEST loan. The two year stay out is a negotiated settlement term. A rate case “stay out” gives ratepayers a specified level of rate security – two years here – that would not exist absent the stay out. A rate case “stay out” is a traditionally recognized part of the public’s interest in settlement of a rate proceeding.

Other Provisions, Page 8

Complainants disagree with the settlement increase in revenue. The settlement increase is just and reasonable and supported by financial information as set forth above.

Reynolds Statement in Support, Page 8

Complainants state that they are not handing out Carte Blanche. It is not clear what Complainants intend to convey by the statement. The settlement increase is just and reasonable and supported by financial information as set forth above.

Page 9

Complainants contend that other monies offset the need for a rate increase and believe a Pennsylvania Auditor should audit RWC's books. The Settlement is the result of a Commission investigation – similar to an audit – of RWC's rate filing. After conducting discovery, the Settling Parties present the Settlement in resolution of the Investigation. The settlement increase is just and reasonable and supported by financial information as set forth above. They are no other monies to offset the increase.

Additional Cash Flow, Page 9

Complainants confuse return and rate base. RWC's last rate case was in mid-April 2010. After eight years, RWC has a negative return and is in need of rate relief. The settlement increase is just and reasonable and supported by financial information as set forth above.

Significant Capital Projects, Page 9

Complainants believe the pipeline project under the Shenango River should be reevaluated. The project is a replacement of 500 feet of 8-inch water main under the River. It is a necessary project and, after investigation and discovery, one of the three projects that must be completed to trigger the Phase II increase. The project and its related costs are just and reasonable. The OCA, as

set forth above, conducted an on-site visit to review RWC's current and proposed water system facilities and related operations.

Rate Case Stay Out, Page 12

Complainants, again, express a desire for an eleven year stay out. The two year stay out is a negotiated term. A rate case "stay out" gives ratepayers a specified level of rate security – two years here – that would not exist absent the stay out. A rate case "stay out" is a traditionally recognized part of the public's interest in settlement of a rate proceeding.

Federal Taxes Consideration, Page 13

Complainants assert that the Commission has directed utilities to lower their rates by 8.5%. The Settlement addresses the impact of the TCJA in the settlement rates and the settlement revenue requirement calculation reflects the reduced Federal Income Tax Rate of 21%. The Federal Tax term negotiated by Settling Parties is a just and reasonable resolution of the impact of the TCJA as set forth above.

OCA's Statement, Page 16

Complainants, again, challenge the terms and conditions of settlement as presented by the OCA in its Statement of Support. The settlement increase is just and reasonable and supported by financial information as set forth above.

Comments from Individual Complainants, Page 18

Complainants challenge the presentation of "Comments from Individual Complainants." The Recommended Decision addresses individual customer comments at length and appropriately concludes that they have been balanced and met as reasonably as the circumstances will permit.⁴

⁴ Recommended Decision at 26.

Additional Comments from Individual Complainants

Complainant James Vessella references documents from various web sites. The Recommended Decision properly declined to consider these documents as they were not authenticated.⁵

Complainant Margaret Foust complains about the rate increase. The settlement increase is just and reasonable and supported by financial information as set forth above.

Complainant Bea DeCiancio asks that the community be treated fairly in regard to safe water and rates to be charged. RWC, as set forth above, provides annual Consumer Confidence Reports to its customers. The settlement increase is just and reasonable and supported by financial information as set forth above.

Complainant Clark Eberhart (VFW) offers that the entire community should pay for fire hydrants. We addressed fire hydrants above. Twenty-six hydrants are appropriately reflected in the proof of revenue. A twenty-seventh hydrant, used by the Transfer Fire Department to fill its tanker truck, is also included in the proof of revenue. The Fire Department did not find it necessary to participate in this proceeding.

III. Conclusion

The Joint Settlement Petition proposes the resolution of all issues in this rate proceeding. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest.⁶ The Joint Settlement Petition

⁵ Recommended Decision at 20.

⁶ *Pa. P.U.C. v. The Newtown Artesian Water Company*, Docket No. R-2011-2230259, Recommended Decision of Administrative Law Judge Barnes dated September 20, 2011, mimeo at 9, citing *Pa. P.U.C. v. C S Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991) and *Pa.P.U.C. v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).

is consistent with the public interest. The Exceptions of the Customer Complainants should be denied. The Recommended Decision approving the Settlement should be adopted.

Respectfully submitted,

By 

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Dated: June 28, 2018

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Reynolds Water Company	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of June, 2018, served a true and correct copy of the foregoing Reply of Reynolds Water Company to the Exceptions of Customer Complainants, upon the persons and in the manner indicated below:

VIA FIRST CLASS MAIL, POSTAGE PREPAID

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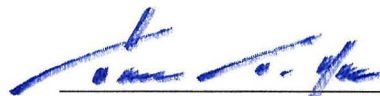
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