

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

November 5, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Implementation of Section 1329 of the  
Public Utility Code  
Docket No. M-2016-2543193

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Christine Maloni Hoover".

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Enclosures:

cc: Shaun Sparks, Law Bureau  
Certificate of Service  
\*262090

CERTIFICATE OF SERVICE

Re: Implementation of Section 1329 of : Docket No. M-2016-2543193  
the Public Utility Code :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 5<sup>th</sup> day of November 2018

SERVICE BY E-MAIL and INTER-OFFICE MAIL

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL, POSTAGE PREPAID

John Evans, Esquire  
Office of Small Business Advocate  
300 North Second Street  
Suite 202  
Harrisburg, PA 17101

/s/ Christine Maloni Hoover  
Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Counsel for Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: November 5, 2018  
\*262091

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Section 1329 of :  
the Public Utility Code : Docket No. M-2016-2543193

---

**COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE  
ON TENTATIVE SUPPLEMENTAL IMPLEMENTATION ORDER**

---

Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #50026  
E-Mail: [CHoover@paoca.org](mailto:CHoover@paoca.org)

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Counsel for  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

DATED: November 5, 2018

## I. INTRODUCTION

The Office of Consumer Advocate (OCA) appreciates the opportunity to provide comments to the Public Utility Commission's (Commission or PUC) Tentative Supplemental Implementation Order addressing Section 1329 of the Public Utility Code (2018 Tentative Supplemental Implementation Order or TSIO). The Tentative Supplemental Implementation Order was entered on September 20, 2018. The OCA welcomes the additional guidance provided by the TSIO. As set forth below, there are a number of areas where the OCA has provided suggested additions or modifications to the Commission's proposals.

The OCA filed comments on August 11, 2016 in response to the Commission's first Tentative Implementation Order entered on July 21, 2016. The Final Implementation Order was entered on October 27, 2016 (2016 Final Implementation Order). During the intervening two years, there have been seven applications filed<sup>1</sup> pursuant to Sections 1329 and 1102 of the Public Utility Code. The OCA has participated in each filing that was accepted by the Commission. The proceedings to date have provided valuable experience in understanding how applications filed under Sections 1329 and 1102 develop and proceed and how to work within the very short time frame provided for the development of the record and the litigation and briefing of the case. There has also been an appellate decision in the first case filed pursuant to Sections 1329 and 1102. See McCloskey v. Pa. P.U.C., 1624 C.D. 2017 (Pa. Commw. October 11, 2018)(New Garden).<sup>2</sup>

The OCA submits these comments to the Tentative Supplemental Implementation Order and submits, as it did in comments to the 2016 Tentative Implementation Order, that the use of a collaborative or working group is a reasonable approach to issues that will need to be addressed

---

<sup>1</sup> One filing was rejected by the Commission.

<sup>2</sup> The Commonwealth Court's decision was recently entered and will require additional procedures and considerations by the Commission.

including how to implement notice, how to present the rate impacts and the supporting materials in the filing, and other issues that may remain after consideration of the 2018 Tentative Supplemental Implementation Order.

## II. COMMENTS

### Background and Purpose of 66 Pa. C.S. § 1329, Order at 3-7

In its 2018 Tentative Supplemental Implementation Order, the Commission states:

It is not necessary for the Commission to make a final determination on valuation before approving or denying a transfer of control application under Chapter 11 as determinations on valuation are often reserved for subsequent base rate proceedings subject to Chapter 13 of the Public Utility Code.

Tentative Supplemental Implementation Order (TSIO) at 3. The OCA submits that this statement is not consistent with the clear and unambiguous language of Section 1329(c), (d)(3)(i), and (g). Section 1329(c) states that the ratemaking rate base, which is defined in 1329(g), shall be incorporated in to the rate base and that the ratemaking rate base shall be the lesser of the purchase price or the fair market value. In addition, Section 1329(d)(3)(i) states that the Commission, if it approves the application, shall include the ratemaking rate base of the selling utility in its order. Thus, it is necessary, under Section 1329, for the Commission to include the ratemaking rate base valuation in its Order, if it approves the proposed transaction under Section 1102 of the Public Utility Code. Moreover, no party can challenge that determination in a later base rate proceeding, not the OCA, any party to the application docket, nor any party in a future base rate proceeding. The Commonwealth Court agreed, stating:

Because *City of York* requires the impact on rates to be considered, the Commission must address that impact when deciding whether there is substantial public benefit. Contrary to its contention that impact on rates can only be addressed in a rate base [*sic*] case, the impact on rates can be addressed....

New Garden, slip op. at 21. Thus, the rate base valuation must be made in accordance with the requirements of Section 1329. Once that rate base valuation is made, as part of its analysis under Section 1102, the Commission must consider the impact of that rate base valuation on rates since the rate base cannot be challenged in the future.

The Commission also states that prior to Section 1329, Section 1311(b) “worked to discourage the sale of public water and wastewater assets even when such sales might otherwise be in the long-term public interest.”<sup>3</sup> TSIO at 4. The OCA submits that such speculation is not necessary and should not be included in the Final Supplemental Implementation Order. The legislative history for Section 1329 provides no support for this conclusion. The language of Section 1329 is clear – it provides a voluntary, alternative method for determining fair market value.<sup>4</sup> The General Assembly did not intend for Section 1329 to have the effect of significantly increasing rates and does not support acquisitions that will negatively impact customers by significantly increasing rates. Upon introducing the proposed Section 1329 legislation, Representative Robert W. Godshall, explained that the “Commission must [ ] approve all public utility acquisitions and will review the utility valuation expert appraisals **and the proposed post-acquisition rates** as part of this process.” Memorandum from Robert W. Godshall, Pennsylvania House of Representatives, to All House Members (May 26, 2015) (emphasis added).

---

<sup>3</sup> The OCA is aware that the number of water and wastewater systems under the Commission’s jurisdiction has dropped from over four hundred in the 1980’s to around 100 today. Many of those systems were acquired by other entities, including many of the Class A utilities currently under Commission jurisdiction. Section 1327 of the Public Utility Code, 66 Pa. C.S. § 1327, was enacted in 1990 and provides a mechanism for a water or sewer utility buying a non-viable water or sewer system (private or municipal), at greater than depreciated original cost, to request approval to include the additional cost in rate base, if certain criteria are met. 66 Pa. C.S. § 1327(b) (requiring the buying utility to provide notice of the acquisition and any proposed increase in rates to: the customers served by the selling utility, existing customers if the increase in rates is above a certain threshold, the statutory advocates, and requiring the application to include a full description of the proposed acquisition and a plan for reasonable and prudent investment.).

<sup>4</sup> “When words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” 1 Pa. C.S. 1921(b).

At pages 4-7 of the Tentative Supplemental Implementation Order, the Commission addresses what it sees as impediments to regulated water and wastewater utilities acquiring municipal system at prices that are greater than depreciated original cost. While it is not necessary for purposes of these comments to address this discussion, from the ratepayers' perspective and the traditional use of cost-based rates, the OCA does not agree that the use of depreciated original cost in municipal acquisitions is unreasonable. The OCA submits that the plain language of Section 1329 should guide the analysis of the implementation of Section 1329 and supposition about what the General Assembly intended is not necessary.

Checklist for Applications Requesting Section 1329 Approval, Order at 7-13

Initially, the OCA offers a suggestion that applies to the entire checklist. Specifically, the page numbers should be filled in on the checklist that is included with the filing. In addition, the OCA suggests the use of Bates stamping for all pages in the filing. Bates stamping, which is available in Adobe Acrobat PDF software, and available on some multifunction printers, would assign a page number to each page of the filing and allow all parties to be able to reference specific pages and sections of the filing in a consistent way. Without Bates stamping, the exhibit numbers for reports, including appraisals, are often cumbersome. For example, the reference to an exhibit may change from the time of the filing to the time that testimony is filed supporting the exhibit. The requirement to use Bates stamping will ensure that all parties can reference the material in a consistent, efficient manner, which will permit a cleaner record to be developed for the Administrative Law Judge and the Commission.

The OCA generally supports the Commission's proposed additions to the checklist. TSIO at 7-13. The additions are reasonable and reflect the experience gained by the Commission and parties during filings made in the first two years following the enactment of Section 1329.

As discussed *infra*, the OCA requests that the provision, requiring the schedules, spreadsheets and workpapers to be provided in working electronic format, should not be removed.

Public Meetings and the Section 1329 (d)(2) Six-Month Consideration Period, Order at 12-13.

At pages 12-13 of the Tentative Supplemental Implementation Order, the Commission addresses the concerns raised by the statutory advocates regarding the interplay of the timing of the six-month statutory deadline and the Commission's Public Meetings.

The Commission's discussion of the issues involved in the timing of the cases and when the schedule for litigation and development of the record is generally accurate. The OCA supports the proposal that will permit Technical Utility Services (TUS) to hold accepting an application for up to an additional five calendar days beyond the ten-day review period if doing so will avoid a consideration period of less than 170 days.

The OCA submits that there are other options that can be considered. One option that is within the control of the Applicant, is a voluntary extension of the suspension period (by a few days) that would allow the timing of the case to match up with a scheduled Public Meeting. Another option includes the scheduling of a special Public Meeting. The OCA recognizes that this option involves coordinating with the Commissioners and more Bureaus within the Commission, and that it would not be used on a regular basis. However, the OCA submits that this option follows the Public Meeting process and would provide a reasonable approach especially during the times when there may only be one Public Meeting in a month.<sup>5</sup> The OCA

---

<sup>5</sup> The OCA and I&E jointly requested the scheduling of a special public meeting in Application of Aqua Pennsylvania Wastewater, Inc. Pursuant to Sections 1102 and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of Limerick Township, Docket No. A-2017-2605434. The OCA and I&E requested the special public meeting because the six-month statutory time period ended on December 6, 2017. The scheduled public meetings were on November 8 and December 7, 2017. Completing litigation for the November 8, 2017 Public Meeting compressed the already short litigation schedule by four weeks. The Applicant



prefers a voluntary extension or a special Public Meeting as both allow for the matter to be publicly considered.

Regarding notational voting, the OCA submits that this provision could be used if it is the only way to avoid a shortened consideration period *i.e.*, if there is not a Public Meeting that will allow a consideration of 180 days, or a special Public Meeting cannot be held. If a special Public Meeting or notational voting is going to be used, then a process that would permit the parties and the Administrative Law Judge (ALJ) to know that notational voting will be used must be activated when the filing is under review because the schedule is under development at that time and the additional time made available by the special Public Meeting or notational voting needs to be included in the schedule. The schedules are often developed while the case is under review and then approved at the prehearing conference. The schedules need to be developed early in the process before the prehearing conference because testimony by the statutory advocates is often due within days of the prehearing conference.<sup>6</sup>

Public Notice of Accepted Section 1329 Applications, Order at 13-15

The Commission describes the use of a generic Section 1329 subscription for interested stakeholders. TSIO at 13-15. According to the Order, the reason that the Secretarial Letter accepting an application (and presumably rejecting an application) cannot be sent to stakeholders, including the statutory advocates, is because the docket number is not assigned until the filing is accepted, and thus stakeholders cannot have pending party status. The OCA submits that the Commission could address this, in part, by serving the statutory advocates with all Secretarial Letters that accept or reject a Section 1329 filing.

---

was not willing to waive the statutory deadline by one day to allow the Commission to consider the application at the December 7, 2017 meeting. The Joint Petition was not acted on by the Commission.

<sup>6</sup> For example, in the cases filed under Section 1329 to-date, the statutory advocate's testimony has been due 2, 4, 5, 6, 8, and 11 days after prehearing conferences.

Another option would be to assign a docket number at an earlier point in the process. This would have a number of benefits, including allowing stakeholders to follow a proceeding by docket number, to intervene to obtain pending party status, and to permit the customer notice to include the docket number of the proceeding. That scenario is similar to the assignment of a docket number to a general rate increase filing at the time of the 30-day notice letter (for increases that are more than \$1 million of annual increase). The docket number is assigned regardless of whether the utility ultimately files the rate increase request. Similarly, a docket number is assigned when a utility asks for a waiver of the regulation regarding the time between the end of the test year and the filing of the rate increase request. The utility ultimately may not file the case, but that does not mean that a docket number cannot be assigned.

Standard Data Request for Applications Seeking Section 1329 Valuation, Order at 15-17

At pages 15-17 of its Order, the Commission addresses standard data requests that will be required with the filing (Appendix A, Item 4 and Appendix B to the Order). The OCA supports the use of standard data requests that will add to the information provided with the application.<sup>7</sup> The applicant will have more time to prepare the information before making the filing than if the same information were requested by parties after the application is accepted. In addition, the parties benefit by having the information at an earlier time in the proceeding.

Existing Checklist Item 4 requires the Applicant to provide its schedules, studies, and workpapers in electronic working documents. The TSIO replaces that requirement with the standard data requests. TSIO at 16. The OCA disagrees with the Commission's decision to replace existing Item 4 with the standard data requests. Providing the electronic working documents is a critical component of the existing checklist because the information included in

---

<sup>7</sup> It is the OCA's position that the standard data requests are not in lieu of additional discovery that may be propounded after reviewing the filing. A specific filing may raise additional issues that are not addressed by the standard data requests.

those electronic working documents is necessary to understand the analyses contained in the filing. The standard data requests are important as well, as discussed above. Providing the standard data requests should supplement the information being provided with the filing. It should not be treated as a replacement for the electronic working documents.

The OCA proposes additional standard data requests that should be added to Appendix B. See Attachment A. These additional standard data requests are reasonable because they will assist the intervening parties in understanding the appraisals in the context of valuations that the Buyer and Seller may have made independently of the requirements of Section 1329. The OCA submits that its additional standard data requests should be adopted in the Final Supplemental Implementation Order.

The OCA appreciates the Commission's receptiveness to the voluntary modification of its discovery regulations, in addition to the standard data requests, as another means to facilitate development of the record. TSIO at 16. It is the OCA's position that the modifications that have been used in the cases filed to date have provided a workable framework for discovery.

The Uniform Standards of Professional Appraisal Practice, Order at 17-19

At pages 17-19 of the TSIO, the Commission addresses the Uniform Standards of Professional Appraisal Practice (USPAP). The Commission seeks comments on the range of values that have developed to date and whether the Commission should use that data as a check on the reasonableness of the negotiated purchase price. TSIO at 18. The OCA is concerned that the use of a standard net plant per customer amount or metric is not reasonable outside of each application. It cannot be determined whether it is reasonable unless the specific facts of each case are considered and the cost per customer amount is put into context. For example, is the cost per customer higher or lower than the existing cost per customer? If higher, is it one, two,

three, or more times higher than the existing cost per customer? Those questions are specific to the acquiring company and cannot be applied generally to all 1329 acquisitions. In addition, the future costs may vary depending on whether the buyer needs to invest money in the acquired system or not and whether there are provisions in the Asset Purchase Agreement (APA) that could prevent future costs from being allocated to the acquired customers.

The OCA supports the Commission's determination that the Utility Valuation Experts (UVEs) must use the current version of the USPAP standards in conducting the appraisal. TSIO Order at 19. The OCA supports the Commission's conclusion that appraisals based on outdated or expired USPAP versions "cannot support valuations under Section 1329 and will not be accepted as competent evidence." Id.

Jurisdictional Exceptions, Order at 19-22

At pages 19-22 of the TSIO, the Commission addresses the Jurisdictional Exception Rule that is contained in the USPAP. The OCA agrees with the Commission's statement:

In short, a Section 1329 appraisal is compliant with the USPAP, and thus Section 1329, when it resolves a conflict between the USPAP and Pennsylvania law by giving preference to Pennsylvania law. For the purposes of requests for a Section 1329 valuation, Pennsylvania law includes the Pennsylvania Constitution, statutes, regulations, court precedent, and administrative rules and orders issued by Pennsylvania administrative agencies.

TSIO Order at 19.

The Commission provides jurisdictional exceptions in Appendix C at 2 that address each of the valuation approaches authorized by Section 1329. The OCA provides minor edits to the existing Appendix C at 2. See Attachment B. The OCA also provides additional proposed jurisdictional exceptions that are based on cases that have been filed to date under Section 1329. Id. The OCA submits that these proposed jurisdictional exceptions are reasonable and appropriate and should be adopted.

UVE Direct Testimony, Order at 22-24

At pages 22-24 of the TSIO, the Commission addresses the supporting data and process used by the UVEs to develop the valuations. The OCA agrees with the Commission's conclusion that expert witness testimony in Section 1329 applications includes the UVEs and requires a UVE to submit written direct testimony in support of its appraisal at the time of the filing of the application. TSIO at 22, 23. The OCA also supports the Commission's directive that the testimony "should describe the conclusions drawn by the UVE, how the UVE arrived at those conclusions, and details on the data used to support the conclusions...." TSIO at 22. The Commission also directs that the testimony "should explain the weightings applied to each valuation approach and, most important, the reasons for the weighting chosen by the UVE." Id. The OCA strongly supports the Commission's requirement that the UVE testimony must be provided with the application and it will be in the same format required of expert witnesses. TSIO at 23. The OCA supports the Commission's suggestion in the model UVE testimony that the UVE state whether the UVE has any affiliation with either the Seller or Buyer. The OCA is aware that certain UVEs which presented appraisals in the Section 1329 applications that have been filed have existing relationships with the acquiring public utilities.

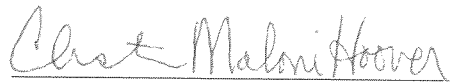
The OCA supports the Commission's directives regarding the UVE testimony because they should permit all stakeholders to better understand the basis of the UVEs recommendations and analyses and, as a result, will help to reduce discovery and streamline the issues raised in testimony.

The OCA proposes minor wording changes to the sample testimony. See Attachment C.

### III. CONCLUSION

The OCA thanks the Commission for the opportunity to provide Comments on the Tentative Supplemental Implementation Order. The OCA respectfully requests that the Commission carefully consider the points and issues it raises in these Comments and to adopt those points in its Final Order. The OCA looks forward to continuing to work with the Commission, Staff, and stakeholders on these important issues.

Respectfully Submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
E-Mail: CHoover@paoca.org

Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: EGannon@paoca.org

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

DATED: November 5, 2018  
261891

**Attachment A**

**OCA Proposed Additions to Appendix B**

1. Provide a copy of any valuation studies BUYER used in its evaluation of the Seller's system that have not already been provided.
2. Provide a copy of any valuations studies SELLER used, in preparation for sending or receiving the request for proposals, if applicable, regarding the proposed sale of the system.

## Attachment B

### OCA Proposed Modifications to Appendix C:

2. Income approach materials shall exclude:
  - a. Going concern value
  - b. Future capital improvements
  - c. Erosion of cash flow or erosion of return
  - d. Rate base/rate of return methodology estimates

### OCA Proposed Additions to Appendix C:

#### Cost approach

If the reproduction cost methodology is used, valuation of the collection mains will not be treated differently or as a special circumstance unless reasonably justified.

#### Income approach:

3. Calculations done under the Income Approach will clearly describe the basis for discount rate(s) in the report rather than only in the exhibits. The following information should be provided about the discount rate(s) used:
  - a. The capital structure used in the analysis with an explanation as to why the capital structure was selected. If Company's actual capital structure was not used, explain why not.
  - b. The cost of equity used in the analysis, and the basis for the cost of equity.
  - c. The cost of debt used in the analysis. If Company's actual cost of debt was not used, explain why not.
4. If a capitalization rate is used, the calculation of the capitalization rate and the basis for the growth rate will be disclosed and fully explained.



**Market Approach:**

3. Speculative growth adjustments will not be used, consistent with *New Garden* (Order pp. 52-53). U.S. Census Data and relevant and applicable regional planning commission reports may be used as a basis to determine growth in a subject area. OCA reserves the right to challenge the specific use of the data in each case.
4. The proxy group used for calculating market value should not be limited to only companies which engage in Pennsylvania fair market value acquisitions. Aqua agrees that it will provide the terms of this agreement to any UVE prior to engaging the UVE.
5. Net book financials multiplier shall not be used.
6. Comparable sales used to establish the valuation should not be limited to those that the UVE previously appraised.
7. Comparable sales used to establish the valuation should use the current customers.
8. Comparable sales used to establish the valuation should not include the value of future capital improvement projects.

**All approaches:**

1. The going concern, overhead, and provision for erosion of cash flow or return additions shall not be used or included in appraisals.

1  
2  
3  
4

**Attachment C**

**Proposed Modifications to Appendix D:**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of \_\_\_\_\_ to Obtain a Fair :  
Market Valuation for the Acquisition of the :  
Water/Wastewater Assets of the Borough of : A-20 - \_\_\_\_\_  
\_\_\_\_\_ in \_\_\_\_\_ County, :  
Pennsylvania :

**DIRECT TESTIMONY  
OF  
IMA UVE  
UTILITY VALUATION EXPERT  
SELLING/BUYING UTILITY**

**Month/Day/Year**

1                   **Q.     Please state your name, business address, and occupation.**

2  
3   **A.**   My name is \_\_\_\_\_. My business address is \_\_\_\_\_. I am an  
4   associate/principal/owner/president of \_\_\_\_\_. This testimony was prepared with the  
5   assistance of \_\_\_\_\_ an employee of \_\_\_\_\_ under my direction.

6  
7   **Q.     Please describe your qualifications and indicate if you are registered as a Utility**  
8   **Valuation Expert with the Pennsylvania Public Utility Commission.**

9  
10 **A.**   A CV for \_\_\_\_\_ and \_\_\_\_\_ is attached to this testimony. I am a  
11 registered Utility Valuation Expert with the Pennsylvania Public Utility Commission. I  
12 obtained that registration in MONTH of YEAR.

13  
14 **Q.     What is the purpose of your testimony?**

15  
16 **A.**   This direct testimony provides ~~clarification and explanation of a~~ summary of the appraisal  
17 I provided to the Selling/Buying Utility pursuant to 66 Pa. C.S. § 1329(a)(5) and in  
18 accordance with Uniform Standards of Professional Appraisal Practice YEAR Edition.

19  
20 **Q:     Are you advocating for any party or outcome?**

21  
22 **A:**   No. The Ethics Rule of the USPAP, applicable here pursuant to 66 Pa. C.S. § 1329(a)(3),  
23 requires that I perform the appraisal with impartiality, objectivity, and independence, and  
24 without accommodation of personal interests. In addition, the USPAP Ethics Rule  
25 requires that I not perform the assignment with bias, that I must not advocate the cause or  
26 interest of any party or issue and that must not accept an assignment that includes the  
27 reporting of predetermined opinions and conclusions.

28  
29 **Q.     Do you have any affiliation with either the Selling Utility or the Acquiring Public**  
30 **Utility or Entity?**

31  
32 **A.**   No. Other than the current assignment to provide the subject appraisal, I have no  
33 business or personal relationships with any party to the proposed acquisition.

34  
35 **Q.     What is your fee arrangement to deliver the appraisal?**

1 A. A copy of the fee arrangement is attached as Appendix \_\_\_\_\_. In summary, I am to  
 2 receive \$\_\_\_\_\_ in compensation, which represents \_\_\_\_\_ % of the proposed  
 3 valuation.

4  
 5 **Q. Will you receive that fee regardless of whether the Commission approves the**  
 6 **proposed transaction or whether it closes?**

7  
 8 A. Yes. 66 Pa. C.S. § 1329(a)((3) mandates that I comply with the USPAP when developing  
 9 my appraisal. Under the USPAP I cannot perform the appraisal with bias and acceptance  
 10 of a fee contingent on a particular outcome like closing or Commission approval would  
 11 violate that Ethics Rule.

12  
 13 **Q. Have you prepared any exhibits, schedules, or appendices to accompany your direct**  
 14 **testimony?**

15  
 16 A. Yes. Schedules \_\_\_ and \_\_\_ are included herein, and Appendix \_\_\_ and \_\_\_ are attached.  
 17 The appraisal I submitted to the Seller/Buyer pursuant to Section 1329(a)(5) is attached  
 18 as well. All were prepared under my supervision and control.

19  
 20 **Q. Please summarize your results of the application of the cost, market, and income**  
 21 **approaches to valuation.**

22  
 23 A. The summary the cost, market, and income approach is included below as Seller/Buyer  
 24 UVE Schedule No. 1.

Approach	Indicated Value	Weight	Weighted Value
Cost Approach	\$	%	\$
Market Approach	\$	%	\$
Income Approach	\$	%	\$
		100%	\$
<b>Conclusion</b>			<b>\$</b>

26  
 27 **Q. Describe any assumptions, extraordinary assumptions, hypothetical conditions,**  
 28 **and/or limiting conditions that you applied to the valuation**

29  
 30 A. I employed an assumption regarding...

1 **Q. How was each assumption used and what was its result?**

2

3 **A.** I used the assumption about \_\_\_\_\_ to account for \_\_\_\_\_. The result was that \_\_\_\_\_.  
4 I also used an assumption regarding \_\_\_\_\_ because of the \_\_\_\_\_. The result there  
5 was to \_\_\_\_\_.

6

7 **Q. How did you develop the weighting applied to each approach in your appraisal and**  
8 **why are the individual weights you chose appropriate for this proposed transaction?**

9

10 **A.** For the cost approach I chose a weighting of \_\_\_%. It is my opinion that this weighting  
11 is appropriate for the cost approach because...

12

For the market approach I chose a weighting of \_\_\_%. It is my opinion that this  
13 weighting is appropriate for the cost approach because...

14

For the income approach I chose a weighting of \_\_\_%. It is my opinion that this  
15 weighting is appropriate for the cost approach because...

16

17 **Q. Did you conduct an on-site inspection of the Selling Utility assets, and if so, what**  
18 **was its result on the appraisal?**

19

20 **A.** I inspected the Selling Utility assets on DATE, accompanied by Selling Utility employee  
21 \_\_\_\_\_. I inspected the \_\_\_\_\_, distribution/collection system in and around  
22 \_\_\_\_\_, and the \_\_\_\_\_. As a result, I determined that \_\_\_\_\_. This influenced  
23 my appraisal to the effect that \_\_\_\_\_.

24

25 **Q. What Utility Earnings Report was used to create the capital structure used in your**  
26 **appraisal?**

27

28 **A.** I used the QUARTER, YEAR Earnings Report of COMPANY.

29

30 **Q. What capital structure was used in your appraisal?**

31

32 **A.** The capital structure used in my appraisal is included below as Seller/Buyer UVE  
33 Schedule No. 2.

34

Type of Capital	Capital Ratio	Cost Rate	Weighted Cost
Debt	%	%	%
Preferred	%	%	%

Common Equity	%	%	%
<b>Total</b>	<b>100%</b>		<b>%</b>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

**Cost Approach**

**Q. Regarding your application of the cost approach, what method did you use to determine the cost approach result (e.g. original cost, replacement cost, reproduction cost)?**

**A.** I used the \_\_\_\_\_ method.

**Q. What index, if any, did you use for that method?**

**A.** I used the \_\_\_\_\_ index.

**Q. Under your application of the cost approach what assets did you value or trend differently from other assets and why was that necessary?**

**A.** I valued the \_\_\_\_\_ independently of the \_\_\_\_\_. It is my opinion that an accurate appraisal requires this because \_\_\_\_\_.

**Q. Under your application of the cost approach, what year-end date did you use for calculating the depreciation reserve?**

**A.** I used the date of \_\_\_\_\_.

**Q. How did you determine the depreciation parameters of survival/retirement characteristics and service lives for the utility property under the cost approach?**

**A.** I determined those parameters by \_\_\_\_\_.

**Q. Why are those parameters appropriate?**

**A.** Those parameters are appropriate because \_\_\_\_\_.

**Market Approach**

1 **Q. Regarding your application of the market approach, what methods did you use to**  
2 **determine the market approach result?**

3  
4 **A.** I used the \_\_\_\_\_ and \_\_\_\_\_ methods.  
5

6 **Q. What assumptions, analyses, and/or adjustments did you make under each method?**

7  
8 **A.** Under the \_\_\_\_\_ method, it is my opinion that \_\_\_\_\_ must be considered. Under  
9 the other method, I believe that an accurate result depends on adjusting \_\_\_\_\_ to  
10 better reflect that \_\_\_\_\_.  
11

12 **Q. What were the results of each analysis you performed?**

13  
14 **A.** The \_\_\_\_\_ analysis produced a result of \_\_\_\_\_. The other, a result of \_\_\_\_\_  
15 was obtained.  
16

17 **Q. Which results were used to determine your market approach result? Please explain**  
18 **why these results were used.**

19  
20 **A.** I used the results of \_\_\_\_\_ because I believe those results represent an accurate  
21 assessment of \_\_\_\_\_.  
22

23 **Q. What was ~~that~~ the calculation you used to determine your overall market approach**  
24 **results?**

25  
26 **A.** The calculation I used consisted of the following...  
27

28 **Q. What comparable transactions or comparable sales, if any, did you evaluate to**  
29 **develop your market approach?**

30  
31 **A.** I examined the flowing transactions to develop the result of my market approach. First, I  
32 examined the sale of \_\_\_\_\_ to \_\_\_\_\_ in YEAR. It is my opinion that this is a valid  
33 source of comparison to the transaction here because...

34 I next examined the sale of \_\_\_\_\_ to \_\_\_\_\_ in YEAR. I am of the opinion that this  
35 too is a valid source of comparison to the transaction here because...



1                    Finally, I examined the sale of \_\_\_\_\_ to \_\_\_\_\_ in YEAR. This is a valid source  
2 of comparison to the instant transaction because...

3  
4  
5 **Income Approach**

6  
7  
8 **Q.    Regarding your application of the income approach, what method did you use to**  
9 **determine the income approach result?**

10  
11 **A.**    I used the \_\_\_\_\_ method.

12  
13 **Q.    What assumptions did you employ to develop your income approach result?**

14  
15 **A.**    Under the income approach, it is my opinion that \_\_\_\_\_ must be considered. I believe  
16 that an accurate result depends on adjusting \_\_\_\_\_ to better reflect how \_\_\_\_\_.

17  
18 **Q.    What discount rate did you use to calculate your income approach?**

19  
20 **A.**    I used a discount rate of \_\_\_\_\_.

21  
22 **Q.    What capital structure inputs differ from those identified in Seller/Buyer UVE**  
23 **Schedule No. 2?**

24  
25 **A.**    For the income approach I used a different input of \_\_\_\_\_ for the \_\_\_\_\_ because  
26 it is my opinion that \_\_\_\_\_. I believe it necessary to deviate from the Buyer's  
27 actual cost of capital because \_\_\_\_\_.

28  
29 **Q.    What is the source and basis of the alternative input you propose in the income**  
30 **approach?**

31  
32 **A.**    The source of the input may be found at \_\_\_\_\_. I have included a copy as Appendix  
33 C. The basis of this input is the \_\_\_\_\_.

34  
35 **Q.    If you used a terminal value in your discounted cash flow analysis what is the**  
36 **number of years over which the cash flows are considered?**

37  
38 **A.**    I considered those cash flows over \_\_\_\_\_ years.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**Q. What is the basis for using this number of years?**

A. It is my opinion that it is necessary to use \_\_\_\_\_ years to calculate terminal value because...

**Q. What number of Selling Utility customers or equivalent dwelling units did you use to value the Seller’s system and how did you develop that number?**

A. I used \_\_\_\_\_ customers/EDUs. I obtained that number by \_\_\_\_\_ examining \_\_\_\_\_ and \_\_\_\_\_. I then calculated the total used by \_\_\_\_\_.

**Q. Did you make any updates to your appraisal after it was submitted to the Seller/Buyer, and if so, what was the update, when was it made, and why was it necessary?**

A. I did not update or revise my appraisal after it was submitted to the Buyer/Seller.

**Q. Does this conclude your direct testimony?**

A. It does. However, by filing this direct testimony I understand that I may have the opportunity to submit additional testimony responsive to challenges to my appraisal.